SENATE—*Wednesday, October 16, 1991*

(Legislative day of Thursday, September 19, 1991)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

The PRESIDING OFFICER. Today's prayer will be offered by guest chaplain Rabbi Moshe Feller, director, Lubavitch Movement, Upper Midwest Region, St. Paul, MN.

PRAYER

Rabbi Moshe Feller, director, Lubavitch Movement, Upper Midwest Region, St. Paul, MN, offered the following prayer:

Let us pray:

O Heavenly Father, Creator and Master of the universe, the Members of this august body, the U.S. Senate, are assembled here in fulfillment of Your command that every society govern by just laws. At the dawn of civilization You commanded the survivors of the great flood—Noah and his family—the Seven Commandments which have come to be known as the Seven Noahide Laws. Your first commandment, to recognize You and You alone as Creator, Master, and Sovereign Ruler of the universe, was followed by Your commandments prohibiting blasphemy, murder, theft, illicit sexual relationships, cruelty to animals, and the command to establish systems of government which implement fulfillment of these commandments and punish their infraction.

You have bestowed both a magnificent privilege and an awesome responsibility on those who are chosen to govern. They are constantly called upon to judge their fellow man. Al-Mighty God, grant those who are chosen to govern and judge the wisdom to do so wisely and correctly. Grant them the awareness of Your majestic presence and the awareness that as they are making judgments they are being judged by You—O Supreme Judge of the universe unto whom we are all accountable.

O Heavenly Creator, grant that the Members of this august governing body, the U.S. Senate, consider every human being as an entire world, as Your servants the Sages of the Talmud have taught "Why did God create the world in the beginning with but one single individual, Adam? (He could have with His infinite power just as easily created masses of humans.) He did so to teach mankind that every individual is indeed an entire world."

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 16, 1991.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a time for morning business not to extend beyond the hour of 10:15 this morning, with Senators permitted to speak therein.

The Senator from Minnesota.

THE GUEST CHAPLAIN

Mr. WELLSTONE. Mr. President, I rise to thank Rabbi Feller from St. Paul, MN, for coming today and honoring all of us here in the Senate.

"Lubavitch" means "City of Love" in Russian, and I cannot help but think of my father—and the Rabbi and I spoke about this before the opening of the session—Leon Wellstone, who was from Russia. My father passed away in 1983, but I believe that he is today well aware of what is happening in his native country, and I hope that the Soviet Union will become the city of love and I hope that this will be a new world for all of God's children and that we will be able finally to spend less money on weapons of death and destruction and more money in supporting men and women throughout the world.

I also want to say to the Rabbi that my favorite quote is a quote from Albert Einstein where he said "the pursuit of knowledge for its own sake, the almost passionate love for justice, and the strong desire for personal independence, these are the features of the Jewish tradition that make me thank my lucky stars that I belong to it." That is the way I feel on the floor of the U.S. Senate today, because of the presence of Rabbi Feller.

REGISTRATION OF MASS MAILINGS

The filing date for 1991 third quarter mass mailings is October 25, 1991. If your office did no mass mailings during this period, please submit a letter to that effect.

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224-0322.

ORDER OF PROCEDURE

The PRESIDING OFFICER (Mr. KOHL). Under the previous order, the senior Senator from Georgia is now permitted to speak for up to 20 minutes.

The Senator from Georgia is recognized.

Mr. NUNN. I thank the Chair.

PROCEEDINGS CONCERNING THE NOMINATION OF JUDGE CLARENCE THOMAS TO BE AN ASSOCIATE JUSTICE OF THE U.S. SUPREME COURT

Mr. NUNN. Mr. President, it is not unusual in our debates here in the U.S. Senate for Senators to refer to the Founding Fathers in order to bolster a point of view, particularly in terms of issues that divide the executive and legislative branches of Government. We do that to bolster a point of view we may have had or have. There are times, however, when we should refer to the Founders not simply to support the prerogatives of the Senate, vis-a-vis the executive branch or the judicial branch, but also to guide us in the conduct of our own affairs.

This is such a time. In the Federalist, No. 27, Alexander Hamilton wrote of this institution, the U.S. Senate:

> [T]his branch will * * * be less apt to be tainted by the spirit of faction, and more out of reach of those occasional ill-humors, or temporary prejudices and propensities, which, in smaller societies, frequently contaminate the public councils, beget injustice

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

and oppression of a part of the community, and engender schemes which, though they gratify a momentary inclination or desire, terminate in general distress, dissatisfaction, and disgust.

The Senate in recent weeks has not met Hamilton's high expectations.

Last week, there was an inexcusable leak of a confidential affidavit submitted to the Judiciary Committee by Prof. Anita Hill concerning the nomination of Judge Clarence Thomas to be an Associate Justice of the U.S. Supreme Court. The affidavit contained serious allegations of sexual harassment of a highly personal nature—information which Senator BIDEN, Senator THURMOND, and the Judiciary Committee had properly treated as confidential.

In the days that followed, the Senate succumbed to a momentary desire to accommodate the public's right to know and held a public hearing on the confidential allegations submitted by Professor Hill. The result of indulging this momentary desire has—in Hamilton's prophetic phrase—terminated "in general distress, dissatisfaction, and disgust."

I believe that we must review very carefully the events of the past few weeks to take whatever steps are required to ensure the integrity of the confirmation process, particularly with respect to the treatment of confidential information.

Confidentiality does not start with the U.S. Senate. Most people who have followed this procedure would have thought it did. It starts with the President, who receives a report from the FBI on each prospective nominee. Before he makes his choice, he receives an FBI report.

The information in such a report is required to be held in the strictest confidence to protect the privacy of both nominees and of persons providing information to the FBI.

I have discussed the issue of confidentiality with President Bush and I have discussed it in the past, though not as intently, with other Presidents, and I discussed it with members of the White House staff on numerous occasions. I think it is safe to say that they regard it as absolutely critical that confidentiality be a part of the appointment process.

I believe that the view—that confidentiality is essential—would be the strong feeling of all Presidents, whether Democratic Presidents or Republican Presidents.

The White House has advised me that in the most recent 2 years, over 25 potential nominees were eliminated by the White House prior to nomination because of adverse information in the FBI files. These were people who were going to be nominated, but were not nominated, never sent to the Senate, because of information developed by the FBI on a confidential basis. That is quite a large number, considering the fact that these people had been extensively screened prior to referral of their names to the FBI. The executive branch understandably feels that if the FBI investigation process were to be so compromised by public disclosure that they could not get people to cooperate with the FBI in determining background. And the appointment process itself would be severely damaged and that is before it ever gets to the U.S. Senate for confirmation.

Mr. President, in my view, this should not be a confrontational issue between the White House and the Senate. It is a matter in which we have a mutual interest in making sure that the President has the best information possible prior to submitting a nomination to the Senate, and that the Senate can also properly evaluate nominees for high public office.

A further concern is the procedure for granting security clearances. Many people do not stop and think about it. And I have heard Senators in the last few days, in all sincerity, say that ought to all be open, that no one ought to give their information about a nominee unless they are willing to go public with it.

Of course, in the courts and the judicial branch, in essence, that is the general rule. But this is a different procedure. And when you think about security clearances—and we have thousands of them; we have thousands of security clearances—this security clearance procedure is based on the same process of FBI confidentiality.

Confidentiality for persons interviewed by the FBI and agency investigators is absolutely essential for the development of information concerning the thousands of Government employees and contractor personnel reviewed for security clearances every year to handle our Nation's most sensitive classified information.

None of us are strangers to allegations of impropriety made against nominees. There are well established procedures for reviewing and disposing of such allegations. Access to FBI reports is normally limited to the chairman and ranking Republican Senator of the committee. Access to other sensitive information and nomination material is limited to committee members and designated staff unless the chairman and ranking member decide everybody on the committee needs to see the information, and in some cases unless the committee itself determines that the entire Senate needs to review the information.

And we have done that. We did that on a very important nomination just a couple years ago.

The Senate rules expressly provide for committee sessions to be closed when information "will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of privacy of an individual."

The Senate's confidential treatment of nomination information is designed to serve two important goals:

First, to ensure that the Members receive the information necessary to review the qualification and fitness for nominees to leadership positions in the Government. The committees of the Senate have an obligation to the Senate, and to the Nation, to ensure that persons entrusted with high public office have the requisite character, integrity, and qualifications.

The second goal is to protect the legitimate privacy interests of nominees and persons providing information on nominees. In the Thomas nomination, Professor Hill, prior to the leak, requested that the committee keep her name confidential. She was thus in the same position as hundreds of individuals are in when they communicate with the FBI when it is gathering information on behalf of the President.

Professor Hill was not in a unique situation, except to the extent the confidentiality request went to the committee rather than to the FBI on behalf of the President. We have hundreds of people who are in the same position as Professor Hill, hundreds of them that I reviewed myself in the last 2 years. So we would not treat this as if it is the first time it ever happened or the last time it will happen.

The only difference was she made her request to the committee, which she had a right to do. They acceded to her request. The FBI does that on occasion after occasion, every single day, every day, not only on nominations of prospective people to be in high positions, but also in thousands of security clearances and review of those security clearances that are updated.

It is vital that information bearing on the private lives of individuals be considered in closed session insofar as is possible. It is not always possible, but insofar as possible that should be the driving rule. Public airing of every allegation about a nominee can cause long-term damage to a nominee's reputation, even if it is totally refuted. Even if totally refuted, the damage is very serious.

Moreover, the publicity given to such proceedings can have an extremely negative impact on the willingness of other private citizens to serve in high Government positions.

In addition, if the names of persons providing confidential information are disclosed—either to the public or the nominee—there could be a serious chilling effect on the willingness of persons having important information about nominees to come forward.

Everybody who has dealt with this process knows that to be the case.

In summary, Mr. President, if we decide that the public right to know is more important than confidentiality, there must be a total change of procedures for nominations starting with the White House and FBI and then, of course, working its way to the Senate. I recognize that it is impossible to deal with all personal information in a confidential setting. Since the beginning of the Republic, the integrity of nominees has been a matter of fair game for both political parties and for the news media. We cannot, under the first amendment, control the news media. None of us want to. If the media receives the information from private individuals or the executive branch about a nominee, there is very little we can do about it. But we can, and frequently do, resolve the matter in closed session.

There are instances in which public disclosure from outside the Senate greatly complicates our task. I have been through those procedures. Even in those matters, however, it is my view that it is incumbent upon the Senate to address the details in closed session, even after there has been a leak. We cannot establish a precedent of requiring full public disclosure of confidential information every time there is a leak or when a confidential witness or an FBI informant goes to the news media. There is nothing more frustrating as chairman of a committee than to be reading a confidential FBI report and finding at the same time the witnesses who talked to the FBI and requested confidentiality are now talking to the news media and not requesting that confidentiality or just being "sources."

That puts the chairman of the committee in an impossible situation, but it has to be tolerated because it is part of the process—an impossible situation of protecting information as confidential that is appearing in the news media on a daily basis, and at the same time being accused by some—who know better, in many cases—of having the committee itself doing the leaking.

But, if we do not have a policy, if every time there is a leak we then decide to go public, we are going to end up with a totally unmanageable process. This would lead to a policy that our procedures are confidential until there is a leak, and then we go public. Strong objections have been raised to closed proceedings. Perhaps it is time to have a big, meaningful, constructive debate about closed proceedings and confidentiality. Maybe I am not right on this subject. I am going to give my full views today. There will not be any mystery about what I think. But there are other views, and I would like to hear them.

Such proceedings, based on confidence, are said to violate the public's right to know. That is a very important principle in America. Others argue that such proceedings violate a nominee's ability to confront his or her accuser in a trial-type setting in a public forum. That is also a very important principle. Certainly in our judicial system the rights to confront your accuser is a very important principle when someone's life is in jeopardy, when they are in jeopardy of being put in prison, or even in many civil cases when they are in jeopardy of property.

But let us understand that is not what we are doing here in confirmation. We are going to end up having a process that gets worse and worse and worse. We are not taking away anybody's life. We are not putting them in prison. We are not taking their property. But what we are doing, unless we have confidentiality, we are going to rob many people of their reputations. That is what we are going to be doing.

So I think we have to understand this is fundamentally different. This is not the judicial branch of Government. This is the legislative branch. Confirmation proceedings are not trials. Senator BYRD said that very loud and clear, and I thought with a great deal of impact yesterday in his, I thought, marvelous analysis of the process as well as the particular case.

I understand the objections of those who feel differently and who want this to go public and who want the nominees to face the accusers, just as they would if their lives were in jeopardy in a criminal case. I know they raised these issues in good faith. It is time to debate them. It is time to debate these issues because the Senate of the United States cannot continue down the line we are going now.

As a lawyer I very much appreciate the fundamental conflicts between the public's right to know and the confidential process. I also appreciate the right of an accused to face an accuser. And I know that there is a fundamental conflict between that right and the need for the FBI, on behalf of the President, to assure persons providing information that their names will be kept confidential. The problem, Mr. President, is there are a lot of people who want everything. They want the public to have the full right to know, they want the nominee to have the full right to face the accuser, and they also want to respect the confidence of the process. You cannot do it all—impossible. Until we recognize that, we are not going to be able to have a process that is respected by the public, by the nominees, and by those who want to give confidential information and by the Senate itself.

I well remember—a little history in this respect.

The Thomas nomination is not the first time that we have had to decide how to proceed when there have been stories in the media containing allegations of personal improprieties about nominees. I well recall a very detailed debate on that subject several years ago, when the media was filled with allegations concerning a nominee pending before the Armed Services Committee.

And the newspapers and television reports were all over the place on that one quoting people with all sorts of detrimental information before the FBI reports ever got to the Senate and before the nomination was ever sent from the White House. Yet, somehow in the public mind all that cumulative information became identified with the Senate proceedings because there were a lot of people who did not make a very careful distinction between what had been leaked and what had already been put in the newspapers. I well remember the cries from the press and from some of the Members of this body. I remember the demands that we should do a few things differently.

First, the demand was made that we make public the information in the FBI files and the committee's confidential records. And second, the demand was made that we have a public-type hearing, trial-type hearing, where the nominee could confront the persons who had provided information against him in confidence. We did not do that and we were severely criticized for not doing it. We were criticized in good faith by some; criticized by others who knew better, who knew exactly what we were going through when we were going through it.

The Armed Services Committee reviews civilian nominations for more than 70 positions—these are civilian positions—and we review tens of thousands of military nominations each year. Senator WARNER and I, on a bipartisan basis, respect the confidentiality of the FBI materials and the committee's confidential records. We conduct our proceedings on personal matters, including allegations of behavior that is now widely described as sexual harassment, in closed session. We have had a number of those cases, a number of them. This is not the first time there has been a sexual harassment charge made in the U.S. Senate. We have handled many of them and we have a number of nominations that were stopped, that did not go forward, because of misconduct, including sexual misconduct by military officers and by others.

Even when the leaks come from sources outside the committee we refuse to engage in public disclosure or to break faith with those who request confidentiality. If that has ever been done, it has not been done with my knowledge or with my permission.

In the Thomas proceedings the Senate chose a different route.

Now we have seen the consequences of fulfilling the momentary desire to accommodate the public's right to know and providing for resolution of allegations in a trial-type public hear-

ing. The advocates of public disclosure have now had their wishes fulfilled through the leak and the full public hearing which followed. Like Midas, we must be careful what we wish for—particularly when we wish for those things that shine brightly—for we may be unfortunate enough to see our wishes come true.

That is what has happened in the last week. The appetites that we have struggled to control in the past were not suppressed, and the Senate now faces public revulsion, rather than accolades for our indulgence.

Interestingly enough, some of the same people who have opined about the public's right to know and the right to face your accuser are tearing the Senate apart now because the public disclosure they had so long demanded probably will not be taken into account. There are usually not rebuttal articles on editorials, but nevertheless there are some of us who remember.

If anyone thought that giving a nominee the right to confront his accusers in public would be in the nominee's best interest, ask Judge Thomas. As he said, this experience, for him, has been "a living hell."

It has been no better for Professor Hill, who exhibited great courage, first in coming forward, and second in going public when required to do so.

Mr. President, I do not believe that the Senate should find it necessary to conduct public proceedings on sensitive personal matters in order to fulfill our constitutional obligations. Pleas that we have been goaded into this process by the news media and by advocacy groups cannot justify such proceedings. The Senate is responsible for its own conduct and for its own procedures.

The confidential process is not perfect. I can point out all sorts of problems with the way we have handled things in the past. We must rely on FBI files that do not usually provide a definite resolution of allegations. These are not FBI investigations the way the public thinks of them, where the evidence is presented to the grand jury, or prosecutors appointed and the FBI and prosecutor's work together to establish beyond a reasonable doubt someone's guilt. That is not what this is at all. The FBI reports are an accumulation of what everybody says, one side or the other, so that the policymakers can evaluate it or send the FBI back for further resolution.

We must rely on the White House. Another problem. And this is one that the White House itself has to do some soul searching about. We, in the Senate, must rely on the White House to follow up when additional investigations are required, a process that often creates a conflict of interest in the White House between the obligation to ensure a thorough investigation when matters come up after the nomination has left the White House and is sent to the Senate, and the President's understandable desire to support his nominee. The White House has not figured out how to handle that one yet and, frankly, they do not handle it very well. But if they expect the Senate of the United States to respect confidentiality and to use the FBI as they use the FBI, then we also have to have cooperation from the White House, even after the President has made his judgment.

We must apply our own judgment. We do not have a judge to rule on what is admissible. The media constantly pressure us for information, and that is their job. I do not criticize them for it. As we have learned from these proceedings, as if we did not already know, a public congressional hearing will not necessarily resolve these matters either. We are not the judicial branch of Government. It is not our responsibility to resolve private complaints. Only the courts can do that. Our duty is to review nominations and to give the President our advice and, if warranted, our consent to the nomination.

If this had been a criminal trial involving sexual harassment, the procedure would have been far different. There would have been months of preparation and weeks of testimony. A great deal of evidence that was not considered, such as the prior sexual behavior and interest of the parties both in a public and private setting, would have been relevant and admissible. And any lawyer that did not bring it up would have been subject to severe criticism.

It is my view that these questions, some of which might have shed more light on the conflicts in testimony between Judge Thomas and Professor Hill, would have been much more likely asked in a closed hearing. A great deal of evidence that was considered, such as opinion lacking any foundation, expert testimony from individuals lacking expertise, and hearsay outside the boundaries of the rules of evidence, would not have even been considered.

So it was not a trial. Each party in a trial would have been represented by an attorney devoted exclusively to that party's cause. As those of us who have tried many cases know, the cross-examination we observed in the hearings was very different from the type of cross-examination that would have taken place in a court room on such charges. I say that not in criticism of our colleagues on the committee but, rather, to emphasize that this was not conducted as a judicial proceeding, and I do not think in the future we should regard it as such.

Regardless of the divisions on this nomination, I hope we will reach a consensus in dealing with the results of these proceedings.

First, the Senate and the President will have to decide whether we are going to conduct trials to determine guilt or innocence, or whether we are going to conduct confirmation proceedings that encourage the type of confidential information that assists the President and the Senate in appointing and reviewing persons qualified for positions of trust.

If we are going to have trial-type proceedings, then we are going to have to cross-examine all the witnesses who provide information to the FBI, both pro and con.

We cannot do both. We cannot respect confidentiality and at the same time allow the free flow of raw information to the public. A compromise has to be made.

What we must avoid is the process that has the worst of both worlds, a confirmation process without confidentiality, and a trial-type hearing without the rules of evidence.

In my view, we must take steps to ensure that these matters are considered in the future where there should be a thorough review of FBI reports and discussions in closed session. We will have to work very hard in the Senate to restore public confidence in the process, particularly the confidences of those distinguished private citizens who might contribute so much to public service but who would not be willing to undergo the ordeal of Judge Thomas, and also, just as importantly, the confidence of those who, like Professor Hill, might provide confidential information about potential nominees but now may be discouraged from doing so.

Second, we must conduct a relentless investigation to determine who breached the trust of the U.S. Senate and leaked Professor Hill's confidential material to the news media. That type of behavior is abhorrent to me and I believe to the entire Senate.

Those who leaked this information, and leak sensitive information in other matters, disgrace the Senate. If Senate employees were involved, they should face dismissal and appropriate criminal proceedings, including jail. If lawyers were involved, they should face disbarment proceedings.

I would like to emphasize, however, that the problem of leaks is not simply a matter and a problem internal to the Senate. The primary source of leaks in our Government is the executive branch. There have been leaks of confidential information on nominees long before FBI reports have been submitted to the Senate.

The executive branch can set an example by diligently investigating their own leaks, particularly when they involve senior officials. And very seldom do they do this. The Armed Services Committee, for example, has been concerned about the leaks of highly classified matters, some of the most classified matters we have in our overall defense arena reflected in Bob Woodward's book, "The Commanders."

Senator WARNER and I have jointly called for an investigation of these leaks, but so far there has been only silence from the executive branch.

Third, we must recognize that these proceedings have focused attention, in every workplace and every home, about the very serious problem of sexual harassment.

The men of our Nation have an obligation to become more sensitive about the effects, both intended and unintended, of improper sexual comments and behavior toward and about their fellow workers. Such actions are wrong and, as I hope we all understand now, in this country sexual harassment is illegal.

Women also have an obligation. Women have an obligation to make timely complaints about sexual harassment in order to enhance the potential for developing corroborating evidence, to deter the offending person from committing similar actions in the future, and to comply with the relatively short statute of limitations applicable to such complaints.

So there is an obligation on men and women.

The employers also have an obligation to smooth the way by making it clear that harassment will not be tolerated and that victims of harassment will not suffer publicly or privately from coming forth as soon as their behavior begins.

Finally, Mr. President, I express my appreciation to Senator BIDEN and Senator THURMOND and members of the Judiciary Committee for the diligence and the stamina they exhibited over the last week. None of us envied their position.

In that regard, I would like to echo the remarks made by Senator BYRD yesterday, in which he criticized the notion that the hearings were in any way structured by the Judiciary Committee or the Senate for partisan purposes. As I noted at the outset, the decision to treat Professor Hill's affidavit as confidential was made on a bipartisan basis by the leadership of the Judiciary Committee. The decision to postpone the vote last Tuesday was based upon the unanimous consent of all 100 Senators. Any Senator—including any Republican Senator—could have objected. The decision of the Judiciary Committee to hold open hearings was a bipartisan decision. Any member of that committee—including any Republican member or any Democratic member—could have moved for the session to be closed. None did.

It is now time to learn from the proceedings and improve our process. The Senate must provide its committees with a more detailed set of guidelines for the conduct of proceedings involving confidential information. Confidentiality begins in the executive branch, and is based on the premise that confidentiality is essential to the free flow of candid information to the President about prospective nominees. The Senate traditionally has respected that confidentiality, but the pressure from advocacy groups and the media for access to all details of confirmation proceedings is in conflict with our traditional practices in the Senate. If we expect our committees to conduct proceedings in public, while at the same time relying on a confidential process to develop information about nominees, we have given our committee a mission impossible.

We have to make a choice as to which is more important—confidentiality or public disclosure. The President and the Senate leadership need to get together to discuss the future of the nomination and confirmation process.

We need to strengthen the advice, as well as the consent process. When Senators have legitimate concerns about nominees, the President must take those concerns seriously, not simply take the position that each nominee warrants unqualified support for political reasons.

The President cannot take the position that I have sent it up there, I have read the FBI reports and no matter what your concerns are, do not bother me with them. It is now a matter where all the people who object are partisan. That cannot continue.

The President cannot have it both ways. If he wants to rely on confidential information, then he must be willing to engage in serious discussions with the Senate when serious, legitimate questions are raised about the qualifications of nominees based on FBI reports, even if the nomination has already been sent to the Senate.

The Thomas nomination will not be the last controversial nomination before the Senate; nor will it be the last one in which there is a disagreement about the significance of confidential allegations. But it should be the last one in which we deal with such allegations without a clear understanding of the consequences.

NOBEL PEACE PRIZE AWARD

Mr. DURENBERGER. Mr. President, I rise to congratulate Mrs. Aung San Suu Kyi of Burma on the occasion of her being awarded the Nobel Peace Prize. The Nobel Committee honored the daughter of Burma's modern-day founder, commending her for her nonviolent struggle for democracy and human rights.

Although Mrs. Aung San Suu Kyi has been under house arrest since July 1989, she remains the inspirational leader of the democratic, nonviolent opposition to Burma's military rule. The Nobel Committee indicated that it wanted to honor her by showing its support for the many people throughout the world who are striving to attain democracy, human rights and ethnic conciliation by peaceful means.

The committee further notes that Mrs. Aung San Suu Kyi's struggle is one of the most extraordinary examples of civil courage in Asia in recent decades.

Mr. President, Suu Kyi's commitment to democratic ideals and nonviolent principles is an inspiration to all people who do not yet live freely and who continue to struggle to achieve democracy, individual liberties, and respect for human rights. She reminds us of the value of freedom and democracy, and the high price that is often paid by proponents as they strive for a just and decent government.

I commend Mrs. Aung San Suu Kyi's commitment and her courage. She has earned the world's praise and support. We should all encourage her to continue her efforts to bring about a just and representative government in her native Burma.

Thank you, Mr. President. I yield the floor.

SCHOOL LUNCH PROGRAM

Mr. LEAHY. Mr. President, the School Lunch Program is one of the most important Federal nutrition programs. Each day, it supplies millions of young children with the food they need to live, to learn and to grow. Healthy children are the foundation of a healthy nation.

I have said time and time again that a hungry child cannot learn. Children that do not learn cannot compete later in life.

In today's global economy, nations that cannot compete effectively are left behind.

The School Lunch Program is vital to fighting hunger and investing in the future of our children and our country.

Let me read you a government report on the School Lunch Program.

"School lunch programs are aimed at contributing to the sound mental and physical development of children—they have taken root as an integral part of school life."

However, that government report is from the Ministry of Education of Japan.

In my lifetime Japan has gone from a war-destroyed island to a commercial and economic powerhouse.

There is a major reason for that—they know what America once knew so well—children are a nation's most precious resource.

And Japan takes care of its children—Japan nurtures its children. Its universal school lunch program in elementary schools assures the health and education of future generations.

I want to congratulate the American School Food Service Association for their role in working to bring the best meals possible to America's children.

Their members work very hard to get the job done correctly. I look forward to continuing to work with them, work to improve our School Lunch Programs.

Today I am honored to welcome to Washington a distinguished member of the Vermont school lunch program, Mr. Dale Conoscenti. Mr. Conoscenti is a graduate of the New England Culinary Institute—a trained chef.

Mr. Conoscenti could be a chef for any number of renowned restaurants or hotels. Instead, he has dedicated his talents to the School Lunch Program at the Barre Town Elementary School in Vermont.

Mr. Conoscenti turns conventional school lunch commodities into innovative and nutritional hot lunches that appeal to children.

You won't find mystery meat on Dale's menu. Rather a typical day includes a variety of dishes—from antipasto salad and roasted potatoes with herbs to baked—not fried—chicken nuggets and chilled raspberry soup.

Mr. Conoscenti is one of the finest examples of the commitment that our local school lunch programs have to our children. As he says, "What this is all about is kids—kids deserve to eat well."

The School Lunch Program has a responsibility to improve the diets of our children. The Department of Agriculture has a responsibility to ensure that our children are served meals that serve that purpose. I also agree with Dale that USDA should provide better nutritional labeling for commodities they supply.

Two years ago I introduced legislation, which Congress passed, that requires the USDA to establish new nutritional guidelines for school lunch meals.

It is my hope that these new guidelines, when they are released by USDA, will reflect Mr. Conoscenti's commitment to serve our children the quality of food they need and deserve.

Recently, President Bush visited a local junior high school and said we needed to reinvent our schools. Today we should commit ourselves to reinventing school lunches.

Here in America the School Lunch Program is in trouble:

The amount of commodities available to the program has fallen sharply;

The cost of the School Lunch Program to our schools has risen; and

Schools across the country are dropping out of the School Lunch Program.

For many children, the only meals they get are served in their school. Each school that leaves the program—leaves more children hungry.

Children must be prepared for the classroom to be prepared for the boardroom. As the United States forges a new role in the world order, let us ensure that our children have a place in our future.

A VERDICT IN THE JESUITS' CASE

Mr. LEAHY. Mr. President, 2 years ago six Jesuit priests and their housekeeper and her daughter were brutally murdered at the University of Central America in San Salvador. We all know the gruesome details of that crime, how members of an elite army battalion, El Salvador's best soldiers trained and outfitted by the United States, stole into the university at night and executed their defenseless victims. How the high command of the Armed Forces, long after they knew who was responsible, publicly lied and blamed the FMLN for the crime. And how the army continued to lie and destroy evidence and obstruct justice at every step of the investigation.

I know of no one familiar with the case who believes that the individuals who ordered the murders were among the eight men who were prosecuted.

On September 28 the jury announced its verdict. Colonel Benavides was convicted of eight counts of murder. A lieutenant from the Military School was also convicted of one count of murder. The others, including a lieutenant and enlisted men of the elite Atlacatl battalion who had admitted to pulling the triggers that killed the priests, were acquitted.

Mr. President, I welcome the first conviction of a colonel in a human rights case in El Salvador's history. After thousands of cases of torture and murder attributed to the Salvadoran security forces that have gone unpunished, this verdict is long overdue. Without incessant pressure from the United States, instigated by Congress, I do not believe this verdict would have been reached. All would have gone free.

On learning of the convictions of these two officers, my first instinct was to call President Cristiani to offer congratulations. But as I thought more about it, I did not do so. Much as I want to believe this is a real victory for President Cristiani, there is just too much about this verdict that puzzles me to hail it as an historic victory for human rights and civilian control of the military in El Salvador.

How do we explain the not guilty verdict for the Atlacatl battalion members, the ones who confessed to actually doing the killings? Some say it was a "Calley" verdict where the jury was willing to forgive the enlisted men for carrying out the illegal orders of their superiors. But if that is the explanation, why did the jury acquit the Atlacatl lieutenant? What is the explanation for convicting Colonel Benavides and an obscure lieutenant, while those who pulled the triggers go free?

Let us examine this verdict from another angle. Let us suppose that contrary to all the reforms of the past decade, the army still rules in El Salvador, and that they, not President Cristiani, or a judge, or a jury, still make the crucial decisions. That suggests the army dictated this verdict, and an obedient, fearful judicial system complied.

In this hypothesis, why this verdict and not some other?

From the beginning the Jesuits' case put the future of United States aid to El Salvador in doubt. The State Department said it was a test case for the Salvadoran justice system and of President Cristiani's control over the military. A great deal was at stake. We in Congress made it abundantly clear that failure to get convictions in the Jesuits' case would mean the end of aid to El Salvador.

When Colonel Benavides was charged the State Department called it proof of the Cristiani government's commitment to justice. Had Benavides escaped indictment—the normal course of events in El Salvador, even the administration would have had little choice but to cutoff all military aid. Therefore, the Salvadoran Government and the high command of the armed forces could not afford to see him walk.

But they made sure the colonel knew he had not been abandoned. During his incarceration they paid his salary and his legal fees and took care of his family. His confinement was comfortable, not the usual squalor of Salvadoran jails. There is much talk in El Salvador now of a general amnesty as part of a peace settlement, widely expected within weeks or months at most. Army leaders, and doubtless, Colonel Benavides himself, probably assume that Benavides will be included in an amnesty, a matter over which they will have a great deal of say.

The conviction of the military school lieutenant is the most inexplicable. He was present when the priests were killed but there was no evidence he planned the murders, gave any orders, or even fired a weapon. Yet he was convicted of killing the housekeeper's daughter. Why? A clue may be that he was not a member of the elite Atlacatl battalion. Nor did he have any political connections. Doubtless, as a junior officer at the military school, hardly an assignment for an up and comer, the lieutenant knew nothing to incriminate his superiors. He was expendable.

The lieutenant who was acquitted is a tough, well-connected combat officer, highly educated, an Atlacatl professional, a future leader. And, there are persistent reports that he knew a good deal about how the Jesuit operation came about and let it be known that he was not going to take the fall for it. But, he was not convicted and he will remain silent.

Who were the enlisted men who got off? These were not young, faceless draftees. They were hardened, career soldiers, the army's best trained professionals. They have spent years fighting and are angry at the prospect of a

peace agreement that gives the FMLN a say in who stays in the army and the right to hold onto territory. Sending these soldiers to jail could cause serious problems in the combat units of the army.

Mr. President, this verdict may be, as some claim, simply a case of the jury doing its best under extreme stress. But there are also those who are convinced the verdict was cooked. They believe the Salvadoran Army got word to the jury about what it wanted them to do, and the jury took the safest way out. They could hear the demonstration outside the courtroom by over a 100 family members of army officers, including at least one senior military officer and the wife of the Minister of Defense. The crowd shouted that the Jesuits were terrorists, while a military aircraft buzzed the courtroom.

Inside the courtroom, the defense lawyers warned that all would have to live with the consequences of their actions after they left the courtroom. The jurors knew only too well that they could end up like the dead priests. So they convicted the one man they had to convict and another who was expendable. And they acquitted the six men who had the strongest claim to army protection.

Mr. President, that is one way to understand this puzzling verdict.

The State Department has been remarkably quiet. Perhaps they too question whether the Salvadoran Government has fulfilled its commitment to justice when six of the killers go free and the ones who gave the orders are not even charged. Or perhaps they are just hoping Benavides' conviction will satisfy Congress and this will blow over.

The State Department should take a look at its own role and responsibility in this case. When I think of the hundreds of millions of dollars in aid that it has at its disposal to leverage reforms within the Salvadoran Armed Forces, I cannot help but wonder whether our own Government has done all it could to obtain justice.

Mr. President, I think the verdict in this case is a message from the army that it is still in control. That is a message that must be answered forcefully by the Congress when it next takes up the question of aid for El Salvador.

UNITED STATES MILITARY AID TO PERU

Mr. LEAHY. Mr. President, few countries have reason to be more proud of their past then Peru, where the Incas built a civilization that rivaled that of the Egyptians. And few countries can boast of more spectacular geography, or a culture richer in traditions. The majestic Andes are the Western Hemisphere's Himalayas. The Incas' descendants still plant their potatoes and herd alpacas on the steep hillsides of those jagged peaks.

Yet today, Peru is a country in turmoil, plagued by grinding poverty and bloodcurdling violence, and the world's largest producer of coca from which most of the cocaine sold in the United States is made.

President Fujimori, who took office last July, inherited a legacy of government incompetence and greed, an economic free fall that has brought the country to the brink of catastrophe, and a brutal guerrilla insurgency, Sendero Luminoso, that the army swore it would eliminate 10 years ago but which since then has grown a hundred times worse. In its zealousness to defeat Sendero, the army has carried out a scorched earth campaign in the countryside that has left thousands of civilians disappeared, tortured, and killed. That policy has only led to greater support for Sendero over the years.

The election of President Fujimori was unexpected. He was an unknown, with no prior political experience, and yet he has shown a seriousness in confronting the country's economic crisis. In little more than a year, this economic program has cut inflation from 3,000 percent to 9 percent.

He condemned the drug traffickers, but he argued that the way to stop the production of coca was through economic development—by giving coca farmers another way to earn a living, rather than through a military strategy. And he pledged to reestablish the rule of law in Peru, and to punish those who abuse human rights.

In recent years, the United States has not provided any significant military aid to Peru. The administration signaled a change last year, however, when it requested $34.9 million for the Peruvian military and police as part of its Andean drug initiative, a program of hundreds of millions of dollars of economic and military aid for the Andean countries.

For the better part of this year the administration delayed release to this aid. It took that long to reach agreement with the Peruvian Government on the terms of a counternarcotics program. The administration told the Peruvians that unless they agreed to the military aid, including the training of Peruvian military personnel by United States Special Forces, they would not get the economic aid they desperately need to pay their arrears to the IMF and the Inter-American Development Bank and obtain new loans.

There was another problem. United States law requires that in order to provide this aid the administration must first determine that the Peruvian Government "has made significant progress in * * * ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty or security or the person are not practiced."

According to the State Department's February 1991 Human Rights Report, in Peru—

> [s]ecurity forces personnel were responsible for widespread and egregious human rights violations. * * * There were widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military. * * * Credible reports of rape by elements of the security forces in the emergency zones were so numerous that such abuse can be considered a common practice condoned—or at least ignored—by the military leadership.

More recently, according to Americas Watch:

> In the first year of Fujimori's term, 3,106 Peruvians died in political violence. The armed forces were responsible for approximately half these killings. * * * During the first 6 months of this year the government appointed, independent investigative body recorded 214 disappearances of persons who had been seen in custody."

Amnesty International reports that—

> A pattern of gross violations in Peru has been documented by Amnesty since early 1983. Since the new government took over in July 1990, this pattern has continued.

According to the Peruvian National Human Rights Coordinating Committee:

> The Peruvian security forces systematically violate the most fundamental human rights * * * the situation has gotten no better over the past year.

Despite this dismal record, on July 30 the administration issued a determination that Peru should receive United States economic and military aid, a determination which I believe made a mockery of our human rights law. It ignored the pattern of human rights atrocities by the Peruvian security forces that has persisted for over 4 years, and the failure of the Fugimori government to take strong action to stop these abuses. As chairman of the Foreign Operations Subcommittee, I joined three other congressional committees in objecting to release of this aid.

During the subsequent 2 weeks, I met with President Fujimori and his advisers who stressed the urgent need for economic aid. President Fujimori gave me his personal assurance that he is committed to protect human rights. I also met with Deputy Secretary Eagleburger and Assistant Secretaries Shifter and Aronson about the situation in Peru.

They informed me of certain steps the Fujimori government is taking to protect human rights, including that a central registry of detainees will be established, that commanding officers will be held accountable for the actions of their subordinates, and a recommendation that the International Committee of the Red Cross [ICRC] have access to military detention facilities.

While these steps are welcome, it is too early to say what impact they will have. To date, access by the ICRC has not been tested. A central registry of detainees does not yet exist. No military officer has been imprisoned despite abundant evidence of military culpability for human rights abuses. And Peruvian human rights monitors continue to report disappearances and extrajudicial killings by the Peruvian Army.

On September 24, 1991, I sent a letter, in which I was jointed by Senator DODD, chairman of the Western Hemisphere Subcommittee, describing the terms under which we would lift our holds on a portion of the aid. I ask unanimous consent that our letter be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. Our letter indicated that because of the serious economic crisis facing Peru and President Fujimori's stated commitment to human rights, we were removing our holds on all of the $60 million in economic aid effective immediately.

We also agreed to remove our holds on all but $10.05 million of the military aid, if the administration agreed in writing to the conditions for disbursal of that aid. Put another way, we agreed to release $84 million of the $94 million in aid the administration wanted to give. We even agreed that $3.7 million of aid for the army, despite its reputation as the worst human rights abuser of all the services, intended for road building and other civic action programs, could go forward. The $10.05 million we withheld was intended for counterinsurgency training and weapons for three Peruvian Army battalions.

The conditions, which require only the most elementary steps to protect human rights, are set forth in our letter and if met would amount to significant progress in the protection of human rights.

Mr. President, the State Department argued strongly against any conditions on the aid. They said the steps President Fujimori has already taken show that he is serious about human rights. I do not doubt his seriousness. But I have not forgotten how a United States-trained army battalion murdered six Jesuit priests in El Salvador and then lied about it and destroyed evidenced, despite the State Department's assurances that the army had been reformed.

Nor can I ignore the recent reports of human rights abuses, or accept on faith that President Fujimori can reform the army as the State Department would have us believe. Today, over 40 percent of Peru is designated emergency zones where the army has virtually unfettered authority. There is no doubt that some of this aid particularly the funds intended for the army, would be used to combat the guerrilla insurgency which has led to such abuses.

My doubts about the Peruvian Army are only reinforced by a February 21, 1991, resolution of the Peruvian Council of Ministers and signed by an official of the Ministry of Defense, which states that "the experience gained in the struggle against subversion in the Republic of Argentina determines the suitability of a study and an analysis of the countersubversive doctrine used in that country," and appoints a special military attaché to engage in such a study. It is no secret that the Argentina Army's countersubversive doctrine was a dirty war in which thousands of suspected subversives were disappeared, tortured, and murdered.

Nor am I willing to ignore our law, which if it means anything requires at the very least that military aid should not go to Peru until these elementary steps are taken.

On September 27, the administration accepted the terms of our letter. I ask unanimous consent that a copy of the administration's response appear in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. LEAHY. I want to address briefly several points raised by the administration in its reply.

The administration, noting that it had received three different proposals from Congress regarding aid to Peru, expressed disappointment that "Congress has been unable to address this issue in a unified manner." I too regret that the Congress did not adopt a single position. But that is predictable when the administration, rather than consult with us before defining its own position, simply presents us with a fait accompli and leaves us to react. Prior consultation with Congress on an issue of such predictable controversy might have resulted in the far better result of both the Congress and the administration speaking with one voice.

The administration also reiterated its strong support for military aid and stated that "eliminating major elements of security assistance will seriously damage our counternarcotics program in the Andean region." It warned that the "lack of appropriate security assistance may unintentionally endanger the lives of those dedicated individuals involved in our counternarcotics and humanitarian programs."

Mr. President, if this is meant as a warning that the administration may blame the Congress for the failure of its counternarcotics program or for any harm that comes to U.S. personnel involved in that program, it is regrettable and insupportable.

The Appropriations Committee's concern about the militarization of the Andean drug strategy is a matter of record. Since 1989, the Congress has approved $362 million in narcotics-related aid for Peru, Bolivia, and Colombia, of which $145 million is military and other law enforcement aid for 1991 alone. That is in addition to $400 million in other aid for that region during those same years. Congress will probably approve another $250 million in counternarcotics aid for 1992.

Despite all this money, the net reduction in the amount of coca cultivated has hardly changed—from 220,125 to 217,800 hectares, according to the administration's own numbers.

By withholding $10.05 million in aid the Congress can hardly be said to have eliminated "major elements of security assistance" as the administration claims. This amount is largely symbolic of our repudiation of the terrible human rights record of the Peruvian Army.

Moreover, our letter specifically urges the administration to seriously consider training Peruvian military personnel in the United States, rather than sending United States trainers to Peru precisely because of concerns about exposing United States personnel to unnecessary danger. It is only too clear that part of this aid would be used to fight the guerrilla insurgency.

Mr. President, the Congress has provided hundreds of millions of dollars to combat drugs in the Andes, and that support will continue. We all want to stop the flow of drugs into our cities and towns. But that does not mean we can ignore our own laws or turn our backs on human rights abuses by the very individuals who would receive our aid. Nor will we remain silent if the administration's drug strategy fails to produce results. And finally, we will not stand by as the United States risks entangling itself in a guerrilla war in the jungles of Peru.

Finally, Mr. President, I ask unanimous consent that a September 26, 1991, letter from the Andean Commission of Jurists be printed in the RECORD.

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

COMISION ANDINA DE JURISTAS,
Lima, September 26, 1991.

Hon. Ambassador RICHARD SCHIFTER,
Assistant Secretary of State,
Washington, DC.

DEAR AMBASSADOR SCHIFTER: I have been informed of the existence of a document prepared by the State Department that, apparently, is circulating in Congress entitled "Peru: Human Rights Update" dated September 23.

In the above-mentioned document I am specifically mentioned as saying that (in Peru) "the human rights situation has improved, probably due to US pressure, and military aid should be delivered to keep the pressure on for human rights progress."

The reference mixes an approach that I share with things I don't think and couldn't have said. Some things have improved due to

US pressure; this can be seen mainly in certain steps taken by the Government of Peru (i.e., authorizing the public prosecutors to visit military barracks) and the decrease in enforced disappearances during the month of August. All of these measures and new developments, obviously, are connected to US pressure. Yet these measures, along with the limited improvements are not enough and could be reversed if they are not closely and strictly monitored.

It is because of this that I have never thought nor said that "military aid should be delivered". What I do think—and have said—is that military aid could be delivered gradually, subject to very specific conditions and improvements that should take place in the future and be closely monitored.

I could take up more space in order to express my views on this subject, but on this occasion, I wanted only to rectify the errors which could lead to misinterpretations.

Regards,

DIEGO GARCÍA-SAYÁN.

EXHIBIT 1

U.S. SENATE,
Washington, DC, September 24, 1991.

Hon. LAWRENCE S. EAGLEBURGER,
Acting Secretary of State,
Washington, DC.

DEAR LARRY: In recent years the Administration has requested and the Congress has recommended large increases in foreign aid to combat narcotics in the Andean countries. However, in its report on the fiscal 1991 foreign aid appropriations bill, the Senate Appropriations Committee noted with concern "the Administration's evident intention to continue a growing emphasis on the military component in U.S. counternarcotics efforts in the Andean region." The Committee made particular reference to the Administration's proposal to increase dramatically military aid to Peru, despite reports by reputable human rights organizations of widespread human rights atrocities by Peruvian security forces. The Committee recommended that:

"At a minimum, no military assistance be provided to Peru until the Peruvian Government commits itself to strong measures to bring the military under civilian control and to enforce respect for basic human rights.

"Concrete steps the new Peruvian Government should be asked to undertake include (1) accounting for persons detained and disappeared in 1989 and 1990; (2) establishing a registry of all detentions so family members can be notified promptly of the arrest of a relative; (3) granting access to the International Committee of the Red Cross to all places of detention; (4) taking steps to bring to justice military officers responsible for human rights abuses, including the 1988 Cayara massacre; (5) purging from the military those directly involved in past abuses."

More recently, in its February 1991 Human Rights Report on Peru, the State Department concluded that:

"Security forces personnel were responsible for widespread and egregious human rights violations. . . . There were widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military. . . . Credible reports of rape by elements of the security forces in the emergency zones were so numerous that such abuse can be considered a common practice condoned—or at least ignored—by the military leadership."

It was in this context that we placed holds on the Administration's proposal to obligate $34.9 million in military aid and $60 million in Economic Support Fund assistance for Peru during this fiscal year. We did not believe that a fair assessment of the human rights situation in Peru could conclude, as US law requires, that the Peruvian Government "has made significant progress in . . . ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty or security of the person are not practiced." On the contrary, the State Department's report and recent reports of Amnesty International, Americas Watch and Peruvian human rights organizations all indicate that the Peruvian military has engaged and continues to engage in these very abuses with impunity.

We are aware of recent actions by the Fujimori Government to address some of these problems. However, while we welcome these actions it is too early to say what impact they will have. Without concrete proof that the requirements in our law have been met and that military personnel who commit abuses will be promptly brought to justice, we cannot in good conscience agree to the unconditional release of the military assistance funds.

At the same time, we recognize that Peru is facing a severe economic crisis. we understand that the majority of the Economic Support Funds currently on hold will be used to leverage contributions from other donors to enable Peru to obtain urgently needed assistance from the international financial institutions. We believe the United States has a strong interest in helping Peru overcome this economic crisis. We are convinced that without economic development, particularly in the impoverished rural areas where coca is cultivated, no amount of military assistance will win the war against drugs.

We have discussed our concerns personally with President Fujimori and he has assured us of his strong personal commitment to protect human rights. It is in recognition of those assurances, and for the reasons mentioned above, that we remove our holds on the ESF.

With respect to the $34.9 million in military aid programmed as described in a letter of July 31, 1991 from General Teddy G. Allen, we will agree to the obligation, but not the disbursement, of all except $10.05 million proposed for the Peruvian Army, the most notorious abuser of human rights among the security forces. These funds for the Army are primarily for counterinsurgency training and weapons. However, at the urging of President Fujimori, we are prepared to agree to the obligation of $3.7 million of the funds intended for the Army for road building and other construction equipment for civic action programs only.

Our agreement to obligation of the portion of the military assistance funds described above is contingent on the understanding that prior to disbursement of the military assistance, the Administration will inform the appropriate committees of Congress that the following steps have been taken by the Peruvian authorities:

Arrangements that the military assistance will be provided directly to President Fujimori and made available to the Peruvian military services by him;

Creation and publication of a central registry of all detainees of any of the Peruvian security forces within three months;

Access to all places of detention by the International Committee of the Red Cross and Peruvian justice personnel, immediately following arrest.

Failure to publish the central registry of all detainees within three months will be taken into account when we receive notifications for release of any additional military assistance for Peru that may be approved for fiscal 1992.

In addition, our agreement to obligation of the military assistance is contingent on Administration agreement to consultations with Congress prior to disbursement concerning specific actions the Peruvian Government is taking to discipline and prosecute those responsible for the following cases:

November 1988 murder of Jugo Bustios;

June 1989 murder of Fernando Mejia Egocheaga;

September 1990 murders of Zacarias Pasca Huamani and Marcelino Valencia Alvaro;

August 1990 massacre at Iquicha, Ayacucho;

September 1990 murders at Vilcashuaman, Ayacucho;

July 1991 massacre at Santa Barbara, Huancavelica;

March 1991 murders at Chuschi, Ayacucho;

June 1991 murders of medical student and two minors.

Further, these consultations should include discussion of actions the Peruvian Government is taking to appoint special prosecutors in each province with a public mandate from the national government and sufficient resources to investigate and prosecute human rights violators.

Finally, we would urge the Administration to seriously consider training Peruvian military personnel in the United States rather than sending US trainers to Peru. Both US and Peruvian citizens have serious concerns about sending US military advisers to that country.

Upon receipt of a letter from you entering into the understanding described in this letter, our holds on obligation of the military assistance with the exception of $10.05 million for the Peruvian Army are removed.

Sincerely,

PATRICK LEAHY,
Chairman,
Foreign Operations Subcommittee.

CHRIS DODD,
Chairman,
Western Hemisphere Subcommittee.

EXHIBIT 2

DEPARTMENT OF STATE,
Washington, September 27, 1991.

Hon. PATRICK J. LEAHY,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: I am replying to your letter and to the letters of Chairmen Obey and Fascell regarding congressional opposition to full funding of the Administration's proposal to reduce the flow of cocaine coming from Peru. The Administration has received three separate proposals and sets of conditions from Congress regarding aid to Peru. I am disappointed that Congress has been unable to address this issue in a unified manner.

We believe that security assistance is essential to an integrated program of alternative development in the Upper Huallaga Valley, the source of sixty percent of the world's coca leaf. Without adequate security, Peruvian and other aid workers, including Americans, are at risk. Nor can essential road-building and civic action operations proceed if workers cannot be protected. If a development infrastructure is not in place, alternative crops cannot become economically viable.

We believe that eliminating major elements of security assistance will seriously damage our counternarcotics program in the Andean region. Moreover, a program of security assistance which included the Army would assist President Fujimori in improving that organization's human rights performance. During his recent visit to Washington, President Fujimori clearly indicated his commitment to proceed with interdiction efforts and to improve Peru's human rights record.

ONDCP Director Martinez and I are extremely concerned that these congressionally imposed conditions may have a detrimental impact on the effectiveness of the program. We are also deeply troubled that the lack of appropriate security assistance may unintentionally endanger the lives of those dedicated individuals involved in our counternarcotics and humanitarian programs.

Nevertheless, the impasse that currently exists between the Administration and Congress must be bridged. The urgency of reducing the flow of cocaine to the United States requires us to begin this program as soon as possible. The Administration therefore reluctantly accepts the congressionally imposed conditions for release of the economic and military assistance as set forth by you and by Chairman Leahy and Obey. To do otherwise would be an abrogation of responsibility to make every effort to reduce the flow of narcotics into the United States.

Sincerely,

LAWRENCE S. EAGLEBURGER,
Acting Secretary.

THE NOMINATION OF JUDGE CLARENCE THOMAS

Mr. KERREY. Mr. President, the nomination of Judge Thomas to the Supreme Court has been characterized by cynicism from beginning to end. There is plenty of blame to pass around, but the one with whom the real responsibility rests, the one who has taken the lead in infusing cynicism into the entire nomination process, is the President.

This nomination was not made with an eye to our children and our future. It was not made with an eye to building a great Supreme Court. Rather, it was made with a cynical eye toward achieving a political objective—maintaining the President's political popularity.

Does anyone in this Chamber believe that this nominee is, as the President asserts, the most qualified person in America for appointment to that position? Does anyone believe that he is the most qualified member of the bar or the most qualified member of the judicial branch? Does anyone in this Chamber believe that the President's selection of Judge Thomas was, as the President asserts, made without regard to racial considerations?

This cynicism was turned on full force once Professor Hill's allegations of sexual harassment became public. Instead of making a genuine effort to determine whether there was any validity to the serious charges levied by Professor Hill, the goal became to discredit her by impugning her character. Instead of trying to determine the truth, the President and his men drove toward their objective of political victory by discrediting Professor Hill.

Through their efforts, they have trivialized the charge of sexual harassment. They have said to any defense attorney representing a client charged with sexual harassment that your best bet is to go after the woman bringing the complaint, attack her credibility, her mental stability, her morals. Assault her personal dignity. If that strategy suits the President of the United States, why should it not be acceptable for others preparing a defense against the charge of sexual harassment?

I believe that the President of the United States should promote higher values and principles. The objective of the President should not be to achieve a political victory. I believe the objective should be to appoint a truly great Supreme Court Justice, one who will contribute to the deliberations of that body as it grapples with issues that, in the absence of great leadership, have the potential to sharply divide this country. I am sorry to say I do not believe that this is what we have seen with the nomination of Judge Thomas.

IN MEMORY OF LLOYD K. GARRISON

Mr. WIRTH. Mr. President, with great sadness I speak of the passing of Lloyd K. Garrison. A man of significant accomplishment and remarkable modesty, Lloyd was one of the kindest men I have ever known. He represented a combination of excellence, commitment, and humanity unmatched by almost anyone I have ever known, and to which we can all aspire. His example will always be with me, and I thank him. We shall all miss this wonderful man.

I ask unanimous consent that the text of an article from the New York Times on Lloyd be printed in the RECORD immediately following my remarks.

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

LLOYD K. GARRISON, LAWYER DIES; LEADER IN SOCIAL CAUSES WAS 92

(By Lee A. Daniels)

Lloyd K. Garrison, a lawyer from a distinguished family who built an extraordinary record of individual achievement and public service, died at his home in Manhattan. He was 92 years old.

He died of heart failure, his family said.

Mr. Garrison was the great-grandson of William Lloyd Garrison, the abolitionist, and the grandson of Wendell Phillips Garrison, the literary editor of The Nation. His father, Lloyd McKim Garrison, a lawyer, and his mother, Alice Kirkham Garrison, were pillars of New York society.

Mr. Garrison was schooled at St. Paul's and at Harvard and Harvard Law School, where his brilliance and social connections brought an offer from the law firm of Elihu Root, one of the leading figures of the country's elite establishment.

LEADING SOCIAL CAUSES

But Mr. Garrison's interests, seemingly indefatigable energy and commitment to progressive social causes took him far beyond the life of the Wall Street lawyer.

Mr. Garrison, a partner at Paul, Weiss, Rifkind, Wharton & Garrison, was a very successful Wall Street lawyer. But he was also at various times a law school dean, a crusading and innovative Federal investigator and administrator, a civil rights and civil liberties advocate, a close adviser to a Democratic Party standard-bearer, and a political reformer who took on and bested the Democratic Party machine in New York City.

Mr. Garrison was a friend of some of the most powerful establishment figures in 20th century America—Root, Judges Augustus and Learned Hand, Adlai Stevenson. He was called to government service several times by Presidents Franklin Delano Roosevelt and his successor, Harry S. Truman. He served on numerous Federal agencies and commissions.

Yet, Mr. Garrison was a stalwart champion of working people and the poor. He joined the National Urban League in 1924, an act of which he said "My eyes were opened to the realities" of racial discrimination in America, and was its president from 1947 to 1952.

That commitment remained through the decades.

In 1968 after the assassination of Dr. Martin Luther King Jr., Mr. Garrison wrote a letter to The New York times in which he stated that Dr. King "in the last years of his life realized that "civil rights legislation and court decisions were not enough to wipe out discrimination and inequality, that the ravages of poverty had to be dealt with on a massive scale; (and) that the cleansing and transformation of our inner cities was the first order of business and the establishment of peace was indissolubly linked with these objectives."

DEFENDING THE UNFAVORED

In the early 1950's, having compiled a considerable record of Federal service, Mr. Garrison defended the poet Langston Hughes and the playwright Arthur Miller when they were summoned by Senator Joseph McCarthy before the House un-American Activities Committee. And he defended J. Robert Oppenheimer when the Atomic Energy Commission—for whom Mr. Garrison had been a special consultant on the 1940's—sought to remove Mr. Oppenheimer's security clearance.

Mr. Garrison lived a super-charged life. But his friends invariably described him as a somewhat shy man with a self-effacing manner.

"I've never planned my life," he said in the early 1960's. "I've taken things as they've come along. For me life has been a series of accidents."

"I like to be of use," he went on, "but I don't consciously go out to serve."

Others recognized what Mr. Garrison, in his modesty, would not acknowledge, and he was constantly called upon to be "of use."

The calls began early in his career. After college, interrupted for service in the Navy, law school and his settling on Wall Street. Mr. Garrison was asked by the City Bar Association in New York to investigate incidents of "ambulance chasing" and bankruptcy fraud by lawyers.

BANKRUPTCY-FRAUD INQUIRY

His work gained such prominence that President Herbert Hoover appointed him to a special Federal commission investigating bankruptcy-fraud across the county.

That began a career of Federal service in the 1930's—including a hand in the formation and administration of the National Labor Relations Board. His work so impressed Washington officials that some in the Roosevelt Administration pushed him for a seat on the Supreme Court.

Mr. Garrison at the time was actually employed outside the Government, as dean of the University of Wisconsin Law School, where his efforts at improving the school's standing drew widespread praise. During that period he served as president of the Association of American Law Schools, but remained on call as a special Federal mediator and arbitrator in thorny labor disputes.

Among his many activities, Mr. Garrison was a former member of the Board of Overseers of Harvard University, and a trustee of Sarah Lawrence College, and Howard University, and a member of the Council of Foreign Relations and the City Bar Association.

He is survived by his wife, Ellen; two daughters, Clarinda Garrison and Ellen Shaw Kean, and a son, Lloyd McKim Garrison, all of Manhattan, and 11 grandchildren.

A memorial service will be held on Monday at 12:30 P.M. at All Souls Unitarian Church, at 80th Street and Lexington Avenue in Manhattan.

APPRECIATION FOR THE SERVICE OF RICK PIERCE

Mr. HATFIELD. Mr. President, earlier today the Senate adopted the conference report on the fiscal year 1992 military construction appropriations bill, clearing that measure for the president. The occasion marks the last time the Committee on Appropriations will benefit from the assistance of Mr. Rick Pierce, one of our professional staff members, and I want to take a moment to express my appreciation and that of others for his years of service.

Mr. Pierce was first appointed to the staff of the committee in the position of clerical assistant in 1975 by former Senator Milt Young of North Dakota, who was ranking minority member of the committee at the time. Two years later Mr. Pierce was promoted to the position of professional staff member and has continued to serve the committee in that capacity in the 14 years since.

For most of that time Rick served as the clerk of the military construction subcommittee, assisting Senators Laxalt, Mattingly, GRASSLEY, and GRAMM in the past 10 years in those Senators' roles as chairman or ranking minority member of the subcommittee. Senator SASSER, as the current chairman of the subcommittee, Senator BYRD, as our full committee chairman, and other members of the committee on both sides of the aisle have also benefited from his work and his counsel.

A few years ago, I asked Rick to take on additional responsibility as the professional staff member for our District of Columbia Subcommittee, and he has ably assisted in those endeavors as well. I am sure Senators NICKLES, GRAMM, and BOND, who have served as the ranking minority member of that subcommittee in recent years, join me in expressing appreciation for his work on that subcommittee.

Mr. President, the Committee on Appropriations has 13 subcommittees, each handling 1 of the 13 regular appropriations bills. Subcommittee membership ranges from 5 to 17 Senators, staffs range from 2 to 15 people, appropriations considered from $700 million to $275 billion. Some of our bills are consistently more controversial than others, requiring more debate time here on the Senator floor and attracting more attention in the press. The military construction and the District of Columbia appropriations bills may be viewed by some as relatively minor measures. But they require of the staffs who work on them the same competence, the same attention to detail, and the same professionalism that the members of the committee have come to expect, and are fortunate enough to enjoy, from all the committee staff.

Rick Pierce has met that high standard in his 16 years with the Committee on Appropriations, and I want to express to him my deep appreciation for his service to the committee, the Senate, and the Nation. I wish him and his family only the best in all their future endeavors.

CONGRESSIONAL BUDGET OFFICE REPORT—H.R. 355

Mr. JOHNSTON. Mr. President, on October 8, 1991, the Committee on Energy and Natural Resources filed the report to accompany H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991.

At the time this report was filed, the Congressional Budget Office had not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask unanimous consent that it be printed in the RECORD at this point.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 9, 1991.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991, as ordered reported by the Senate Committee on Energy and Natural Resources on September 26, 1991.

Enactment of H.R. 355 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

ROBERT F. HALE
(for Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 355.

2. Bill title: The Reclamation States Emergency Drought Relief Act of 1991.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on September 26, 1991.

4. Bill purpose: H.R. 355 would authorize the Department of the Interior, acting through the Bureau of Reclamation (BOR), to carry out a variety of activities—primarily in the western United States—to ease the effects of drought and to study and develop drought contingency plans. Authorized activities include establishing water banks, providing loans, and deferring certain water charges owed to the United States government by water purchasers. The bill would authorize appropriations of up to $90 million over the 1992-1996 period to carry out these activities. In addition, up to $12 million would be authorized to design and construct water-temperature control facilities at Shasta Dam in California.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
Estimated authorization level	30	18	18	18	18
Estimated outlays	15	19	28	18	18

The costs of this bill fall within budget function 300.

Basis of estimate: For the purpose of preparing this estimate, CBO assumed that H.R. 355 would be enacted and that the full amounts authorized would be appropriated beginning in fiscal year 1992. Additional costs to complete construction of temperature control facilities at Shasta Dam were estimated based on information from BOR. Outlays were estimated based on information from BOR and on historical outlay patterns for similar programs.

Section 104 would authorize BOR to defer, without penalty or additional interest, any portion of the annual operation and maintenance (O&M) charges owed by irrigators that BOR determines cannot be made as a result of economic hardship during a drought. Amounts deferred would have to be repaid later and could, in certain circumstances, be recovered by extending the repayment period of the irrigator's water contract.

This deferral authority could result in a loss of receipts over the next five years. However, based on information from BOR and from the committee staff, CBO believes that these provisions are unlikely to result in significant changes to current BOR practices relating to deferrals of payments during drought conditions. We estimate, therefore, that enactment of this section would not result in additional costs or lost receipts to the federal government.

Section 301 limits to $90 million appropriations for activities related to easing impacts of the drought. CBO estimates that such an appropriation would likely be provided over a number of years and would result in additional outlays totaling about $14 million in 1992 and $86 million over the 1992-1996 period.

The costs incurred to deliver water purchased under this bill and provided under temporary contracts for irrigation and municipal and industrial purposes would have

to be repaid with interest, by certain recipients. While these repayments could increase federal receipts in the future, CBO has no way of estimating at this time how much of the water purchased would be provided to such users and thus repaid.

Assuming appropriation of the $12 million authorized in section 303, we estimate that BOR would spend about $0.7 million in 1992 and the full $12 million over the 1992–1994 period to complete environmental studies and to begin initial design and foundation work on temperature control facilities at Shasta Dam. Additional funds totaling about $40 million would be necessary to complete construction of the facilities.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. CBO estimates that enactment of H.R. 355 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On March 15, 1991, CBO prepared an estimate for H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991, as ordered reported by the House Committee on Interior and Insular Affairs on March 13, 1991. That version of H.R. 355 is similar to this one except that the House version authorized the appropriation of $30 million in fiscal year 1991 to carry out certain temporary drought activities. Unlike the Senate version of the bill, the House version of H.R. 355 did not authorize the deferral of O&M charges or a loan program for the purposes of mitigating loss or damage due to drought.

10. Estimate prepared by: Theresa Gullo.

11. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,405th day that Terry Anderson has been held captive in Lebanon.

ANOTHER TRAGEDY WITH 9-MILLIMETER BULLETS

Mr. MOYNIHAN. Mr. President, I rise today to draw my colleagues' attention to another tragedy. I have remarked before upon the plague of children killing children in the drug wars. Today it is something altogether different and at least as tragic. A man in Killeen, TX, drove his truck through the window of a restaurant and opened fire on its patrons with a Glock 9-millimeter semiautomatic handgun. For 10 minutes he fired that gun, and after emptying one 17-round clip he loaded his gun with another. He killed 23 people and injured 18 others before turning the gun on himself. The worst mass shooting in American history.

In the coming days, we will hear of who this murderer was, and conjecture why he did those deeds. But let us not forget those 23 deaths and the 9-millimeter bullets that caused them. As the House considers its crime bill, we ought to rethink the violent crime epidemic as epidemiologists study diseases: Fight it at its source. After all, guns do not kill people—bullets do.

On January 14, I introduced S. 51, the Violent Crime Prevention Act of 1991, to ban the import, manufacture, and transfer of .25 caliber, .32 caliber, and 9-millimeter ammunition. I urge my colleagues to cosponsor this legislation.

I ask unanimous consent that an article by Reuters about the shooting be printed in the RECORD at this point.

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

23 DIE IN TEXAS SHOOTING RAMPAGE

KILLEEN, TX October 16.—In the worst mass shooting in U.S. history, a man armed with an automatic pistol killed 22 people in a Texas cafeteria on Wednesday turning his gun on himself, authorities said.

The man, described as a white male in his 30s, slammed his pickup truck through the window of the cafeteria and mowed down people waiting in line for lunch.

It was the worst death toll from a shooting rampage in U.S. history, topping the 21 people killed in a McDonald's restaurant in California in 1984. Authorities reported 18 people were injured.

The gunman killed himself after he was hit by gunfire from Texas Department of Safety officers and Killeen police, said Frank Waller, chief of staff services for the Texas Department of Public Safety.

The gunman died in a rest room at Luby's cafeteria, one of the Luby's chain of cafeterias where people serve themselves using trays.

Many of the wounded were in very critical condition, Waller told Reuters. They were taken by helicopter to Darnell Hospital at the nearby Fort Hood military base.

A hospital spokeswoman said 12 wounded were admitted to Darnell and six others to Metroplex Hospital in Killeen.

The gunman used a 9mm Austrian-made Glock, a 17-shot semi-automatic pistol, Waller said. Radio reports said the shootings went on for about 10 minutes, starting at 12:41 p.m.

An employee at the cafeteria told reporters the gunman broke through the plate glass front of the cafeteria with his truck and said, "This is what Bell County done to me," before he started shooting. Killeen is located in Bell County. The meaning of the remark was not immediately clear.

"As fast as he could pull the trigger, he was shooting people. He was just shooting randomly," said another survivor.

The employee said the gunman first shot a man who was stuck under his truck, then began killing those in the cafeteria.

"He pointed toward the line where the service was. Everybody ran to the back, then he just started firing all the way through Luby's," the employee said in a radio interview.

One report said the man only stopped firing long enough to reload his gun.

Witnesses said people huddled under tables to escape the gunfire. One report said some survivors escaped through the window broken by the man's truck.

Glen Renfro, an employee at a vehicle parts store next to the cafeteria, said that he heard no shooting, but that people who escaped came running into his shop, shouting for him to call the police.

"They said the cafeteria was packed, but they couldn't describe what happened because they were all in hysterics," he said.

Killeen police called in officers and ambulances from towns near this small city, located 60 miles north of Austin.

THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991—VETO

The PRESIDING OFFICER. The Senate will now proceed to the consideration of the President's veto message on S. 1722, which the clerk will report.

The bill clerk read as follows:

Veto Message on S. 1722, the Emergency Unemployment Compensation Act of 1991.

The Senate proceeded to consider the veto message.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President I was disappointed when the President chose to veto S. 1722, the Emergency Unemployment Compensation Act of 1991, after having seen it approved overwhelmingly by both Houses of Congress.

Mr. President, this recession is not over. We have a record number of people out of work. We have the highest number of people who have run out of their unemployment benefits that we have had in this country in 40 years. We are seeing the claims continuing to creep up as additional people are running out of their benefits.

The system we have is archaic and it does not work because it uses the insured unemployment rate rather than using the total unemployment rate, which is a much more correct criterion. Let me give an example for those Members who might be watching their consoles back in their offices or their staff members.

There is no State today, when we have millions of unemployed, that would qualify for extended unemployment benefits. The last one we had was 5,500 people in Rhode Island.

Let me give you another example of how the insured unemployment criteria works. In my State, the State of Texas, we would have to reach total unemployment of 15 percent to qualify. This is outrageous.

We passed this bill by big majorities in both Houses. We were 2 votes short insofar as being sufficient to override the veto. So we have a tough hill to climb today. Two or three Members could make the difference and answer the serious problem facing the American people. We have a lot of folks just hanging on hoping and waiting for this economy to turn around. But that has not happened.

One of the problems you run into in unemployment when you are talking about the recession, traditionally you see unemployment continue to increase for 6, 7, and 8 months beyond the time that the recession turns around and you start to come out of it.

Even if we begin to start coming out of the recession, all of the economists I have seen are talking about a moderate recovery, a slow recovery. The problem is not going to evaporate overnight. You are not going to see the kind of traditional recovery you saw in the last two recessions when you saw the economy come out at 6, 6½, 7 percent increases in GNP, bouncing out. Not this time.

I will give you another reason why recovery is going to be slow and why it is going to be difficult. Personal savings in this country are less than 4 percent. That means the consumers do not have money in their pockets to spend, and they are not spending. That is why this recession will continue.

Mr. President, I think the Members of this Congress have an obligation to the working men and women of this country. They are out of work because of the third longest recession since World War II. These are not casual workers. These are long-term workers, men and women in the labor force of this country who are trying to provide for their families, and they are without work through no fault of their own.

This economy is in trouble, with 8.4 million people out of a job, and hundreds of thousands have just given up and quit working. Each month that goes by more than 300,000 Americans exhaust their regular State unemployment benefits.

Those are the kinds of people that in normal economic times are taxpayers in this country. They want to become taxpayers again. But these are not normal times.

Last Thursday we learned that initial claims for unemployment benefits were up again, with a recession level of 435,000. That is an increase of 5,000 from the previous week.

This thing has not turned around. These numbers show that the unemployment increase is a slow, upward curve. According to the Department of Labor, the seasonally adjusted number of claims over the most recent 4-week period was 427,000. That is up, not down, from the previous 4-week period.

Real disposable income is lower than it was a year ago. The drop in savings I was talking about, coupled with no real income growth, means that the consumers do not have the cash in their pockets to sustain a strong recovery of the economy.

All you have to do is look at the retail sales; they are flat. Look at the net worth of America's housing. It dropped this year for the first time in two generations.

People have always said that their home was part of their savings, and that that equity would continue to increase in value. Even though their bank account did not show more money, there was equity in that house, and some day, if they had to, they could sell. But that is not the case now. That equity has gone down.

At the same time, when unemployed workers turn to the extended benefit program, we see a complete state of paralysis. Despite unemployment as high as 8, 9, and 10 percent, no State now qualifies for those extended benefits. While that is happening, every day millions of employers in this country are paying money into the unemployment trust fund. That trust fund is for this specific purpose: to be paid out at times of high unemployment. Money is paid in there by the employers themselves, and we now have over $8 billion in that fund.

The piece of legislation that I have talked about, that this body overwhelmingly approved, if you utilize every benefit—every benefit—you would still have money left in that trust fund, and then it would start to build up again and build up again.

So it is not a question of draining it out; it is a question of utilizing it for the purpose for which it was intended when that money was put there. We are not talking about paying for it twice. The employers have already paid for it. But what we are seeing more and more is that trust funds, whether they are airport or entitlement trust funds or unemployment trust funds, are used to mask a deficit in the budget.

We are talking about it being an emergency for people here at home. Not the Kurds, nor the Turks, not people overseas who have emergencies. We granted that. When the President asked for that emergency authority, I went along with it, and most of the Members of the Senate and the House did, because we thought it was justified. But now here at home, let us take care of our folks.

I noticed that the President says he would support a bill offered by the minority. Well, I do not think that bill—with all due respect to my distinguished colleague, the Republican leader—is a viable substitute for S. 1722. According to the CBO, the Congressional Budget Office, a bipartisan office, if that bill was enacted, workers would get less than half the number of weeks of benefits that they would get under S. 1722.

Furthermore, the minority bill denies benefits to most of those workers who have been unemployed the longest. It is estimated that under the minority bill, only 136,000 workers in six States would be eligible for so-called "reach back" benefits, while under the bill we passed, S. 1722, nearly 1 million workers in 36 States qualify for "reach back" benefits.

The President says he will support the minority bill because new fees are levied and benefits are cut to pay for it. Well, let us look at how it is paid for.

It starts by taking a half billion dollars away from the heroes of Desert Storm/Desert Shield, who came back to this country with an honorable discharge. It says to those people: When you come back and do not find a job, because you went away to serve your country and served honorably, you are not going to get benefits that we give to the civilians who stayed home and lost their jobs.

Where is the equity in that? How can you take that half billion dollars away from them? The Congressional Budget Office says the minority bill is going to cut the unemployment benefits over the next 5 years for those people by 65 percent. I have to wonder whether the minority and the President really understand what they are proposing. A cut of that magnitude to these veterans who served their country well is just not right.

The President objects to the fact that S. 1722 invokes the emergency authority agreed to by both sides in last fall's budget agreement. But, as I have cited, he has invoked it time and time again for people in desperate straits in foreign lands. We need it for the folks here at home.

This recession is not a gentle crisis. There are 2 million more people unemployed today than there were just a year ago.

The vote is going to be close. We need two more. Whoever those two are, I hope they will recognize the tragedy of hundreds of thousands of Americans who are exhausting their benefits each month. I hope they will join to try to override the President's veto and see that these benefits are paid out into the hands of jobless Americans who are having a tough time of it today.

Mr. President, I withhold the remainder of our time.

I yield to Senator SASSER.

The PRESIDING OFFICER. Senator SASSER is recognized.

Mr. SASSER. Mr. President, I commend the distinguished chairman of the Finance Committee for the leadership he has shown now over many weeks in trying to bring some relief to the long-term unemployed in this country, in trying to fashion a program that will not only bring to these Americans who suffer from long-term unemployment the unemployment insurance that they have paid for but also to provide some modicum of economic stimulus to this sagging economy by doing what every other administration has done since the Second World War at a time of recession; that is, extending unemployment compensation benefits for the long-term unemployed.

I commend the chairman of the Finance Committee for his leadership in this whole effort. I hope my colleagues listened very carefully to the statements made by the chairman of the Finance Committee this morning.

I think he laid out very ably, very precisely, very logically, and very persuasively the issue that faces the country here this morning.

The President claims to care very deeply about the plight of unemployed

Americans, and I do not question his concern about the millions of our fellow countrymen who are unemployed and who have exhausted their unemployment benefits.

At the present time, Mr. President, if we add up the number of Americans who are classified as officially unemployed on the unemployment rolls, add to that number those who have become so discouraged they quit looking for work and are no longer carried on the unemployment statistics, and add to that number those who had full-time jobs prior to the inception of this recession and who are now reduced to part-time work, we find that the actual unemployment or part-time unemployment in this country stands at 10 percent.

Ten percent of the work force of this country, as I address my colleagues here this morning, is either unemployed, having exhausted their long-term unemployed benefits, or been reduced to working part-time jobs because they lost their regular jobs as a result of the economic times that we now live in.

That is the alarm that the distinguished chairman of the Finance Committee is sounding this morning, sounding for our colleagues here in the Senate, and sounding for the country.

I think the veto that the President of the United States exercised to attempt to defeat this extension of unemployment benefits to millions of desperate Americans speaks for itself. And the timing of the veto I think speaks doubly loud.

With the loss of the State of Rhode Island from the extended unemployment benefits program this week, not one of the 50 States in the Nation currently qualifies for extended benefits; not one American citizen who is unemployed and has exhausted his or her unemployment benefits in all the 50 States stands to receive extended protection.

This is a moment without precedent in the history of unemployment insurance in this country. And it is a devastating moment for the 5 million Americans who have lost or will soon lose their insurance protections.

Preventing this disaster, this personal disaster to millions of families all across this Nation, was in the President's hands this past week. If he had signed the responsible and effective Senate bill fashioned by the chairman of the Finance Committee and sent to him with overwhelming bipartisan approval, relief would be flowing to these citizens in all 50 States.

But, instead, the President chose to veto this bill. And this is the only recession since the Second World War in which extended unemployment benefits have not been offered to the long-term unemployed.

In this recession, when the signs of recovery are fading, when some economists are talking about the double-dip recession, we see the unemployment insurance fund actually increasing its balance. The unemployment insurance fund, the trust fund is actually increasing its balance in a time of severe unemployment, and that is without precedent and operates entirely contrary to the theory of unemployment insurance.

It is tragic, I submit, really it is disgraceful.

The strategy of this administration has been to use the budget agreement as a fig leaf and to talk about other alternatives, something over the horizon.

My respect and affection for the minority leader is well known in this body, and I do not mean to minimize his concern. But if you scrutinize the package that he has offered on behalf of this administration, it is obvious that the President's alternative is a simple sham.

Mr. President, I call my colleagues' attention to a New York Times editorial that appeared just this morning, and I quote from that editorial. "The Republican proposals that he prefers are a sham." So says the New York Times. "They help too few people and depend on gimmicks that waste future revenues," from the New York Times editorial of just today.

The plan that is being offered on behalf of the administration is defective precisely in the area where the need is the greatest.

It offers absolutely nothing to the vast majority of unemployed Americans who have already lost their unemployment insurance protections.

The bill that is offered here by the minority leader ignores 86 percent of the American people who have run out of benefit checks since March.

What kind of program is that when you extend long-term unemployment benefits to 14 percent of the long-term unemployed but say to the other 86 percent, "You are not entitled"? It provides not one penny to 1.2 million Americans who have been out of work the longest and need assistance the most.

Two hundred sixty-eight thousand Californians, a quarter of a million people, have lost their unemployment protection since March. They would not receive one red cent under the proposal that is advanced by the minority leader on behalf of the administration.

Thirty-five thousand citizens of Missouri who want to work but cannot find jobs, who paid into the unemployment benefit fund, as have their employers, and should be eligible for additional benefits and would be under the proposal offered by the distinguished chairman of the Finance Committee, are wholly ignored in the proposal advanced by the minority leader on behalf of the administration.

In all, the proposal that the minority leader advances fails to protect the citizens of 44 of the 50 States of this Union who have lost their unemployment benefits in the last 7 months.

By comparison, the bill that the President saw fit to veto extends immediate protection to 89 percent of the 1.4 million Americans who have lost their unemployment benefits and are still without jobs.

The deficiencies of the alternative offered by my friend, the minority leader, do not stop there.

Contrary to what has been advertised, the plan that has been offered by the minority leader does not pay for itself.

The Congressional Budget Office analysis shows that there is no assurance whatsoever that the proposal offered by the minority leader would generate enough receipts in 1992 to pay for the plan's benefits.

That is perhaps a technical point. There is, however, a more simple and direct indictment of the proposal offered by the minority leader. It is exactly the reverse of what is fiscally responsible.

In the unlikely event that the proposal offered by the minority leader were ever enacted, that proposal would be a raid on the Treasury.

At my request, the nonpartisan Congressional Budget Office, analyzed the payment mechanism of the plan offered by the minority leader in some detail. The Congressional Budget Office has concluded that this is a speedy auction, a fire sale, if you wish, of the electromagnetic spectrum on the timetable suggested in the proposal offered by the minority leader. In order to generate $1 to $2 billion in receipts in fiscal year 1992, that massive fire sale would result in a loss to the Treasury of as much as $2.5 billion.

Mr. President, again alluding to the New York Times editorial of this morning, the editorial writers understand what is going on. Quoting from that editorial:

> The Congressional Budget Office estimates a quick selloff would yield as much as $2 billion, but a properly managed sale later would yield up to $4½ billion.

So this fire sale in which we will try to force the sale of these electromagnetic spectrum frequencies would cost us $2½ billion. Quite the reverse of paying for itself, the proposal advocated by the minority leader is a giveaway of a valuable asset owned by the American people.

This sloppy rush to market is really unnecessary.

The insurance extension proposal that the chairman of the Finance Committee has fashioned here in this body, that has been passed by an overwhelming bipartisan majority, has been paid for. It has been paid for by the same working men and women who now are out of work and need help.

As I said earlier, while the unemployed are suffering, the trust fund es-

tablished to help them is growing—what an irony—growing to $8 billion by the latest count, a fact that is completely lost on this administration.

In his veto message to the Senate, the President made the following statement:

Enactment of S. 1722 would signal the failure of budget discipline, which would have a negative effect on financial markets that could threaten economic recovery and lead to increased unemployment.

Mr. President, this is a classic example of tortured and desperate logic. It is symptomatic of this administration's skewed view of what is happening in the American economy right now. There is simply a blind spot for the distress and suffering of Americans who want work and cannot find it, and who are in desperate need.

This administration seems to have a sun-will-come-out-tomorrow approach, and everything will be all right. But I would submit that the sun-will-come-out-tomorrow approach does not put food on the table today. It does not keep the wolf away from the door today.

The President's hope that this economy will do an abrupt about-face simply does not square with economic reality. But do not take my word for it. Listen to the chief executive officers of our Nation's largest corporations.

Following a meeting of the Business Council last week, the chief executive officers of this Nation's top corporations, that employ millions of Americans, released this statement:

There is as yet no feeling among many consumers and business managers that economic recovery truly is underway, despite the gains reported in various statistical measures.

So says the Business Council, made up of the top chief executive officers of corporations in this country.

The President speaks of this economy with the glibness of an auctioneer, I would submit, about statistical measures being up a blip, up a shade, up a point. But my colleagues in this body know better because they go back home. They listen to the leading business people. They listen to the bankers. They listen to the small business people. They listen to the jobless workers. They listen to the consumers. Ask them if they see signs of recovery in their businesses, in their economic lives, and they will tell you that this recession has teeth like they have never seen before, and it is ripping to the marrow of our economy.

Mr. President, the gross national product growth record of this administration is the worst of any administration since that of Herbert Hoover. This President in the White House now is the first President since World War II to preside over a decline in the living standards of the people of this country as measured by an annual rate of per capita GNP of negative 0.4 percent since taking office.

The people paying for the failures of this President's economic record are the very people punished once again by last week's veto—working Americans who have been laid off through no fault of their own and who cannot find jobs in this unforgiving economy.

The President did not turn a blind eye to the people of Egypt when they needed debt relief on an emergency basis. He did not turn his back on Kenya, Malawi, Nicaragua, and 14 other nations when he forgave loans totaling nearly $2 billion at the beginning of this month.

Helping the poor in foreign lands is a just and decent course for a wealthy nation to pursue. But it is a mockery when that nation will not help its own citizens in New York, Alabama, Oregon, and Tennessee.

The U.S. Senate has made its priorities clear: Americans in distress also count. Those are the priorities of the Bentsen bill. We urged the President to make them his own, and he did not.

It is time for this body to do what our President should have taken the lead in doing. Now that the last American has been refused extended unemployment protection, it's time to act.

Mr. President, the people of this country need help. It is time for the unemployed Americans who paid their dues to start getting the insurance protection they paid for, the insurance protection they deserve.

I urge this Senate to heed the advice and counsel given to us this morning by the distinguished chairman of the Finance Committee, the senior Senator from Texas, and override the President's veto.

Mr. BENTSEN. Mr. President, how much time has been utilized by the majority and minority at this time? How much time do we have remaining on this side?

The PRESIDING OFFICER. The Senator has 22 minutes and 40 seconds remaining.

Mr. BENTSEN. And the other side?

The PRESIDING OFFICER. The other side has 55 minutes 35 seconds.

Mr. BENTSEN. I yield 5 minutes to the distinguished senior Senator from the State of Massachusetts.

Mr. KENNEDY. Thank you very much, Mr. President.

I want to once again commend the chairman of the Finance Committee, Senator BENTSEN, and our colleague, Senator SARBANES, who is chairman of the Joint Economic Committee, and the chairman of the Budget Committee, Senator SASSER, as well as Senator RIEGLE and our majority leader, who have really fashioned this legislation and brought it to the Senate again, because it is extremely important to the people in my State and across this country. I think they deserve recognition for the work they have done.

The Senate is about to vote once again on an issue of critical concern to the economy and to hundreds of thousands of unemployed workers across the country whose unemployment benefits have run out in the midst of this recession. The President has shown that he is out of touch with their needs, and it is up to us to override his veto.

In Massachusetts, 3,000 men and women lose their regular unemployment benefits each week—12,000 every month. They know the recession has not ended, and they know these benefits are needed.

We all know that the best cure for unemployment is a strong economic recovery and a sound program for America's long-term economic future. Both that takes time, and these benefits are needed now.

Too many families are hurting. They should not be told to wait any longer for a recovery that never comes. Why does the White House not understand the simple justice of these benefits?

Unemployment benefits also have a solid economic purpose. They stimulate the economy, and the effect begins immediately. Unemployed workers cannot afford to save. They spend every dollar they have. Unemployment benefits mean more dollars in the American economy, and a greater likelihood that the long-awaited recovery will finally begin.

Why does the White House not understand this simple economic truth?

In Massachusetts, 140,000 men and women have exhausted their benefits since March. In the coming year, these extended benefits could put around $400 million into the State's economy, providing a much-needed shot in the arm for our communities.

By contrast, the alternative proposed by Senator DOLE would cover fewer workers, and the benefits would last only half as long.

Across the country, the bill vetoed by the President will help nearly 1 million workers whose benefits have run out. It will help nearly 90 percent of all Americans who have exhausted their benefits since last March. The Dole bill would cover only 14 percent of those workers.

In California, nearly 170,000 workers would get additional assistance under the vetoed bill. None would get benefits under the Dole alternative.

In New York, 106,000 workers could get extended benefits under the vetoed bill. None would get benefits under the Dole bill.

In many other States—including Florida, Michigan, Pennsylvania, Texas, and Illinois—tens of thousands of workers would get benefits under the vetoed bill. None would get benefits under the Dole bill.

As with many other domestic issues, the Bush administration knows it has a problem. But instead of working with Congress to resolve the issue, the administration launched a public rela-

tions strategy, claiming that they are offering a real policy alternative.

Let us be clear. The administration is well aware that they cannot look totally insensitive to the plight of the unemployed. They cannot beat something with nothing. So they have come up with something next to nothing.

The Dole alternative, supported by the President, is an inadequate alternative. It is only a pale imitation of what this Nation needs. It would leave hundreds of thousands of unemployed workers and their families without the benefits they deserve.

I urge my colleagues to provide these benefits, to give the economy some stimulus, and to tell these working men and women that we see their plight, we hear their pleas, and we care about their families. "Let them eat cake" is not sensible economic policy, and it is unacceptable social policy. I urge the Senate to override this misguided veto.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. DURENBERGER. I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas for 10 minutes.

Mr. GRAMM. Mr. President, let me simply review the facts as to how we came to be here and what this issue is really all about. The President told the Congress that if we raised the deficit, busted the budget, violated the budget agreement, and in the words of Alan Greenspan, the Chairman of the Federal Reserve Bank, almost certainly driving up long-term interest rates and putting more people out of work, that he would veto this bill. All 100 Members of the Senate knew with certainty that the President would veto this legislation. There was never doubt about that.

The President made it clear that he would sign a bill extending unemployment benefits if we were willing to pay for it. To this point, we have not.

I submit also, Mr. President, that every Member of the Senate knew that the President would not only veto this bill, but that his veto would be sustained. So what are we doing here? Why all these flowery speeches about "helping working people"? Will any action taken in this bill help one single working person? The answer is, no. This is another in a long line of political exercises that stand as a shadow of real economic policy and an imitation of real legislative action.

I have heard for 2 weeks how the Senate has an image problem. Mr. President, the Senate does not have an image problem. The Senate has a reality problem. The American people understand exactly what is going on here, and they do not like it.

I have listened to my colleagues pound their chests and talk about how we can show we care about working people. Let me just add a few facts.

Over the next 5 years we will spend, under our current budget agreement, $7.678 trillion. We are here today voting as to whether to override the President's veto to send the deficit up by $6.5 billion; $6.5 billion we do not have because we have already spent it, $6.5 billion we will have to borrow by going out and competing to take money away from people who would like to build new homes, new farms, new factories to generate new economic growth.

We say this is an emergency, but our deeds do not indicate that we take it as one. It is an emergency, but it seems not to be big enough that we might consider paying for it.

Let me outline what that means. Given what we would spend over the 5 years this bill would be in effect, we are talking about 84 cents out of every $1,000 spent by the Federal Government. I submit if this is an emergency, if we are so concerned about the unemployed, why cannot we find 84 cents out of every $1,000 we are spending to pay for it? I submit that we have not made an effort to find it because we do not want to find it.

What we are seeing here is an effort to create a political issue, not an effort to help the unemployed. If we wanted to help the unemployed, we would end this charade now. We would have a group of congressional leaders go down to the White House, meet with the President, work out a compromise, come up with a way of paying for this bill, come back this afternoon, pass it, and have the President sign it into law tomorrow. We are not doing that because we are engaged in a political exercise aimed at achieving partisan advantage, not help for American workers.

And I do not believe the people of this country are confused. I think they understand perfectly what we are doing.

Let me also say that we are going to have Members here who will hold up a chart that shows all this money that we are supposed to have in this unemployment trust fund. But let me note that we have already spent that money on something else and now we want to spend it again. All the President is saying is, if you want to spend it out of the trust fund, go back and take 84 cents out of every $1,000 you spent on something else and apply it to this high and noble purpose.

Finally, let me remind my colleagues of an idea that I know sounds revolutionary here in the Senate, but which is plain, common sense in every household, in every business, and on Main Street of every town of America. Unemployment insurance extension is not an economic policy. There is only one solution for unemployment, and that solution is employment. We had an opportunity on the floor of the Senate the other night to vote on an economic policy. I believe it is critically important that we provide incentives for people who work, save, and invest. I believe we are at the crossroads where we will soon choose between building on the economic progress that we achieved between 1982 and 1990 or returning to the stagnation of the 1970's. I think if we bust the budget and drive up the deficit today, an if next week we do it for another reason and the following week for another, pretty soon we are going to be back in the 1960's and 1970's in terms of economic policy.

So, I urge my colleagues to do what I know they are going to do: Sustain the President's veto. Do not bust the budget. Do not drive up the deficit. Do not drive up interest rates. Do not destroy jobs in the middle of a recession.

And when we have rejected this job-destroying proposal, let us adopt an economic program to create jobs. We are having a debate about whether the economy has turned the corner. If it did, it didn't leave any skidmarks. It is vitally important that we have sound policies to create jobs. That is what we ought to be debating here, not spreading the misery by driving interest rates up and putting more people out of work, but eliminating the misery by creating jobs.

Let us sustain the veto, adopt an economic growth policy, and let us get together on a bipartisan basis and extend unemployment benefits. But let us do something that every household in America has to do every day. Let us pay for it. If we are not willing to pay for it, if we are not willing to find 84 cents out of every $1,000 we spend to finance this program, let's quit kidding ourselves and the American people by calling it an emergency and by claiming that we care something about the working people of this country. This bill shows we care only about gaining political advantage and not working people.

I yield the floor.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, it should not come as a surprise anymore to anyone that we continue to wring our hands and gnash our teeth over the issue of extended benefits for the Nation's unemployed. Nor was it any surprise when last Friday the President of the United States vetoed the conference report on S. 1722 because that is what he promised to do.

In the meantime, the Congress is in the position of holding the Nation's unemployed hostage to what appears to many of us as a political game.

When the President refused to sign the first extended benefits bill before the August recess, he did not reject the needs of the unemployed. Rather, he tried to hold the Congress to its word and to the rules of the bipartisan budget agreement. That budget agreement

has been used here by Democrats and Republicans alike to defeat needed increases in health, education, welfare, and a variety of other spending.

The President indicated that he would sign without delay the self-financing bill offered by the distinguished Republican leader. Instead of sending a bill which was guaranteed to deliver benefits to those out of work, the Congress sent a bill which would increase the deficit by $5.8 billion.

Mr. President, I supported the original bill reported from the Finance Committee by our chairman, the distinguished senior Senator from Texas, Senator BENTSEN. I believed that while that legislation was far from perfect, it met some of the real needs of the real unemployed in the State of Minnesota which ought to be addressed. The Finance Committee bill did address those needs, and it also adhered to the budget agreement by maintaining the President's authority to address the problem by declaring an emergency.

Three weeks ago I also supported a similar bill.

Mr. President, this Senator could not and did not support the Democratic conference report. The bill which emerged from the conference committee not only eliminated the discretionary role given to the President under the Budget Enforcement Act, but it was even more expensive than the first bill. Instead of increasing the deficit by $5.8 billion, the conference bill cost $6.4 billion, and it eliminated the Presidential authority to which the Congress had agreed under the budget agreement of less than a year ago.

Mr. President, I do not believe that the Budget Enforcement Act is an inflexible agreement. When it was negotiated, the ability of the Congress and the President to address unforeseen circumstances as they arise was included as part of the agreement. There are some, however, who would reject this agreement less than a year after the ink has dried.

And because there always seems to be more needs and wants than there are resources, we have to make choices. Oftentimes, these choices are difficult and painful, but as every American knows from trying to finance their own lives, budgets are about compromise.

I supported the alternative offered by the Republican leader. I thought it was the best compromise between the needs of the unemployed and the realities of our budget, because it played by the rules of the budget agreement. But when all sense of compromise and adherence to the rules of the budget disappeared in the conference committee, I could no longer support that approach.

Still, Mr. President, I am deeply concerned about those workers whose unemployment benefits have run out. I am saddened and disturbed that my colleagues on the other side of the aisle have refused to send the President a bill which he has promised to sign. All he asked of the Congress was to pay for the benefits as we had agreed to do less than a year ago under the budget agreement. And that to me is a fair request. What makes the request fair is that we do not try to solve the problems of families today by heaping the burden of more debt on our children.

As the junior Senator from Texas said, we have a problem in this body. It is not an image problem; it is a reality problem. The people of this country do not want us to promise what we will not pay for. And they do not want us to spend what we already concluded we cannot pay for. So the result of the Congress' political posturing is that the unemployed of this country have been held hostage as political pawns for the 1992 election. That, Mr. President, is just wrong.

Despite the fact that I was averaging, during the Clarence Thomas debate on the weekend of the Judiciary Committee, something close to 2,000 telephone calls and people were finding it almost impossible to get through, several hundred Minnesotans who wanted to see the President sign an unemployment bill got through on that telephone to say we had to pass a bill on extended benefits.

So, Mr. President, I have introduced S. 1789, the Deficit Neutral Unemployment Compensation Act. It is a bill which adheres to the Budget Enforcement Act and does not increase the budget deficit over the 5-year life of the agreement.

Like the compromise bill which was offered by the Republican leader, S. 1789 uses the traditional two-tiered approach to extended benefits. The triggering mechanism is the insured unemployment rate which is adjusted to include those who have exhausted their benefits. Unlike the bills which have been sent to the President which he has sent back to the Congress, S. 1789 does not increase the deficit, nor cast a blind eye to the other responsibilities we have.

Most importantly, Mr. President, unemployed persons in 32 States, including the people of my State of Minnesota, will receive greater benefits under this compromise that I have proposed than they would under the Democratic conference bill just vetoed by the President.

While my State of Minnesota experienced an increase in its unemployment rate in September, which is not unusual for this time of year, the bill offered by the conference committee would require dire circumstances in my state before Minnesota's benefits would surpass those offered under my substitute proposal. Moreover, Mr. President, S. 1789 would offer a means to address the pockets of unemployment which exist in Minnesota and in many other States. S. 1789 would direct the Secretary of Labor to develop a program for the long term unemployed, similar to the Job Training Partnership Act. This is another way in which S. 1789 delivers more meaningful benefits to a majority of the States than the bill vetoed by the President.

Rather than continuing down the road to nowhere, I hope that my colleagues on both sides of the aisle would join me in breaking the impasse and delivering benefits to unemployed Americans.

We have the means through a bill offered by my colleague from Montana, Senator CONRAD BURNS, who has very similar problems with extending benefits to the unemployed, and in S. 1789 to pay for our promises today, our commitments today, and the needs of today rather than adding to the financial burdens over the next generation. It can be done without casting fiscal discipline to the wind and Congress going back on its word. Mr. President, it can be done today. It can be done early this afternoon, so that checks can be issued without further delay.

If the President's veto is sustained, and I believe it will be, I intend to ask unanimous consent for the Senate to consider S. 1789 so that we can finally end the political gridlock over this issue and get unemployment insurance checks in the mail.

Mr. President, I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. What is the time situation?

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN] controls some 18 minutes remaining and the Senator from Minnesota has 43 minutes.

Mr. SARBANES. Eighteen minutes?

The PRESIDING OFFICER. Eighteen minutes remaining to the Senator from Texas.

Mr. SARBANES. By delegation from the Senator from Texas, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 4 minutes.

Mr. SARBANES. Mr. President, I do not know whether to take out my handkerchief here this morning and wipe away the tears as I listen to the protestations of my colleagues on the other side of the aisle, my Republican colleagues on the other side of the aisle, my Republican colleagues, who have it within their power in an hour from now to provide unemployment benefits for millions of Americans who need them.

I have heard a lot of efforts to obfuscate the issue this morning, and I think the best thing to do is to quote from the words of the unemployed themselves who have written to me, who perceive exactly what is happening.

DEAR SENATOR SARBANES: I am writing this letter to you after watching the hearing on television on the problems of the unemployed people in AMERICA. The reason I put that in capital letters is because we would be better off if we were from a foreign country so that President Bush would see it in his heart to help us out. He does nothing for the Americans that are suffering.

Now, that is the first point. The Republicans constantly allude to the budget agreement. The budget agreement provided that you could go outside the budget to address an emergency.

The President went outside of the budget, and he expanded the deficit in order to send assistance overseas, but he cannot perceive an emergency at home with the millions of unemployed who are now facing what may well be the longest recession in the postwar period. It now is approaching the two longest recessions that we have experienced in the post-World War II period.

This correspondent went on to say:

I only hope that you will be able to get through to Bush and make him realize that we are in an emergency situation in our own country.

The President has recognized emergencies overseas. The President came to the Congress this very year and asked for emergency declarations in order to send assistance overseas without regard to the budget agreement, but the President cannot see an emergency here at home in order to help Americans.

This correspondence goes on to say,

What we as unemployed people want is to be able to rebuild our self-esteem, pay our bills and contribute to this country. We are not looking for a handout but right now we need more help. It is sad to know the funds are there but the President will not release them.

Well, she is exactly right. The funds are there. This is the surplus in the extended benefit trust fund. We now have over $8 billion in the trust fund. Employers pay specifically into this fund for the purpose of paying unemployment insurance benefits. The premise of the system is that you build it up when the unemployment level is low, and pay it out when the unemployment level rises. We are taking more money into the trust fund each year than we are paying out, right in the middle of a recession.

The fact that the money is not being used for the purpose for which it is intended is an absolute abuse of the principle of the trust fund. As this correspondence said, "It is sad to know the funds are there but the President will not release them."

Finally, another person wrote to me and said, "What constitutes an emergency? Whenever the unemployment rates have been this devastating in the past the Federal Government has automatically stepped in." That is true.

We have increased the extended benefits to the unemployed in each recession since World War II. Rhode Island is now triggered off and is no longer paying extended benefits. No State in the Union is now paying extended benefits even though they have unemployment rates of 8, 8½, and 9 percent.

This administration has denied consistently that there is a recession. From the very beginning, back in February, the President said the current recession is expected to be mild and brief by historical standards. In July Darman and Boskin said the economic recovery appears to be underway. It has not happened. There are millions of unemployed, Mr. President, who need these benefits. The money has been paid into the trust fund. The benefits ought to be paid.

I urge my colleagues to override this veto.

Mr. BENTSEN. I congratulate my friend, the Senator from Maryland, for his statement and his action and his concern.

I yield 4 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. I thank the manager.

Mr. President, the need for extended unemployment benefits for Americans who cannot find work is obvious. What we are concerned about is we are still in a recessionary period. This recessionary period will continue with unemployment beyond the period of time when even the indicators come up, and they have not.

But we are dealing with a human factor here. Families are barely hanging on. They have mortgages to pay, children need school clothes, in Aberdeen, Hoquiam, and elsewhere in my State of Washington. Their household bills are stacking up. They look to us for some sense that we understand their situation, that we care enough to do something.

How does the President respond? With yet another veto, claiming the good times are just around the corner. That corner is a long ways away.

Last August President Bush stood on the porch of his family estate in Kennebunkport to deliver a veto message in an earlier version of this bill. "What is the emergency?" he asked.

Even as he spoke, the State of Maine—where he goes to vacation—was suffering one of the highest unemployment rates in the country. While he frolicked on his speedboat, hundreds of workers in Maine watched from the sidelines as their unemployment benefits expired without extension. There was not any vacation for them last August, only the growing possibility of foreclosure and economic ruin.

What is really making us outraged is the fact that we have an unemployment trust fund of over $8 billion. Employers have been taxed for this. Yet the demand is being made by the President that we tax again. This trust fund was set-aside as part of the payroll taxes to assist unemployed workers in time of emergency and in time of recession.

This is the time to vote for this. I hope my Republican colleagues will remember. This is not welfare. This is not some special new program. This is a program especially set up to deal with a recession, which everyone agrees we are in, and to help the people who are working people who need that boost over to the next job.

It is with very special and perhaps a bit parochial pride that I want to thank particularly the chairman of the committee and the others in this sense of overriding this veto. We will try to help some of the timber-dependent States and communities in Washington and Oregon that were affected by Federal policy changes. These people are out of work.

We walked these communities. I was out there last weekend. As you walk through these communities, these people want enough assistance so they can get back to their jobs.

The people in the Pacific Northwest as elsewhere are hurting, Mr. President. They are hurting in those communities that are resource dependent. With this veto the President just plain turned his back on them.

So I plead with my colleagues on the Republican side, because we will need your assistance. The men and women of this country are looking to us for help.

George Bush once called these "voodoo economics." They are "voodoo economics." And this latest veto is another example that the administration is not pursuing a domestic policy.

This country fought to get rid of King George, who taxed the colonies without giving them representation. What is happening here is that other taxes are being proposed to the people who have already paid them. I hope we will override this veto.

Mr. BENTSEN. How much time remains?

The PRESIDING OFFICER. The Senator from Texas controls 7 minutes 20 seconds.

Mr. BENTSEN. I yield half of that time to the distinguished Senator from Rhode Island, 3½ minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3½ minutes.

Mr. CHAFEE. I thank the distinguished floor manager of the bill.

Mr. President, my home State is experiencing extremely severe economic difficulties. In 1990, Rhode Island was the only State to provide extended unemployment benefits to its workers, a signal that we are experiencing the serious shortage of jobs.

Then at the beginning of this year Rhode Island was further crippled by a credit union crisis which dealt another blow to our floundering economy. Our

boat building industry has been extremely hard hit by the onerous luxury tax. Business failures have increased steadily.

Unemployment rates already high in New England are continuing to climb. Our State government has really been on the brink of bankruptcy and, indeed, was forced to shutdown for several days this year.

The year 1991 has been a tough one for builders in our State. Indicators of our State's economy, whether it is new construction, employment, consumer confidence, or manufacturing jobs, each of these reveals the State is in the midst of a very troublesome recession.

Our small businesses which have been the engine that drove our prosperity in the seventies and eighties are now being hard hit by the current downturn. Until this week Rhode Island was the only State which was triggered on to the current extended benefits program.

As of this coming October 19, Rhode Island will trigger off the program, despite the fact that our total unemployment rate is 9.1 percent, one of the highest in the Nation.

It seems to me, Mr. President, something is wrong with our current system if we cannot get the extra benefits with an unemployment rate as high as 9.1 percent. I believe we should do all we can to help those who are trying to help themselves.

The measure before us would do that. It would provide needed benefits to a targeted population for a limited amount of time. We are not talking about permanent changes of an extended benefit program, but rather a short-term extension to help the long-term unemployed.

I think this is necessary and fair. I support that. I will vote today to override the veto on S. 1722.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. We retain the remainder of our time.

Mr. SEYMOUR. Mr. President, I yield myself 7 minutes of our time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. SEYMOUR. Mr. President, I rise today to express my opposition to the veto override and call on my colleagues to begin a constructive bipartisan dialog on how best to deliver extended unemployment benefits to thousands of Americans and, equally as important, how to bring economic growth, create jobs, and put people back to work.

Let there be no mistake and no misunderstanding on the vote we are about to cast. This is not a vote for extending unemployment benefits. This is purely and simply a vote of hard ball, petty, partisan politics. We all know the outcome before the vote is going to be called.

Therefore, I hope that once this veto override vote and political rhetoric settles in this august body, we begin to address the real problem; for what we must decide is whether we intend to extend benefits responsibly or foolishly. We must decide whether we intend to live up to our budget agreement made just a short year ago to control Government spending, or whether we are going to continue to resort to political budget gimmickery that will only lead to an increase in the size of our deficit, this year alone projected to grow approximately another $300 billion; next year, even higher.

I have heard some of my distinguished colleagues use this idea and this word "emergency." "In an emergency, it is OK to go outside of the budget agreement."

Well, let us strike the word "emergency." Of course, it is an emergency. It is an emergency when any American is unemployed. And particularly for that person who is unemployed, it is a real emergency, I assure you. But the way we are using that word, we are trying to imply or suggest that this emergency is a way to fund it. Why don't we just be blatantly honest and say: look, what we want to do is violate last year's budget agreement. We want to further add to the deficit. What we want to do on this vote is play hardball partisan politics, rather than truly help the unemployed.

Just as important, we must decide to do more than just extend unemployment benefits. We must also give all Americans reason to be confident, that this body, the U.S. Senate, will lead to the effort to rejuvenate America's economy.

We have another proposal, and it will be interesting to see how my distinguished colleagues on the opposite side of the aisle vote on that proposal, because that will be up next—the Dole proposal. That proposal pays for itself and will not add to the deficit. It may not be quite as fancy and have all the bells and whistles, but I can tell you, from my State, the State of California, the State Economic Development Department, which is responsible for coming up with programs to support and help the unemployed and help them find work, tells me that either the Dole proposal or this proposal we are about to vote on, the override, will provide approximately the same benefits to the unemployed.

So what is the argument about? Again, it is an argument of the 1992 election nearing. I am hopeful that when this vote goes down, my colleagues on the opposite side of the aisle will say: Look, we throw down our swords. Let us work together in a bipartisan fashion to try to ensure help for the unemployed and, equally as important, join in the program of economic growth and job creation.

It was more than 80 days ago that I joined with the distinguished Senator from Texas [Mr. BENTSEN] and several of my colleagues, Republican and Democrat, to introduce legislation to extend unemployment benefits to, at that time, a lot less numbers of unemployed. Some time between that day in July and this morning, the best of congressional goodwill became the worst of policy and, unfortunately, partisan political intention.

I cosponsored that original proposal, because it offered the best hope for extended benefits to my fellow Californians that have been hit hardest by the recession. Once the engine of American economic growth, the California economy has stagnated in the midst of the recession, as well as a December freeze, and a fifth year of drought. But since that proposal contained no funding, no way to pay for it, last year's budget agreement would require the administration to make this emergency declaration to in fact bottom line increase the deficit in order to fund it.

When that proposal was first introduced, I said then that I would hope we would find a way to pay for this bill, rather than play the budget gimmickery games that we are playing today.

Well, we did not find a way. So the price is laying on the table. Now over $6 billion can either be paid for in a responsible way, as we would under the Dole proposal, or could be added further to increase the deficit, increase the interest cost to our taxpayers, and further drive us, in my opinion, into recession.

Last month, when the Senate revisited this issue, I supported the Dole proposal, and it was defeated out of hand by my colleagues on the opposite side of the aisle. When I joined with Senator GRAMM and others to offer our economic incentive program to try and create jobs—through such components as a reduction in the capital gains tax, an elimination of taxes to be paid on IRA accounts, taxes to be paid on savings accounts, and tax reductions to try to stimulate some capital growth that would be invested in new businesses and new jobs—that also was soundly defeated out of hand.

So the Democrats left us with no choice but to send the original Bentsen proposal to a House-Senate conference committee. I hoped then that when it went to the conference committee, they would find a way to pay for this bill.

But, no. Out it came with a $6 billion-plus price tag to be added to the deficit. Of course, that is why I voted no on the bill then and that is why I am going to vote no on a veto override attempt later today.

The Democrats not only failed to find a method to pay for the extended benefits, but they also included a provision that literally strips the President of his independent authority to declare a budget emergency. It may be an emergency today on this bill, but it will be

an emergency tomorrow on another bill, once this budget agreement is broken. And there are a lot of needy reasons. There are a lot of emergencies out there.

I have a crying need in my State, an emergency created by the worse plague on society, substance abuse. We have a 6-month waiting period for somebody to receive drug treatment in my State. That is an emergency, too. We have kids who need more money for education, reduced class sizes, to give them a higher quality education. That is an emergency, too.

So I would predict that if this vote was successful—and it will not be—this would be but the first of a whole series of emergencies.

So I find that Congress is up to its old tricks again, violating the budget agreement even further, and I am hopeful that once this vote goes down and we sustain the President's veto, then perhaps, as I said earlier, we can lay down our partisan swords and address the real issue. And the real issue is, No. 1, to provide meaningful extensions of unemployment benefits and pay for it as we provide them, and two, to adopt an economic growth package that will create jobs and offer a permanent solution to those millions who are unemployed.

Mr. President, I yield to the Senator from New Mexico [Mr. DOMENICI].

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I will certainly yield to the majority leader who is indicating to me he desires some time, and I yield 2 minutes. And I would like to follow with about 7 minutes and then I think we will be reserving the remainder of the time to Senator DOLE.

Mr. MITCHELL. I am not going to ask the Senator to yield to me on his time. I will take some time from this side.

Mr. DOMENICI. I thought we were short of time.

Mr. MITCHELL. I think it is enough for me.

Mr. RIEGLE. I yield 2 minutes to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, on Friday, as we all know, the President vetoed the unemployment bill. He implied that the bill was irresponsible and he said that the bill "violates essential elements of last year's bipartisan budget agreement."

With regard to both allegations, I disagree.

Over 8 million Americans are unemployed. These families are out of work through no fault of their own. Millions of Americans have exhausted their unemployment benefits, but cannot find jobs. While these families struggle to pay their bills and put food on the table for their children, a trust fund established to pay extended unemployment compensation is collecting a surplus which is now about $8 billion.

As millions of Americans continue to struggle each month, it is not right or fair that a trust fund created for the specific and sole purpose of providing such insurance during times of economic distress is not used for the purpose for which it was created and is simply permitted to accumulate funds to create an accounting gimmick for the administration.

This year the trust fund will take in 10 times the amount of money that is paid out. This trust fund was created for the specific purpose of providing extended benefits, taxes were paid for this specific purpose, and the benefits should be paid.

I do not believe that it is irresponsible to use the trust fund for the purpose for which it was created. I do not believe that it is irresponsible to assist the unemployed, who have exhausted their compensation but who have not yet found jobs.

The President says that Americans out of work, with deep running tragedy in their lives, do not represent an emergency. He says that it will bust the budget to use the trust fund for the purpose for which the trust fund was created.

But he has had no problem requesting emergency funds to help those overseas—those for whom we have not established a trust fund.

When the Kurds needed help, the President said it is an emergency, let us help them. Do not worry about the budget. When the Turks needed help, the President said it is an emergency, let us help them. Do not worry about the budget. When the Israelis needed help, the President said it is an emergency, let us help them. Do not worry about the budget.

But when Americans need help, the President says no, even though there is an $8 billion surplus in the trust fund created for the purpose of helping the unemployed.

The President says that he would support an alternative unemployment bill, one introduced by my colleague, Senator DOLE. But that bill does not take care of those Americans who have already exhausted their unemployment benefits. That legislation contains only a tiny reachback provision, a provision to extend compensation to those who have exhausted their benefits since March of this year.

While the reachback provision under the legislation that the President vetoed would assist nearly 1 million jobless Americans, the legislation introduced by Senator DOLE would assist only 135,000.

That means that under the Dole bill, jobless Americans in States like California, Missouri, and Montana would receive no assistance for those who have already exhausted their benefits.

There are 168,966 individuals in California who have exhausted their unemployment compensation since March 1. There are 21,649 individuals in Missouri who have exhausted their unemployment compensation since March 1. There are 2,941 individuals in Montana that have exhausted their unemployment compensation since March 1.

In all, there are some 31 States plus the District of Columbia where individuals have exhausted their unemployment compensation and would receive the benefit of reachback unemployment benefits under the bill the President vetoed, but who would receive nothing under the alternative bill introduced by Senator DOLE and supported by the President.

The President says he cares deeply about the unemployed. But he does not seem to care about those families who have exhausted their benefits in the last 7 months. I believe that those who have already exhausted their compensation are the most in need of an extension of unemployment compensation. Those are the individuals who have been struggling the most and who are most at danger of losing their homes, their cars, and their dignity.

The President does not care about the $8 billion surplus growing in the unemployment trust fund. While taxes have been paid once in order to build up the surplus, he says, in effect, that he wants taxes to be raised again. I think taxes have been collected and we ought to spend the trust fund for the purpose for which it was created.

I see no reason to pretend that the trust fund does not exist. The trust fund does exist. It contains $8 billion. And, that $8 billion was collected for the sole purpose of providing extended benefits in times of economic distress.

The President is wrong in saying that this legislation is irresponsible. The President is wrong in believing that those individuals who have already exhausted their unemployment compensation should be ignored. The President is wrong in believing that the trust fund should be ignored.

The legislation that the President vetoed is fair. It provides reachback benefits to nearly 1 million Americans who have exhausted their unemployment compensation since March. It targets extended compensation in a manner so that those States with the highest unemployment rates would receive the longest extension of benefits.

The alternative bill introduced by Senator DOLE would not so target compensation. Six States would receive 10 weeks of extended benefits and 44 States would receive 6 weeks. Under the Dole bill, States like Michigan with an unemployment rate of 9.6 percent, Mississippi with an unemployment rate of 9 percent, and West Virginia with an unemployment rate of 9.8 percent would receive only 6 weeks of extended benefits, while some States

with lower unemployment rates receive a 10-week extension.

You do not need to be an economist to figure out that the higher a State's unemployment rate, the harder it probably is to find a job. That is why in our bill, we have provided extended benefits on a scale that increases as the State's unemployment rate increases.

Under our bill, we have targeted extended unemployment compensation in a manner that takes into consideration the State's employment situation. But the President calls this "complex" and "cumbersome." I disagree. Targeting the extension of benefits to a State's unemployment rate is common sense.

The legislation we are considering today is fair. It is responsible. It contains a strong reachback for those who have already exhausted their compensation. It provides a targeted extension of benefits pegged to a State's unemployment rate.

I urge my colleagues to join in overriding this unwise and unfair veto. The President was willing to go outside the budget agreement to help people in other countries. What is wrong with helping Americans in need, especially when there exists a trust fund created precisely for this purpose?

I hope my colleagues will join in overriding the veto.

Mr. RIEGLE. I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, let me ask how much time we have.

The PRESIDING OFFICER. The Senator has 28 minutes.

Mr. DOMENICI. I yield myself 7 minutes of this time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I open by answering the distinguished majority leader, who posed the question why would we not use the trust fund which has accumulated over the years. The answer is very simple: 75 U.S. Senators said "no." That is why. Not 1, not 10, not 51; 75 U.S. Senators said "no." They said "no" on that day that they voted for the enforcement mechanism of fiscal policy for this Nation for the next 5 years. They said "no." They said "no" to all the trust funds. They said you start with them as a base and you do not spend them unless in spending them you hit the budget targets that are required.

I regret to say this, but it is absolutely unfair to talk about the trust fund is there and the President should spend it. Seventy-five U.S. Senators from both sides of the aisle voted "no." So one can now come to the floor and say there is a trust fund for highways, it has money in it, spend it, and the same argument to be made: It has been collected in gasoline tax, it is in the trust fund, spend it on highway programs. The answer is "no."

Why no? Because the Senate said "no." And the U.S. House said "no." They said this will be enforced in this way and in deciding which way you cannot spend trust funds below the baseline because to do that is to raise the deficit as we have defined the deficit.

In other words, Mr. President, for those who are interested in why, because some may say that is really not so smart, it seems kind of ludicrous. Some say, well, if you spend trust funds down you increase the deficit. The way the deficit was defined by whom? By this Congress, who voted for it. So that one really makes no sense. It will never help get one nickel to the unemployed of this country for those on the other side or this side, for those to stand up and say this is a trust fund, spend it. So what we agreed to, we agreed that anything that was going to be spent that would break the budget was out of order unless it was an emergency.

An emergency is defined not by the President, not by this Senator. Let me suggest it was defined by 75 U.S. Senators who said what an emergency is. They voted "aye," and in that law that they voted "aye" on, it said the emergency must be declared by the Congress and the President.

So I do not believe we ought to be talking about emergencies unless we are prepared to say an emergency by our own definition is something that is untoward and immediate and both the President and the Congress agree that it is.

So in this bill, one of the reasons that we who are worried about fiscal policy, about the deficit and about enforcing this 5-year agreement so we do not spend ourselves even into more economic ruin than we have today with lack of production and investment capital, what we are saying is do not redefine an emergency and leave the President out. He is supposed to be a partner. So what did we do? We sent him a bill and it said this bill, by your signing it, Mr. President, you have declared an emergency.

Is that not interesting? On every other emergency he has agreed in advance with us that he would join us in declaring it an emergency. So obviously he would like to discuss emergencies with us for the reason the junior Senator from California said awhile ago.

If we do not have both doing it, we can take the 5-year agreement and throw it out the window because every time there is a need—and there are many needs—we will write a bill and self-declare in the Congress this is an emergency and send it to the President.

So why would we have a budget? We finish a budget and every time we had a new need we would put this in as an emergency and send it to him and say, when you sign it, it is an emergency. He would have to veto it if for nothing else we are dictating an emergency in the statute instead of asking him to say that it is.

That should, I think, perhaps dispel the notion that this is a trust fund which should be used for this. Yes, it should. If Congress does it the right way, and what the right way is, it is the way we agreed to about 13 months ago, and 75 Senators voted for it. The House agreed to it.

So on that score we have heard some eloquent arguments. We have seen some brilliant graphs. They are very visible because they are in red and white. But the truth of the matter is that they are irrelevant. Other than there is money there that, if you want to declare an emergency to spend it, you can spend it, or if you want to fit it in the annual budget amount that we have set as our own targets, then you can spend it instead of some other money. Point No. 1.

Point No. 2, we are not going to get help for the many unemployed in our country by sending bills like this to the President, and everyone should know it. Those who are now engineering, leading, an effort to get unemployment extended in the United States, if 3 or 4 weeks ago they did not learn then, maybe they will learn today that it is not going to be done by declaring an emergency in the U.S. Congress and spending money. It is going to get done when we agree with the President to spend money on unemployment that we do not add to the deficit but rather pay for it in some way by changing tax law or canceling programs.

And the law is very clear. Lacking an emergency, you do not change a program like this, an entitlement like this, unless you pay for it.

I will close by saying I am sure that the distinguished minority leader, Senator DOLE, will once again today follow up on my last remarks that you are not going to get any unemployment extension by unilaterally declaring an emergency. You are not going to get it.

You are going to have to do it by paying for it. He is going to suggest, if we quit arguing, quit trying to win this issue, quit trying to make it an issue that the President is trying to hurt people and others are trying to help them, quit trying to do that and produce a bill that pays for itself, like the Dole-Domenici bill, we will get some unemployment compensation extension.

There will be, when that measure is offered, those who will say it is not enough. I submit if we would have adopted it when we first offered it, many, many hundreds of thousands of Americans would have been getting extended unemployment benefits under it, and they are not going to get them now because we are still deciding who wins this political battle.

Now I would like to have printed in the RECORD two things. First, in the Washington Post this morning, it suggests that we should support the President's veto and suggests very, very succinctly that the extensions are needed, but we ought not break the budget; we ought to pay for it.

I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Washington Post, Oct. 16, 1991]

VETO NO. 23

The Senate is scheduled to vote today on the president's veto of a bill extending unemployment benefits to hundreds of thousands of workers who have exhausted the basic 26 weeks. The benefits are needed, but the veto ought to be upheld. The Democrats approved the extension without a tax, asking instead for a declaration of emergency that would bypass the budget agreement and add the estimated $6.4 billion cost to the deficit.

That's wrong. The deficit will already be more than a third of a trillion dollars next year. The borrowing (much of it from abroad) is a dangerous drain on the economy. The empty Treasury threatens the ability to govern. If only for the sake of the Democrats' own agenda, the deficit has to be brought down. The Democrats see a political risk in voting for tax increases, but if they cared as much as they claim about the the unemployed they'd have taken the negligible risk—as they still should—and voted to finance this legislation.

The law already provides for extended benefits in certain circumstances. The bill would reverse a Reagan-era budget cut and make those circumstances easier; it would take a lower unemployment rate to put the extended benefits in play. The administration's objections are not fiscal only. The bill involves an admission that the recession has been more serious than the administration would like the public to believe. It says the recession was relatively shallow and makes the good point that the Democrats didn't act until it was nearly over.

But the Democrats make the equally good point that when recessions end, the increased unemployment that they cause does not. It lingers. The rate continues to be close to 7 percent or one willing worker out of 14. There are 2 million more unemployed than there were a year ago, and the weak recovery in prospect is unlikely to reduce either of these numbers soon. The unemployment insurance system has been much weakened in recent years. It covers less of the work force than it used to, and covered workers exhaust their benefits more quickly. They are doing so now at a rate of several hundred thousand a month.

Yes, a bill should be enacted, but it should be fiscally responsible. Strip the president of his reasons. Uphold the veto, then pass the bill again as House Ways and Means Committee Chairman Dan Rosentkowski proposed, with a tax increase to pay for it.

Mr. DOMENICI. Second, Mr. President, there is an interesting article about the latest Nobel Prize winner in economics, Ronald H. Coase. I only introduce this article because one of the economic studies that he did and one of the suggestions that he made on changing the way we do business answered the following question: What is the best way for the Federal Communications Commission to allocate radio frequencies to broadcasters?

Interestingly enough, he, after much study, indicated the best way is to auction them, as is provided as part of the method for paying in the Dole-Domenici bill, which extends unemployment compensation.

I ask unanimous consent that this article in the Washington Post regarding this Nobel winner be printed in the RECORD.

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

NOBEL PRIZE IN ECONOMICS GOES TO UNIVERSITY OF CHICAGO PROFESSOR

(By Anne Swardson)

Ronald H. Coase, an economist at the University of Chicago's law school, yesterday won the Nobel Prize for economics for decades of work explaining the relationship between laws and economic behavior.

While groundbreaking when he formulated them beginning in the 1930s, Coase's theories have become so fundamental a part of both law and economics, experts said, that by now they seem to be virtually common knowledge. They can be applied to a wide array of questions:

How can companies that pollute the atmosphere be charged for the cost to society of their pollution?

What is the best way for the Federal Communications Commission to allocate radio frequencies to broadcasters?

Why are taxi fares higher in New York than in Washington?

"Basically, he altered both lawyers' and economists' way of thinking about the interaction between legal rules and the economic welfare of a society," said Richard F. Fielding, director of George Mason University's Law and Economics Center in Arlington.

Coase, 80, was said to be in the south of France and could not be reached for formal notification that he had been granted the $1 million award. British-born, Coase received his education at the London School of Economics. He still does research at the University of Chicago, where he went in 1964 after teaching at the University of Virginia for six years.

The Royal Swedish Academy of Sciences, which chooses Nobel winners, said Coase's theories are "among the most dynamic forces behind research in economic science and jurisprudence today."

"He is the most unassuming person you can imagine," said Douglas G. Baird, Coase's successor as director of the Chicago program in law and economics. "He has a wonderful dry wit, a charming English accent. He is a great man."

Today, when Congress considers tax legislation or environmental bills, it seems only natural to ask how people might respond—whether investors could try to find loopholes in the tax laws, or businesses might hire lobbyists to defeat a regulation. But when Coase began writing in the 1930s, law and economics were considered two entirely separate disciplines.

In a scholarly article, Coase used a simple analogy to postulate his theories that the two were connected. Say a farmer and a rancher each wanted to use the same land, one to grow corn and the other to graze cattle, he wrote. Under the way of thinking prevalent at the time Coase began his research, the government would come up with a plan for the farmer to get payment for his trampled corn or the rancher to be paid for losing grazing space.

Coase showed that society as a whole is better off if the two simply negotiate their own compensation. He did this by emphasizing what economists call transaction costs, the expense of paying lobbyists or negotiating contracts or trying a case in court. The lower the transaction costs, the better off society was.

So, for instance, the FCC should auction broadcast rights rather than require applicants to prove—through expensive procedures—that they are the best-qualified for the license. New York should freely grant taxi licenses rather than limit the number of medallions so each one acquires its own value. Polluters should be allowed to "buy" the right to pollute, at the appropriate price, rather than have to meet arbitrary standards set by the government after lengthy wrangling.

Law and economics, as the field is called, "recognizes the market as a complement to human behavior. Behavior will be affected as much by economics as by the rules. So what then is the most efficient and cheapest way of bringing about the desired end?" said Steven M. Crafton, also of the George Mason law and economics center.

As the growth of the George Mason center shows—it moved here from the University of Miami and Emory University in 1986, and now hosts numerous seminars for practicing attorneys and sitting judges, among other things—Coase's ideas have caught on.

Federal appeals judges Richard A. Posner and Frank H. Easterbrook are two adherents of the law-and-economics approach, although the application of economic principles remains controversial in some legal circles.

Mr. DOMENICI. How much time do we have remaining on this side?

The PRESIDING OFFICER. The proponents have 19 minutes.

Mr. DOMENICI. I yield the floor and reserve the remainder of our time.

Mr. RIEGLE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 2 minutes.

Mr. RIEGLE. Mr. President, it is essential that this veto be overridden, because it is an emergency issue. People out there are in desperate need. They need help. The Senator from California spoke on this.

In the bill that we have here, that we have already passed and the President vetoed, there are 200,000 unemployed workers in California who will receive benefits under our proposal who would receive nothing, not one dime, under the Dole proposal. The Dole bill is a sham bill. And I can illustrate it with respect to two points.

First of all, there is already over $8 billion sitting there in the extended unemployment benefits trust fund. That money has been collected over a period of time precisely to pay out benefits to unemployed workers and their families in circumstances like this.

Let me tell you about Michigan. Unemployment in Michigan has just gone up to 9.7 percent. I have 170,000 unemployed workers out there who have exhausted their unemployment benefits,

or will over the next year, and cannot find work. They need to be able to feed their families. They need to be able to keep a roof over their heads. They need this help. The money is in the fund. The money ought to go to them.

Under the Dole bill, a third of those 170,000 would not get one dime and the rest, instead of receiving 20 weeks extension in a job market where there are no jobs to be had, where unemployment is rising, would only get 6 weeks. The Dole bill is not an answer to this problem.

This bill was passed here in this Senate by 65 votes. Now, 65 votes ought to be a sufficient majority, but the President wants to be a majority of one, because he does not think it is necessary, and he does not think these people are important. He thinks the people in Mexico are important, because he has a jobs program for Mexico. He has a jobs program for Kuwait. The Bush administration has a jobs programs for China, for Russia, for every country around the world except this one.

We need a jobs program for America. Until we get one, the unemployed workers deserve to receive the $8.4 billion in that trust fund that has been collected to help them keep their lives together in a situation like this. It is necessary, it is vital, and it is time that this Government acts and does what is right for our people for a change.

I reserve the remainder of my time.

Mr. DOMENICI. Mr. President, I understand that Senator RIEGLE has no time remaining.

The PRESIDING OFFICER. Senator RIEGLE has half a minute.

Mr. DOMENICI. May I just take 1 minute, and then I will yield to the Senator from Montana.

Let me suggest, with reference to a jobs program, it is interesting that the other side—in particular, usually, the Senator from Michigan, who just spoke—talks about the President and foreigners and Republicans. But I submit the American people are not fools. Where is the Democratic plan for jobs? I will tell you.

If it is what we have been voting on for the past 18 months, the agenda, it will not produce one job. Motor voter, how do you get more people registered, leads the show. The Hatch Act reform, and about four more like it. I submit it will not produce 10 jobs, unless it is more public jobs that have to implement the likes of what is being suggested.

So I think it would be nice for those who criticize to suggest something of their own, rather than to carp, as has been done.

I am pleased to yield 5 minutes to the Senator from Montana.

Mr. BURNS. I thank my colleagues from New Mexico.

Mr. President, as we look at the economic conditions around the United States, it would be fair to say that we are in a regulatory recession created somewhat by the economic policies of Government.

There is hurt. There is hurt in Montana; there is hurt in California; all over this Nation. If anything should teach us anything over the last 4 or 5 days, it is that it is time that this body becomes fiscally responsible and passes a piece of legislation that does, yes, extend unemployment benefits to our unemployed, maybe looking at a retroactive provision, and extend them out to where these people can go back to work.

What is the biggest job creator that is being held up in Congress now? I would say it is the highway bill. The Senate passed a good highway bill. It puts people to work. It builds infrastructure in the United States. No need even for unemployment benefits when everybody is working. But no matter how good the times, we are always going to have about 5 percent unemployed. We are always going to have that, no matter how good the times.

So it is time that we take on the real purpose of the U.S. Senate and develop some statesmanship and some leadership, and do it in a fiscally responsible way. Why put another tier of debt on our children and grandchildren to pay off?

The No. 1 concern in America is the national debt and deficit spending. We will be paying a lot more in interest on the national debt than we are paying for this piece of legislation here. And we keep adding to it.

There are alternatives, and they will be offered here, after the veto is sustained by this body. We must be fiscally responsible. There are ways to pay for it, almost painless ways to pay for what this piece of legislation will really cost.

I can hear in my State, "There they go again, passing another bill that does not have enough money to cover it." I can remember, it was a little over a year ago when the budget agreement was agreed to. Now who is trying to break those provisions that were fiscally responsible? Done in the name of politics? I do not want to say that. But could it be? I think so.

So, let us take a look and see what it really does. The leadership in the Senate passed a good highway bill. It got to the House of Representatives. They have not passed one yet. Just now they are in the process of considering it. Let us do some progrowth things. If you want to get money in the marketplace, if you want to provide jobs, what about investment credit? What about lowering the tax on the transfer of assets? The only way you put people to work is if there is commercial activity, not long lines at an unemployment office. What do we want to do? Jerk the work ethic out of the American worker, the best worker there is in the world, a worker who understands productivity? He wants to work to retain his pride, feed his family, contribute to a community. Basically that is what we are talking about here.

Those who need help we want to help, the President wants to help, and we can pay for it in a fiscally responsible manner. We will offer legislation after the vote that will do just that. The President will sign it.

The PRESIDING OFFICER (Mr. GORE). The Senator has used the 5 minutes yielded to him.

Mr. BURNS. Mr. President, I hate to go over my time. I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, the President wants responsible extended benefits legislation. In vetoing S. 1722, the Emergency Unemployment Compensation Act of 1991, President Bush said:

> If a bill providing unemployment benefits in a responsible manner—financed under the budget agreement—reached my desk, it would be signed immediately so we could provide real additional benefits to the unemployed.

I do not think that the message could be clearer, that the President wants legislation that will provide unemployed Americans with extended benefits. He has been saying so for months.

But he will not do so at the cost of the budget agreement. Sending the message that Washington does not care about increasing the deficit—that Washington has no fiscal control—puts all Americans at jeopardy.

S. 1722 jeopardizes all Americans. It puts employed and out-of-work Americans at risk because it jeopardizes the economic recovery we have just started to see.

It puts future generations at risk because they will have to pay that money back with interest to the Germans or the Japanese or whoever is funding the United States Government at that time. And this, Mr. President, is really the bottom line of S. 1722 and why the Senate should sustain that veto.

If this debate were just a matter of who could provide the most generous package, then I would have offered a package of 25 or 30 weeks of extended benefits with a reachback covering everyone. But if that is the approach that Congress is going to take, what will be the economic future of this country?

I know my colleagues on the other side of the aisle have lots more programs—probably some good ones—that will hike the deficit up billions more. But if we were to do all that, "Economics 101" says that you will see higher interest rates, lower business activity, and higher unemployment.

In short, Mr. President, the deception of S. 1722 is that it gives extended benefits with one hand, while taking away jobs and economic growth with the other.

This debate has only been about politics. If my colleagues on the other side

of the aisle were truly serious about getting benefits to unemployed Americans, they would have sat down with the President and congressional Republicans a long time ago to craft a bill that does not bust the budget agreement and run up the deficit. Certainly, as we all know, the invitation to do so has been there.

But I honestly do not think, Mr. President, that my colleagues on the other side of the aisle want an unemployment bill. At least the record so far would seem to indicate that they are more interested in political benefits than extended benefits.

Twice a bill that we all knew from the beginning was unacceptable has gone to the President. I wonder how many more times we will continue to send the President the same budget-busting legislation, that produces political showdowns but no extended benefit checks in the mail.

AMERICAN PEOPLE ARE TIRED OF POLITICAL GAMES

I think Americans are tired of political games for they only benefit the politicians. We all want extended benefits legislation. There has been no controversy on that issue.

The difference, however, between this side of the aisle and the other is that we believe it should be paid for. I truly believe the American people want legislation that is paid for. I truly believe the American people are tired of Congress turning a blind eye to the deficit and further mortgaging this Nation's future.

DOLE ET AL. ALTERNATIVE

After this vote, I shall seek unanimous consent to have the bill offered by myself, along with Senators DOMENICI, ROTH, LUGAR, SIMPSON, DANFORTH, BOND, SEYMOUR, and others—S. 1791, the deficit-neutral Unemployment Compensation Act of 1991—discharged from the Finance Committee for immediate consideration.

It is now 46 days and counting since benefits could have started under the proposal offered by myself and others back in August. Let us not continue to let the days needlessly tick by.

I have heard a lot of criticisms of the bill saying that it does not go far enough. We would all like to offer more but not like S. 1722, which takes away from the American people much more than it gives.

If there are acceptable ways to finance more benefits under our alternative, I am more than happy to discuss them as possible modifications. But let us start talking rather than sending the President irresponsible legislation that should never become law.

I urge my colleagues to vote to sustain the veto so that a serious debate on extended benefits for unemployed Americans can begin. That way, checks can be put in the mail and food can be put on the table.

Let us not go through this exercise again. I hope this is the last time. I hope now we will have some action on the other side to figure out some responsible, fiscal way to pay for unemployment benefits. It is one thing to talk about benefits; it is another thing to pay for benefits.

What we want is a bill that the President will sign. We have a couple of alternatives on this side. One, called the Dole bill, is not quite as generous as the Durenberger bill but at least we pay for it. As someone said earlier, there may be no precedent for that in the U.S. Senate, but why not start some? Why continue to run up the deficit, to add $6.2 billion to the deficit, charge it up to our grandchildren, have an adverse impact on those who are even unemployed now and call this a benefit?

We are prepared to move. In fact, I will ask unanimous consent after the veto is sustained to have immediate consideration of my proposal. I want to serve notice on my colleagues on the other side, if we have immediate consideration, I will move to pass it by voice vote.

I think the Senator from Minnesota is going to make the same request in the rare event mine should be objected to. But if there is an objection, we certainly will be hopeful to entertain Senator DURENBERGER's and Senator BURNS' suggestion.

What the Democrats have in mind is more spending, violating the budget agreement—even putting unemployed people at more risk because the Democratic proposal jeopardizes the economic recovery we have just started to see. I must say it is not bounding out of sight. It is pretty flat. But this would be another nail in it. It puts future generations at risk because they would have to pay that money back with interest to the Germans or Japanese or whoever is funding the United States Government at this time.

Mr. President, the bottom line is the President would sign our proposal just as he has vetoed this proposal. Really, it is the same proposal except with one change. This would be the second rejection. I do not know how long we can play this game with the unemployed workers of America. As I have said before, I am not certain unemployed Americans are sitting around with a score card saying: Let us see, this is the Democratic plan and this is the Republican plan and this is the better plan. What they want are benefits. They want the money to start flowing. And it can start flowing very quickly if we adopt one of our proposals. It is paid for. And we have letters on the Dole proposal from both OMB, the Office of Management and Budget, and CBO, the Congressional Budget Office. Our proposal is in accord with the budget agreement.

The proposal on the other side is not. I have heard all the speeches about the trust fund, but all that was considered in the budget summit. Many of us each held our nose and voted for the budget agreement. Now, some of those who voted for it and some who voted against it already want to violate it, and the ink is barely dry.

Mr. President, I do not know how many times this bill will go to the White House. It seems to me there ought to be some responsible action that can be taken. We are prepared to discuss legislation, extended benefits, helping unemployed workers all across America, in my State, in every other State. But let us pay for it. Let us not come up with some gimmick. Let us pay for it. So I would be surprised if the veto is not sustained. And, as I have indicated, after the vote I will seek unanimous consent to have the bill offered by myself, Senators DOMENICI, ROTH, LUGAR, SIMPSON, DANFORTH, BOND, SEYMOUR, and others—I will ask it be immediately considered.

I just close by saying it has now been 46 days and counting since benefits could have started. We could have had benefits out there for 46 days, 7 weeks almost, if we had adopted the proposal of myself and others back in August. Let us not continue to let these days needlessly tick by. We are ready to go. We are ready to help the unemployed workers of America. We are not willing to engage in politics as usual, spending as usual, run up the deficit as usual. The American people have had enough of that. The Democrats' plan will put more people out of work in the long run. So let us be responsible for once. We ought to be responsible at least once a week. Come to think of it we were responsible last night. Let us be responsible twice this week.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. I yield myself as much time as I might need.

Mr. President, I just want to reinforce the comments of the Republican leader to the effect that those of us on this side, some of whom, like me, have voted for the original Bentsen plan, have now determined that having abandoned the principle of revenue neutrality and pay for your promises on the Democratic side of the aisle, we have come up with an alternative that will be even a better proposition for extended benefits than was in the original Bentsen bill that went to the President in the beginning of August.

The major difference between the Dole proposal, which I trust no one will object to, and mine, which is there just in case somebody will object to it, is that in the Dole proposal the extended benefits on the two-tier approach are 6 weeks and 10 weeks whereas in my bill it is 8 weeks and 15 weeks.

I would just like to reiterate, for those of my colleagues who will talk to whoever is responsible for objecting on the other side, that under the provision

in my bill, the 8-week/15-week bill, and particularly the difference between the 8 weeks and the 7 weeks in the Democratic conference report is the unemployed in 32 States in this country—including Minnesota, I hope Tennessee—will do better under the Durenberger approach than under the Democratic proposal. Six months from now, an additional eight States will do better under this approach than under the Democratic approach.

So, if you are from any one of those 40 States, I would certainly recommend you think twice about the different approaches here, the value, of course, of the Republican approach, whether it is the Dole approach or the Durenberger-Burns approach. This one is paid for. This one is not the one that sends the bill to the children.

As I indicated earlier, too, Mr. President, in the event that someone objects to consideration of the Dole-Domenici et al. proposal, that Senator BURNS and I are prepared to ask unanimous consent of this same body to take up our proposal, S. 1789.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 1 minute for the purpose of asking a question of the distinguished senior Senator from Minnesota.

The Dole-Domenici bill pays for itself in each of the years. Do I understand that the expanded benefits that my colleague propose differ but they are budget neutral over the life of the budget agreement, over the 4½ years or 4 years remaining of the budget agreement; is that correct?

Mr. DURENBERGER. Mr. President, the Senator from New Mexico is absolutely correct. S. 1789, our proposal, is paid for in each of the years. We just do it differently from the Dole proposal.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Republican leader has 3 minutes remaining. The manager of the bill has 30 seconds remaining.

Mr. RIEGLE. Mr. President, I yield myself what time is left.

The benefits would be flowing right now to the unemployed workers if the President had not vetoed this bill twice. Those were really inexcusable vetoes. The bill has been passed by an overwhelming vote in both the House and Senate. What the Republicans are saying is that people ought to pay twice. There is already $8 billion in this trust fund, there is no doubt about that. Their bill would provide a tiny fraction of the benefits needed than would be paid out under our bill.

Frankly, it is a sham bill and designed only for politics and not to meet the problem. It does not come close to what we have done in previous recessions. It is politics through and through. If these folks would go out and meet with the people in the unemployment lines who are desperately trying to hold their lives together, they would override the veto and get the benefits to them today in the amount that is needed.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the word "sham" was used. I do not like the word very much, but let me suggest the arguments about the trust fund are a sham. They are being argued as if the President has something to do with the trust fund issue. We, let me repeat, 75 U.S. Senators, voted that trust funds could not be used in violation of the budget numbers. They were all frozen and used as part of the starting line for budgets. So if we were going to spend them, we had to spend them under emergency powers. Point No. 1.

Point No. 2, it is not to be questioned. It is unequivocal that had the Dole-Domenici bill been passed, unemployed people in the United States would have already received 46 days of benefits—the same size benefits, the same amount of benefits. For 46 days they would already have received them. Who is responsible for that?

The third point. The distinguished Senator from Michigan continues to talk about emergencies and accuse the President of declaring emergencies for all kinds of things but not for this.

That is patently, absolutely wrong. The only emergency involving foreign use of money overseas was immediately after the war when everyone in this body, and the President, agreed to some immediate aid to Israel and Turkey. All the others, the litany of programs that they have spoken of in foreign aid, all came out of the war fund, not out of our budget; the war fund from our allies accumulated the money and the interest which was used to pay every one of the foreign assistance items that have been mentioned by the distinguished Senator from Michigan and others. Everyone should know that. They can check it out, and that is the truth of it. There was no emergency waived as to domestic programs. No domestic dollars where waived to be used as an emergency. They were from the war fund set up by the foreign countries who helped us in the war.

Mr. President, after this vote, and when we sustain the President's veto, Senator DOLE will ask that the bill that he and I have been putting before the Senate regularly be considered so that the Senate can take it up and vote on it. I believe it is the right thing to do. But if the Senate is not so disposed, I believe they should seriously consider the measure offered by Senator DURENBERGER and Senator BURNS. I do not think there is any objection to it. I do not know that the President would sign it, but it seems to me that he should. It is neutral over the 5 years. It is paid for, and I believe that is better than sitting around here arguing who is doing more for the unemployed in this country. I yield the floor.

Ms. MIKULSKI. Mr. President, I rise today to express my outrage at the veto by President Bush of the Emergency Unemployment Compensation Act of 1991.

Last Friday, George Bush dashed the hopes of many unemployed workers and their families by vetoing the Emergency Unemployment Compensation Act. The President doesn't feel that extended benefits are needed. President Bush thinks that we are coming out of a mild recession and we are on our way to economic recovery. I say tell that to the people in Maryland who have been out of a job for over 6 months and can no longer buy groceries or pay next months house note.

President Bush talks about how the economy is on a rebound; that economic recovery is just around the corner. He tells us not to bust the budget agreement by passing this bill. He says that the economy cannot afford to extend unemployment benefits.

I say, we cannot afford not to extend the unemployment benefits. In my own State of Maryland we have 150 workers who were laid off just last week from the Schmidt Baking Co. in Cumberland. Soon 1,200 folks will be laid off at Westinghouse's Electronic Systems Group. I don't think that they feel we are coming into economic good times. Ask the Maryland State troopers who were scheduled to lose their jobs last week because the State has no money to pay them. Ask the hundreds of workers at Bethlehem Steel who have been laid off over the past year.

The unemployment bill that President Bush vetoed is already paid for. We have an unemployment trust fund that contains $8 billion in surplus money created just for this kind of situation. It's there for economic emergencies. Mr. President, this is an emergency.

The promise of economic recovery will not put workers back on the job and won't pay the family bills. Thousands of Marylanders are looking for work now. Thousands more are losing their jobs and losing their benefits. We need to immediately extend unemployment benefits for those States with the worst unemployment rates. The long-term unemployed can't wait for trickle down economics to take effect.

Mr. President, they aren't looking for a handout. They just need a hand.

The following article which appeared in the Baltimore Sun on Sunday, October 13, 1991, might give the President a view of the economy that the American people are facing right now.

When my name is called this afternoon, I will vote for America's workers. I will vote to override President Bush's veto.

I ask unanimous consent to include the Baltimore Sun article in the RECORD.

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

[From the Baltimore Sun, Oct. 13, 1991]

UNEMPLOYED FOR 2 YEARS, MECHANIC STILL HAS HOPE

(By Michael Pollick)

In his gray Davidson College sweat shirt and jeans, Mike Pugh might be mistaken for a construction worker taking a break as he sits on a concrete stoop at the corner of Broadway and Aliceanna Street in Fells Point.

But while he has considerable job skills as a mechanic, Mr. Pugh, 39, has not had a steady job in more than two years.

Occasional jobs as a day laborer have brought some money, but he says. "They pay you $25. By the time you come back, buy dinner, wash your clothes and buy some cigarettes, you're right back where you started."

Mr. Pugh—and millions of Americans like him—illustrate the tremendous human cost hidden behind the nation's unemployment statistics.

While the Bush administration downplays the recession, noting that the unemployment rate is well below the rate of previous recessions, millions of jobless or underemployed Americans are going uncounted.

They include so-called "discouraged" workers, who say they'd like to work but have given up looking, and part-timers who want to work full-time. Both groups are excluded from the Bureau of Labor Statistics' "official" jobless rate—6.7 percent in September.

The official rate, buoyed by positive assumptions, seriously underestimates the extent of the nation's unemployment problem, some economists say.

The bureau acknowledges the issue—buried deep in its monthly press release is another jobless rate that may come closer to reality: 10.1 percent.

But some think that even 10.1 percent understates the problem.

"My number is 12.5 percent." said Lawrence Mishel, an economist with the Economic Policy Institute in Washington.

If Mr. Pugh is reflected in the Bureau of Labor Statistics' figures, it is not clear how. Is he a part-timer, and therefore considered part of the employed labor force? Or is he counted as one of the 1.1 million discouraged workers—a group that, like the 6.4 million part-timers who would rather work full-time, is tallied by the bureau but excluded from the "official" rate?

Or, is he overlooked completely, since he has no permanent address?

Jack Bregger, the bureau's assistant commissioner for current employment analysis, said it would take an interview by an enumerator to determine Mike Pugh's status on any given day.

"If he has done any work at all in a given week, he wouldn't be counted as unemployed," said Mr. Bregger. The homeless, he added, are covered in surveys if they are living in a shelter.

Whatever the case, Mr. Pugh seems to be functioning with no safety net. And he has that in common with many other essentially jobless people.

"Far fewer of the unemployed are getting any benefits now versus in the mid '70s or early '80s recessions. That's why there's a big political fight about extended benefits," said Mr. Mishel, who has devised his own rate to show "the portion of the labor force that is under stress." One major difference: Although the government's 10.1 percent rate counts part-timers as half a person each, he includes them all, figuring that they are definitely "under stress."

September's jobless rate fell from the 6.8 percent level of the prior two months and of the second quarter. The Bush administration pointed to the figures as further proof the economy was recovering.

But the number of discouraged workers, which the bureau defines as "people who want to work but are not looking for jobs because they could not find any," increased by 100,000 in the latest three-month period, to 1.1 million. That put the total at its highest level since 1987.

Meanwhile, ranks of those who are being forced to work part-time because they can't find a full-time job rose by 669,000 in the last three months to reach 6.4 million.

THE UNRECOGNIZED

Angelique Dedmon, who at age 19 has already served a year in the National Guard, falls into this category, which BLS says is often referred to as "the partially unemployed." When she came off active duty in the Guard a month ago, she began looking for a full-time retailing job in Baltimore, her hometown. But she has yet to find a position, even at the lowest wage levels.

Prior to joining the Guard, she made $5.25 an hour as a full-time supermarket cashier, but she is now forced to accept a series of temporary jobs. Her latest job, hanging clothes and unloading trucks for the Limited Express at Towson Town Center, started this week and ends Tuesday. She is paid $4.50 an hour.

"You've got to get what you can."

Accurately counting the nation's unemployed isn't easy. Even officials at the Bureau of Labor Statistics, while defending the official jobless rate as a way of measuring change over time, acknowledge that their 60,000-household sample has its shortcomings.

"The under-counted population may be a bigger problem than the homeless," said Mr. Bregger of the bureau.

"Even though they live somewhere, they don't want their existence to be known to enumerators for a variety of reasons," he said. He listed a few: illegal aliens, men who prefer not be be counted because a household can only receive Aid to Families with Dependent Children if the man of the house is missing, and people who are so crammed into living quarters that their occupancy itself is illegal.

If discouraged workers and part-timers are under-recognized in the statistics on the federal level, they are nearly non-existent on the state level.

"In the state of Maryland, if you are an individual not pursuing employment in some kind of way—and that includes registering for the Maryland Job Service, collecting unemployment insurance benefits, all those kinds of things—then for the most part you are not recognized," said Curtis Kane, assistant director of public information for the state's Department of Economic and Employment development.

Regarding discouraged workers, Mr. Kane said, "We have no methodology to determine who they are, where they are, or how many there are." But improperly measuring unemployment could have serious consequences.

"If you don't have an accurate measure of the problem, or you have one that shows the problem being too small, then you don't develop programs to address it," said Debra Silimeo, press secretary for Congress' Joint Economic committee, which is chaired by Sen. Paul S. Sarbanes, D-Md.

The debate over the jobless rate, until now largely academic and partisan, may gain added importance if Congress pushes through its new extended unemployment benefits package over President Bush's veto.

Today, extended benefits are tied to each state's actual jobless insurance claims. Under a proposal that has passed the Senate, extended benefits would be triggered by the Bureau of Labor Statistics' jobless rate, which is broken down for each state by complex computer programs.

Meanwhile, the Bureau of Labor Statistics has yet to implement one of the most significant recommendation of a 1979 presidential commission on job statistics—that at least some of the nation's discouraged workers be counted among the unemployed.

A POLITICAL FOOTBALL

We are "completely ignoring the discouraged workers the way they are reported now," said Sar Levitan, a veteran Washington economist who headed that 1979 commission to improve labor statistics.

He thinks one-third to one-half of the so-called discouraged workers, or 400,000 to 500,000 people, really belong in the ranks of the jobless. The higher figure would raise the unemployment rate to 7.2 percent.

"Can you imagine any administration just agreeing to increasing the unemployment by such a magnitude?" he asks.

Mr. Pugh isn't sure which category he fits in, and doesn't care. He just wants a job. "I'm an unemployed, trying-to-find-a-job, discouraged worker," he said.

He said that in November 1989, he quit his job at a food-processing plant near Lynchburg, Va., where he learned to maintain hydraulic, pneumatic and refrigeration equipment. He expected to make bigger money in Baltimore, in style.

When he cannot get a day-laborer job, he says, he might spend the day sitting around. "Sometimes I just walk from soup kitchen to soup kitchen."

At this point, he can't even afford a room, and he either sleeps in a homeless shelter or an abandoned building.

When he applies for a job, he gives as his address the soup kitchen around the corner from his perch, Beans & Bread at 1621 Aliceanna St.

"I had these big dreams," he said "I was going to come back and build a nice house."

Mr. CRAIG. Mr. President, I rise today to express my continued support for the President and to voice my opposition to S. 1722, the Emergency Unemployment Compensation Act of 1991.

Let me say that I am deeply concerned about the needs of the unemployed and their families. In my own State of Idaho, the unemployment rate in some areas is alarming. It is not as bad as in past years and it may not be the chronic and pervasive problem faced by other regions of our Nation, but it does exist. As a result, I believe we must take steps to ensure that the economic recovery continues and grows stronger each day, creating new jobs along the way.

Nevertheless, S. 1722 is not the answer, and I will vote to sustain the President's veto for three reasons:

First: There is a better alternative. As we all know, the Republican leader has crafted an unemployment compensation bill that is acceptable to the President. It would provide benefits,

similar to the bill before us, but with one major difference—the benefits would be paid for, not tacked onto the burgeoning Federal deficit. Unfortunately, this fiscally responsible alternative was rejected by a majority of my colleagues.

As a result, we are confronted by a bill that could cost as much as $6.5 billion during fiscal years 1992–95, without being subject to the pay-as-you-go requirement of last year's budget agreement. Make no mistake, S. 1722 would bust the budget and hamper any economic recovery.

Second: This legislation does not address the real problem. Extended benefits may give short-term help, but will not provide the long-term stability of a job. S. 1722 does nothing to spur economic growth and create solid, good-paying jobs. What the Nation needs are progrowth initiatives that will create jobs and put people back to work.

Third: This is politics, pure and simple. The Presidential campaign season has begun and the Democrats are looking for an issue, any issue, to try and make the President look bad. But it won't work. The Republicans have crafted a viable alternative and President Bush supports it. He would sign it today, if the Democrats would just agree that it is the more responsible unemployment legislation. Likewise, the President supports progrowth initiatives, designed to kick-start our economy. But the Democrats won't sign off on those either. Unfortunately, they are more interested in politics than policy. As a result, the problem will remain unresolved. People in Idaho understand that. The American people understand that.

Mr. President, I urge my colleagues to join me in voting to sustain the President's veto of S. 1722.

Mr. COHEN. Mr. President, today the Senate has the opportunity to give America's long-term unemployed workers a desperately needed extension of their unemployment benefits.

While unemployment is a nationwide problem, it has been particularly acute in my own State of Maine. Maine has been one of only eight States that has previously qualified for the Federal-State extended benefits program. This benefit cutoff occurred in August, when the State's unemployment rate was 7.6 percent, nearly twice what it was a year ago.

Congress attempted, with my support, to extend unemployment benefits before the August recess with the passage of the Emergency Unemployment Compensation Act. To be implemented, the bill required the declaration of an economic emergency. When an emergency was not declared, an alternative plan offered by Senator DOLE was introduced. Although I endorsed this alternative as fiscally responsible, it did not gather enough votes for adoption. With the defeat of this alternative, the Senate passed once again with my support a similar version of the Emergency Unemployment Compensation Act.

This legislation has now been vetoed, and we are faced with a dire situation. Americans need help. We are at a point where many unemployed who have exhausted their initial benefits, are desperately in need of the means for keeping food on the table of their families and a roof over their heads for the oncoming winter.

There are now 26,000 fewer jobs available in Maine than 1 year ago at this time. In a matter of 2 years we have gone from the situation of a worker shortage to one in which it is not uncommon for over 200 applicants to apply for one minimum wage position. A company that is one of the largest employers in Maine has told me that it is receiving 500–600 unsolicited job applications each month. As unemployed workers' benefits run out, many are becoming desperate and are coming back to reapply.

Some will argue that the economy is improving and the unemployment rate will be steadily declining. This does not ring true to the thousands of Mainers fruitlessly searching for employment. For example, I recently received a letter from a young man who has exhausted his initial benefits and, due to his inability to find work, has been forced to apply to the town where he lives for public assistance. The town—his neighbors and friends—helps him pay for his rent and gives him $24 a week for food. He is proud and wants to be self-supporting but, without a job, he must rely on others for his support. In these fiscally difficult times, when small towns in Maine are barely able to maintain needed services, a new burden has been added: They must help feed, clothe, and house citizens who want to work and help themselves.

I have also heard from many businesses in Maine who have urged me to support the extension of unemployment benefits. One small family business in Maine employed 40 workers last year and, as a result of the recession, has been forced to lay off all but a few. The owner described his situation as desperate, and he is saddened to see their employees run out of their much needed assistance.

Mr. President, this situation is indeed an emergency. There are 8.5 million Americans without jobs and millions who will have soon exhausted their benefits, and are in desperate need of assistance. These are not just statistics, they are human beings whose livelihoods and self-esteem have been ravaged by the recession. These are proud individuals who have previously worked toward the growth and economic advancement of our country. They have been employed by businesses that have contributed to the unemployment trust fund on their behalf.

We, as an elected body of the people, have an obligation to work to support these people with funds that have been established for this very purpose. For these reasons, and for the people of Maine who desperately need this assistance, I am voting to override the President's veto.

Mr. PELL. Mr. President, I urge my colleagues to override the President's veto of extended unemployment benefits legislation. The time has come for both the Congress and the Bush administration to recognize that we are in a prolonged recession.

I do not not believe we can simply tell jobless Americans that the economy is turning around and if they wait another 6 months there may be jobs available.

During every deep recession in my memory, the Federal Government has provided extended unemployment benefits for those who need this help. This commitment to helping the unemployed seems to have disappeared in some quarters.

I do not know what has changed. People still need to buy food, pay for heat, and send in the rent check. The human side to unemployment is still there. The only thing that has changed is the ability of those in power to see the problem and act to resolve it.

In Rhode Island, there are 5,500 people receiving extended unemployment benefits. These benefits will be cut off unless the Senate is able to override the President's veto. Last month, 8,000 Rhode Islanders waited in line in the rain to receive surplus Government food. This is what it has come to in my State. And the only safety net offered by the Federal Government is surplus cheese, rice, beans, and flour.

I cannot believe this is what Government has come to mean in this country—surplus food and a promise that things may get better. I am asking my colleagues today to look closely at the suffering caused by this recession and vote to override the President's veto.

Mr. KERRY. Mr. President, yet once again, the Senate of the United States has been forced by the inexplicable callousness of President Bush to reconfirm our insistence that steps be taken to provide badly needed assistance to the long-term unemployed workers who are the victims of the recession that has gripped our Nation for months.

First, in August, we passed a bill that would have provided additional benefits to those who had been unemployed for so long that they had exhausted the regular unemployment benefits for which they had been eligible. We sent that bill to the President with great hope that he would sign it into law and that the benefits the bill would have made available would have begun flowing to those who so much needed them by the beginning of September.

But in one of the most cynical political exercises I have witnessed in a long

time, President Bush, indeed, signed the bill into law, but announced on the very same day that he would not take the step necessary—acknowledging that an economic emergency existed warranting such action—to release funds to pay for the benefits.

I can only surmise, Mr. President, that President Bush and his advisors have not spoken to the thousands of unemployed workers in my State of Massachusetts who lost their jobs because of the recession, and, despite their continued efforts, have been unable to find other work. The families of these long-term unemployed workers have struggled against heavy odds to keep food on their tables, to keep their homes from being lost to foreclosure, to pay for essential medical care, and to protect some vestige of their hard-earned savings intended to be used to educate their children, provide for their retirement, or care for other essential expenses.

If President Bush had spoken to those Massachusetts citizens, Mr. President, or any of the others among the 8 million U.S. workers who are in similar straits from one corner of our Nation to the other, I do not see how he could have done that. Their stories are too gripping, too desperate.

When we returned to session in September, however, Mr. President, the Democrats in the Congress set about to rectify this situation. A second bill was prepared, passed—with 65 Senators of both parties voting for it, and sent to the President—with a provision that, if the President signed it into law, the funds for its benefits would flow automatically without need for a separate declaration of economic emergency.

We took this step, once again, with some hope the President would recognize that, for these families, there is no question about the current circumstances being an emergency. We also fervently hoped he would recognize that there is nearly $8 billion of unemployment insurance taxes sitting in a trust fund dedicated for use only for paying unemployment benefits—and that this legislation would not result in using even all of those funds for additional benefits.

And what did President Bush do with this bill? He vetoed it!

So here we are, Mr. President, on the Senate floor once again—this time to seek to override President Bush's veto and finally transform this legislation into law.

I am truly hopeful this Chamber will act precisely to that end.

Our Republican colleagues, in an attempt to justify and support President Bush's actions, have devised what they like to refer to as an alternative unemployment insurance extension bill. But its provisions are sadly inadequate—indeed, stingy—compared to the bill President Bush vetoed. Tens of thousands of long-term unemployed workers who have exhausted their benefits would not receive a penny under its provisions. It looks a great deal like a thin candy coating; it cannot possibly withstand critical scrutiny.

In Massachusetts, the Dole Republican alternative bill—would provide a maximum of 10 additional weeks of benefits; the vetoed bill would provide up to 20 additional weeks. In the prevailing economic climate in Massachusetts, that is a critical difference.

Mr. President, I previously have spoken at some length in this Chamber—each time the President's actions have forced the issue back to the Congress—concerning the economic circumstances that exist in Massachusetts, and the tremendous need for the benefits we have been trying to provide for several months. Today, rather than repeat those remarks, I will ask unanimous consent when I complete this statement, that a white paper titled "Reaching Back To Help the Unemployed," prepared by Isaac Shapiro of the highly regarded Center on Budget and Policy Priorities, be entered in the RECORD. That white paper painstakingly analyzes the differences between the bill vetoed by the President, whose veto we will be voting to override in just a few minutes, and the so-called Dole alternative bill. In summary, it finds that nearly 1 million jobless workers who have exhausted their state benefits since March 1 of this year would be eligible for assistance under the vetoed bill, while, under the Dole bill's provisions, only 135,000 such workers would be eligible for assistance.

I can see only one acceptable course for the Senate today, Mr. President. We have been rebounding from President Bush's intransigence on this matter long enough. He simply will not recognize that the severity and extent of need across this country in all respects warrant declaration of an emergency. We have sent him legislation twice.

It's time now to do what he will not do, and vote to make this legislation law—to start the additional benefits flowing. I will vote to override President Bush's veto, and urge my colleagues to join me in taking a concrete step to use the unemployment insurance trust fund to provide extended benefits to those who so badly need them.

Mr. President, I ask unanimous consent that the white paper I previously referenced from the Center on Budget and Policy Priorities be printed in the RECORD.

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

[From the Center on Budget and Policy Priorities, Oct. 14, 1991]

REACHING BACK TO HELP THE UNEMPLOYED

(By Isaac Shapiro)

Last Friday, President Bush vetoed legislation that would have provided additional unemployment benefits to workers who exhaust their state benefits. The President has indicated he prefers unemployment insurance legislation similar to that introduced by Senator Robert Dole.

Some of the more widely-discussed differences between the bill vetoed by the President, S. 1722, and the Dole legislation include the controversy over the emergency waiver in S. 1722 as well as differences regarding the number of weeks of additional benefits that would be provided to workers exhausting their benefits during the next several months.

Another key difference, however, has received less discussion than it merits—the difference in the amount of assistance provided to workers who have exhausted their unemployment benefits over the past half year and are still out of work.

This difference is very substantial. This report finds that nearly one million jobless workers who have exhausted their state benefits since March 1 would be eligible for assistance under the bill vetoed by the President, while just 135,000 such workers would be eligible for assistance under the Dole bill.

Those affected are among the jobless workers whose needs are likely to be greatest since they have been out of work and without benefits the longest.

COMPARING THE "REACHBACK PROVISIONS"

Both bills provide benefits to two groups of jobless workers. The first group consists of those workers whose state unemployment benefits run out during the nine-month period after the bill is enacted. All such workers will be eligible for assistance under both bills, with S. 1722 providing a maximum of seven to 20 weeks of assistance to these workers, depending on the state where the worker lives. The Dole bill would provide these workers a maximum of six to ten weeks of assistance.

The second group of workers affected by these bills consists of workers whose benefits ran out between March 1, 1991 and the present and who are still out of work and looking for a job. The provisions covering workers whose benefits ran out between March 1 and early October are known as "reachback provisions" and are the focus of this analysis.

The reachback provisions of the two bills differ greatly. The provisions of the vetoed bill cover the vast majority of workers who have exhausted unemployment benefits in recent months. The Dole bill covers only a small fraction of these workers.

In 36 states and the District of Columbia, workers who exhausted their state unemployment insurance benefits between March and early October—and who are still unemployed—would be eligible for additional aid under S. 1722. Nearly nine of every ten workers who exhausted their state benefits in recent months—89 percent—live in these 36 states.

By contrast, under the Dole proposal, workers who have exhausted their benefits since March 1 would be eligible for benefits in only six states. Just 14 percent of workers who exhausted their state benefits in recent months live in these six states.[1]

The difference in the number of jobless workers who are assisted under the reachback provisions of the two bills is similarly stark. (See the Appendix for an explanation of how these figures were calculated. As explained there, this analysis is likely to underestimate the number of workers af-

[1] Both bills would provide reachback benefits to Puerto Rico.

fected by the reachback provisions under both bills, particularly in large states. The understatement of the number of workers affected is larger for S. 1722 than for the Dole proposal.)

An estimated 980,000 workers who exhausted their benefits between March 1 and October 5 would be eligible for additional benefits under S. 1722's reachback provision.

By contrast, an estimated 135,000 workers who exhausted their benefits during this period would be eligible for additional benefits under the Dole reachback provision.

S. 1722's reachback provision assists 845,000 more jobless workers—seven times as many people—than the reachback provision in the Dole bill.

STATE ANALYSIS

As Table I indicates, in 31 states and the District of Columbia, workers whose benefits expired between March and early October would be eligible for benefits under S. 1722's reachback provision but would not be eligible for benefits under the Dole bill. These states include most of the states with the highest unemployment rates in the nation.

West Virginia's unemployment rate of 10.5 percent is the highest of any state in the nation. Michigan's rate of 9.7 percent is second highest. Mississippi's rate of 8.7 percent is fourth highest. None of these states would qualify for reachback help under the Dole bill. All would qualify for reachback help under S. 1722.

Seven other states that have unemployment rates above seven percent would be eligible for reachback assistance under S. 1722 but not under the Dole bill. These states are Alabama, Arkansas, California, Florida, Kentucky, Louisiana, and New Hampshire.

The differences between the two bills would affect particularly large numbers of people in various states.

In California, nearly 170,000 jobless workers whose benefits ran out between March and early October would be eligible for additional assistance under the vetoed bill. None of these workers would be helped by the Dole bill.

In New York, 106,000 workers would be eligible to be helped by the reachback provision under the vetoed bill; none would receive assistance under the Dole bill.

In Florida, Michigan, Pennsylvania, and Texas, 50,000 to 60,000 workers in each state would be eligible to be assisted by the reachback provision under the vetoed bill but would not be assisted under the Dole bill. Just under 50,000 workers in Illinois would benefit from S. 1722's reachback; none of them would receive help under the Dole bill.

In addition, in four of the six states that do qualify for reachback assistance under the Dole bill, fewer weeks of assistance would be provided—and fewer workers would be helped—than under S. 1722. These states are Alaska, Maine, Massachusetts, and Rhode Island. (See Table II for the maximum number of weeks of additional assistance that workers in each states would receive under the reachback provisions of the two bills.)

In New Jersey, the same number of workers would qualify for reachback assistance under both bills. In this state, however, the Dole bill would provide more weeks of benefits.

In one state—Connecticut—workers would qualify for reachback assistance under the Dole bill but would not qualify for this assistance under S. 1722.

A final point should be mentioned about the reachback provisions of the Dole bill. Under the Dole proposal, a state's eligibility for reachback coverage is not directly tied to a state's unemployment rate. Consequently, most states with unemployment rates above seven percent would not qualify for reachback assistance, while some states with unemployment rates below seven percent would qualify. New Jersey's unemployment rate is 6.2 percent—below the national average of 6.7 percent—while Alaska and Connecticut both have unemployment rates under seven percent. These are three of the six states that do qualify for reachback help under the Dole bill.[2]

This anomalous situation—of workers living in states with the highest unemployment rates in the nation not qualifying for additional assistance while other workers in states with stronger labor markets do qualify for this aid—would not occur under S. 1722. Reachback eligibility under S. 1722 is tied to a state's average unemployment rate over recent months. All States with average unemployment rates of six percent or more would qualify for assistance.[3]

RECENT EXHAUSTEES ARE IN NEED OF AID

The reachback provisions are important because they are designed to help a group of workers likely to find themselves in an especially precarious position. The family of a worker who exhausted state unemployment benefits between March and September—and who is still looking for a new job—is likely to be in more difficult economic straits than the family of a worker who exhausts state unemployment benefits this month or next. The family that exhausted its benefits earlier in the year is more likely to have partly of fully depleted any other resources on which it could draw.

My families whose workers exhausted their benefits since March may already have fallen into poverty. A Congressional Budget Office study issued last year compared the poverty rate among jobless workers during the period three months after their benefits ran out. The study found their monthly poverty rate was twice as high after they exhausted their benefits. Nearly one in three who had exhausted their benefits were poor.[4]

It should be noted that if the federal government had responded earlier in the recession to address the problem of workers exhausting their unemployment benefits, workers who exhausted their benefits in recent months would have received or would be receiving this additional aid. It seems ironic, as well as inequitable, to deny additional benefits to such workers simply because the federal government took so many months to act—and consequently, their benefits ran out before the unemployment legislation was enacted.

Since March, from 240,000 to 334,000 workers have exhausted their state benefits each month without being eligible for additional aid. In July and August, more than 300,000 workers exhausted their unemployment benefits each month without being able to receive any extended benefits. Levels this high are unprecedented in the recorded history of the unemployment insurance program.

Both the greater need among those whose benefits have already run out and the principle of providing equal assistance to jobless workers placed in similar circumstances suggest that unemployment insurance legislation should include strong reachback provisions

TABLE I.—NUMBER OF JOBLESS WORKERS WHOSE BENEFITS HAVE RUN OUT SINCE MARCH AND WHO WOULD QUALIFY FOR ADDITIONAL AID UNDER THE TWO BILLS

	Under Dole bill	Under S. 1722
Alabama	0	12,239
Alaska*	3,248	4,052
Arizona	0	0
Arkansas	0	9,051
California	0	168,966
Colorado	0	0
Connecticut	22,339	0
Delaware	0	1,828
District of Columbia	0	5,469
Florida	0	50,002
Georgia	0	34,262
Hawaii	0	0
Idaho	0	4,636
Illinois	0	49,517
Indiana	0	16,341
Iowa	0	0
Kansas	0	0
Kentucky	0	11,130
Louisiana	0	8,384
Maine*	7,407	11,077
Maryland	0	19,343
Massachusetts*	40,482	46,725
Michigan[1]	0	59,796
Minnesota	0	0
Mississippi	0	8,441
Missouri	0	21,649
Montana	0	2,941
Nebraska	0	0
Nevada	0	6,590
New Hampshire	0	706
New Jersey	58,246	58,246
New Mexico	0	3,513
New York	0	106,314
North Carolina	0	23,462
North Dakota	0	0
Ohio	0	37,233
Oklahoma	0	6,457
Oregon*	0	10,356
Pennsylvania	0	55,343
Rhode Island*	3,958	10,919
South Carolina	0	11,986
South Dakota	0	0
Tennessee	0	24,996
Texas	0	53,634
Utah	0	0
Vermont*	0	1,803
Virgina	0	0
Washington	0	20,273
West Virginia*	0	5,850
Wisconsin	0	0
Wyoming	0	0
United States	135,861	983,5330

*See "Note on Tables."

Source: Center on Budget and Policy Priorities calculations based on information from the U.S. Department of Labor, the Congressional Research Service, and Mathematica, Inc.

TABLE II.—MAXIMUM NUMBER OF WEEKS OF BENEFITS THAT ELIGIBLE INDIVIDUALS COULD RECEIVE UNDER THE REACHBACK PROVISIONS OF THE TWO BILLS

	Under Dole bill	Under S. 1722
Alabama	0	13
Alaska*	0–10	0–13
Arizona	0	0
Arkansas	0	13
California	0	13
Colorado	0	0
Connecticut	10	0
Delaware	0	7
District of Columbia	0	13
Florida	0	13
Georgia	0	7
Hawaii	0	0
Idaho	0	7
Illinois	0	7
Indiana	0	7
Iowa	0	0
Kansas	0	0
Kentucky	0	13
Louisiana	0	13
Maine*	0–10	7–20

[2] Under the Dole bill, a state's eligibility for additional benefits is determined by the number of people claiming state unemployment benefits as well as the number of people exhausting state benefits in the most recent three months. As a result, some states with restrictive unemployment insurance programs that make it harder for unemployed people to qualify for state benefits—such as Mississippi and West Virginia—are less likely to qualify for reachback help under the Dole bill than are states with less restrictive unemployment insurance programs.

[3] Specifically, a state would be eligible for reachback benefits under S. 1722 if its unemployment rate either from February to July or from January to June averaged six percent or more.

[4] Ralph E. Smith and Bruce Vavrichek, the Congressional Budget Office, "Family Incomes of Unemployment Insurance Recipients and the Implications for Extending Benefits," February 1990.

TABLE II.—MAXIMUM NUMBER OF WEEKS OF BENEFITS THAT ELIGIBLE INDIVIDUALS COULD RECEIVE UNDER THE REACHBACK PROVISIONS OF THE TWO BILLS—Continued

	Under Dole bill	Under S. 1722
Maryland	0	7
Massachusetts*	0–10	7–20
Michigan*	0	7–20
Minnesota	0	0
Mississippi	0	20
Missouri	0	7
Montana	0	13
Nebraska	0	0
Nevada	0	7
New Hampshire	0	13
New Jersey	10	7
New Mexico	0	13
New York	0	13
North Carolina	0	7
North Dakota	0	0
Ohio	0	7
Oklahoma	0	7
Oregon*	0	7
Pennsylvania	0	13
Rhode Island*	0–10	7–20
South Carolina	0	7
South Dakota	0	0
Tennessee	0	7
Texas	0	7
Utah	0	0
Vermont*	0	0–13
Virginia	0	0
Washington	0	7
West Virginia*	0	7–20
Wisconsin	0	0
Wyoming	0	0

*See "Note on Tables."

Source: Center on Budget and Policy Priorities based on information from the U.S. Department of Labor and the Congressional Research Service.

NOTE ON TABLES

States marked with an asterisk are states that were eligible for the federal extended benefits program, which provides up to 13 additional week of extended benefits, during all or parts of the period between March 1 and early October. Under both bills, any weeks of benefits a worker received under the extended benefits program would count against any potential reachback benefits the worker could receive.

For example, Alaska was eligible for the extended benefits program from February through the beginning of September. Workers in Alaska who received the full 13 weeks of extended benefits during this period would not be eligible for any additional assistance under S. 1722. The 13 weeks of extended benefits assistance would fully offset the maximum number of weeks of reachback benefits that S. 1722 would provide in Alaska, which is also 13 weeks.

Such workers in Alaska would also be ineligible for any reachback benefits under the Dole bill. Workers in Alaska who received between 10 and 13 weeks of extended benefits during this period would also fail to qualify for reachback benefits under the Dole proposal. This is because the Dole bill provides a maximum of 10 weeks of reachback benefits in Alaska. (An Alaskan worker could have received fewer than 13 weeks of extended benefits in recent months if, for example, the worker was one of those jobless individuals who had collected less than the full 13 weeks of extended benefits when the state became ineligible for the extended benefits program in early September.)

An Alaskan worker who received five weeks of extended benefits before Alaska became ineligible for the program could receive up to eight additional weeks of benefits under S. 1722 and up to five additional weeks of benefits under the Dole bill.

The data reflected in Table I on the number of workers eligible for benefits under the reachback provisions of the two bills take into account the fact that some exhaustees in states marked with an asterisk would not qualify for additional benefits.

APPENDIX.—ESTIMATING THE NUMBER OF PREVIOUS EXHAUSTEES WHO MAY STILL BE ELIGIBLE FOR ADDITIONAL BENEFITS

Many workers who have exhausted their unemployment benefits since last March have found new jobs and would no longer qualify for or need additional unemployment aid. Many others, however, have not. They have exhausted their unemployment benefits, continue to look for work, but have not found a job.

No ongoing government survey exists of the number of workers that fall into these different categories. As a result, it was necessary to estimate the number of workers who have exhausted their unemployment benefits since March and would be eligible for additional benefits under the two bills.

The estimates are based on *actual* data on the number of workers exhausting their benefits each month and an *estimate* of how many of these workers potentially remain eligible for new aid because they have not been reemployed. The estimate is based on a study conducted by Mathematica, Inc. for the U.S. Department of Labor. (Walter Corson and Mark Dynarski, Mathematica Policy Research, Inc., *A Study of Unemployment Insurance Recipients and Exhaustees: Findings From a National Survey*, September 1990.) This study estimated the length of time it took workers who exhausted their unemployment benefits to find a new job. Similarly, the study estimated the percentage of workers who exhausted their unemployment benefits who then found new jobs after various periods of time. For example, the study found that 10 weeks after workers exhausted their benefits, 40 percent had found a new job.

The study covered 1988, when the unemployment rate was 5.5 percent. The unemployment rate is higher today, having averaged 6.8 percent since March. In today's weaker labor market, it is likely to take longer to find new employment than in 1988. Consequently, using the results of the Mathematica study is likely to understate the number of workers who exhausted their benefits since March 1991 and who remain without a job today. The estimates derived here therefore tend to understate the number of workers eligible for the reachback provisions of the two bills. Since S. 1722 provides reachback benefits in six times as many states as Dole, the understatement is greater for S. 1722.

For purposes of this analysis, the results of the 1988 study were applied universally across states. Since most state labor markets are weaker than they were in 1988, this is likely to understate the number of workers affected by the reachback provisions in most states. The understatement would be largest in those states whose unemployment rates are now highest and where it consequently is most difficult to find a new job.

Mr. LEVIN. Mr. President, President Bush says that he is concerned about unemployment, but as he sees things, we are not facing an emergency. And, I guess when you live in Washington and are surrounded by advisors who tell you that everything is coming up roses, that's the easiest thing to believe.

But, Mr. President, out in the country, there are still a lot more thorns than roses to this so-called economic recovery. On the same day that the President vetoed the legislation to provide additional weeks of unemployment to people who have exhausted their unemployment benefits, I was in Michigan, where the unemployment rate is 9.7 percent and almost 13,000 people exhausted their employment benefits in September alone. But statistics only go so far. While I was in Michigan on the same day that the President found no emergency, I heard real stories of pain and suffering. Let me take a moment to tell the Senate a couple of those stories.

Lenny Ketelhut of Hazel Park is a mold maker who was laid off in January. He said, "I don't think that the people in the White House understand how bad it is out there." He has sent out more than 100 résumés, but when he hears about a decent job prospect and goes to check it out, to use his words, "there's a line twice around the building."

Joe Chronowski of Roseville worked in a food processing plant until it was closed down in December of last year. Since then, he has sent out 5 to 7 résumés a week. The President might not think that there's an emergency, but for Joe Chronowski, finding the money to pay the bills is an emergency.

Now, the President says that all we have to do is pass his unemployment bill, and those suffering from unemployment will be taken care of. He says that the bill which was passed by the Congress, with bipartisan support is poorly designed and unnecessarily expensive. That's ironic criticism in light of the fact that the bill that the President is supporting would provide Michigan—which has the highest rate of unemployment among the most populous States—with fewer weeks of benefits than it would provide some States which have lower unemployment rates. Also, under the bill that the President is supporting, long-term unemployed in Michigan who have already exhausted their benefits at the time of enactment would not qualify for any additional unemployment benefits.

Under the legislation which the President vetoed, Michigan, with its high unemployment rate, would qualify for the maximum number of weeks of benefits and these long-term unemployed who have already exhausted their benefits would qualify for additional weeks of benefits. The next time that the President says that he wants to help the unemployed, I want to hear him give a reason why help shouldn't reach out to these long-term unemployed in my State of Michigan and those similarly facing the same emergency throughout the country.

If this veto is not overridden, it will add to the President's successful streak of sustaining vetoes. It may bring smiles to the faces of his political advisers, but there will be no smiles on the faces of Joe Chronowski, Lenny Ketelhut, and hundreds of thousands like them throughout the country.

That is why, in face of the odds, this veto should be overridden.

Mr. LAUTENBERG. Mr. President, I rise in support of overriding the President's veto of S. 1722, the Emergency Unemployment Compensation Act of 1991.

Mr. President, the current recession has forced millions of Americans out of work in what the administration promised would be a brief economic downturn. People in this country are suffering. Nearly 9 million people are out of work in our country. This is an increase of more than 2 million in the past 2 years. In New Jersey, 269,000 people are unemployed. To those who have been laid off the longest, extended unemployment benefits will mean the difference between meeting the house payments and losing the house, between putting food on the table and going hungry.

Mr. President, the Federal unemployment insurance system is not meeting the needs of New Jerseyites. Presently, approximately 15,000 New Jersey residents are exhausting their unemployment benefits each month. While the need for relief for these people has grown, so has the surplus in the unemployment insurance trust fund. This makes no sense. The trust fund moneys are there for these people. The administration wants to hoard this money that was collected for just the kind of emergency that unemployed workers face today.

It is time the Federal Government took action to help needy families. Without the emergency unemployment compensation bill, millions more Americans will exhaust their unemployment benefits and be forced into poverty.

The administration says we are in a recovery. But every day I hear stories of companies laying off thousands of people. Yesterday, IBM announced that it will lay off 3,000 people, on top of the 17,000 it has already planned. The problem here is that people do not understand the difference between the recession and the recovery. People continue to lose their jobs at an alarming rate.

This bill will also provide benefits to unemployed service men and women who have recently returned from the Persian Gulf. This bill allows exservice members to be treated the same way other Americans are under the unemployment insurance system. The bill would change the waiting period for benefits to 1 week, and benefits payable for up to 26 weeks instead of the 4-week waiting period and 13-week benefit limits in present law.

The President says that this bill will break the budget. I say, his veto breaks faith with American workers. Here is a President who would spend to bail out the S&L's, but not to bail out Americans. He would lend a hand in an emergency to the Kurds, but shows the back of his hand to jobless Americans. It is time to put Americans first on the agenda. I urge my colleagues to override the President's veto.

Mr. DODD. Mr. President, I rise today to express my deepest dismay at the President's veto of the bill to extend much-needed unemployment benefits to over 2 million long-term unemployed in our Nation.

President Bush knew that his leadership was needed to ensure the jobless of our support. Unfortunately, he chose to turn this serious matter into a political battle and turn his back on families grappling with the pressures of this recession.

As long as I have served in the Congress, I have not seen the extension of unemployment benefits turned into a partisan debate. The events of the last few months are unprecedented. Reagan, Carter, and Ford all supported similar extensions during previous recessions. Why is this recession any different?

Despite the insignificant drop in the national unemployment rate to 6.7 percent, workers continue to lose their jobs each week. In some regions of this Nation, the recession still ravages communities, families, and businesses. In my own State of Connecticut the unemployment rate has risen over the last 3 months to an all-time high since March 1989. Connecticut is also 1 of 10 States with the highest number of unemployed who have exhausted their benefits—over 60,000.

We collect revenues from businesses for the sole purpose of building up reserves to be used during prolonged periods of high unemployment. The unemployment trust fund is now worth $8 billion. Unfortunately, the President would rather have this investment mask the deficit than help victims of these hard economic times. The President has been willing to deficit spend for the people of other nations. He provided emergency funding to the victims of the Bangladeshi flood and to the Kurdish refugees. Why won't he do the same for families and the unemployed here at home?

During this recession, our deficit has already worsened as a result of a decline in revenues collected by Treasury. A slumping economy is just as harmful to our deficit as is emergency spending beyond the limitations of our budget agreement. Extended benefits would provide families much-needed revenues to pay their bills and to be consumers—which would only help to stimulate the economy. If the Federal Government does not work to turn this economy around, millions of Americans will continue to suffer and the deficit will continue to grow.

We made promises to businesses and workers to use the trust fund to provide unemployment benefits. If we fail to override the President's veto, he will have blocked us from delivering on those promises. For this reason, I urge my colleagues, who voted against the conference report, to rethink the consequences of their vote. We owe it to the victims of this recession to override the President's veto. Our constituents deserve better than to be victims of the President's political agenda.

Mr. ROTH. Mr. President, I rise today in support of President Bush's veto. I decided to sustain the President because the Bentsen bill is substantively flawed and contains no means to pay for itself. Passing it would add $6.1 billion to our already huge deficit, further weakening the economy.

I am a sponsor of an alternative bill which the President has said he will sign—a bill that is paid for, a bill that will actually put money in the hands of those who desperately need it. Unfortunately, Members of this body rejected that proposal.

If the President's veto is sustained, I urge my colleagues on both sides of the aisle to come together and agree on a proposal that aids the unemployed in a way that is financially sound, not by raising taxes or violating the budget agreement.

It is essential that we not turn our backs on families who have exhausted their unemployment benefits and are having a hard time making ends meet through no fault of their own. We must not leave the unemployed stranded while we argue over how best to assist them.

They need our help. Let's come together with a plan that works.

Mr. BAUCUS. Mr. President, I have supported this unemployment benefits extension bill since it was first introduced in the Senate this summer.

I supported it the first time we passed it. The President signed that one. But it helped no one because President Bush refused to release the funds needed to pay the benefits by declaring an emergency.

I supported this legislation the second time we passed it but we are considering that bill again today, because the President vetoed it.

This game has gone on much too long. People who are out of work and desperate, trying to hold their families together, are being hurt by these delays.

We have already passed this bill several times, decisively, and with a bipartisan vote. The conference report was approved by the Senate 65–35. The House passed the same conference report 300–118.

President Bush said in his veto message that enacting this bill would bust last year's budget agreement. I respectfully disagree.

The funds to pay for these benefits are available in the unemployment compensation trust fund which was established to accommodate emergencies just such as this. The trust fund currently has a surplus of $8 billion to pay for these kinds of benefits.

It is unconscionable to sit on a huge trust fund surplus which was established for this purpose—and just 10 days ago 65 Senators said it should be used—when the long-term unemployed have run out of options. They've run out of hope. They need these benefits, and we can provide them.

There are 8.5 million workers in this country who cannot find jobs. The unemployment rate in Montana is 6.5 percent. As far as I'm concerned, that's too many people out of work. We need to adopt policies that will create more jobs. But we also need to help the jobless in the meantime.

Therefore, I will vote to override the President's veto of this needed legislation.

Mr. WELLSTONE. Mr. President, I rise to urge the override of the President's veto of the unemployment bill.

I rise to urge support for the long-term unemployed, who have waited too long, pawns in a game of political chess played by the Bush administration. This is an administration which shows more concern for helping people overseas than for out-of-work Americans here at home.

This bill is an important step toward enactment of a series of recession relief measures designed to counter the painful effects of the economic downturn which continues to batter American workers and our economy.

There are no indications that the current recession has bottomed out. Indeed, there are several indicators that suggest it is worsening.

In my own State of Minnesota, 4.8 percent are unemployed. That is below the national average. But for the men and women who are out of work and for their children, statistical averages are not important. At last count, there were 119,000 unemployed in Minnesota. Some 30,000 unemployed Minnesotans have exhausted their benefits during the first 7 months of this year. That is an 18-percent increase over the same period of 1990. Those benefits amount to a maximum of $265 a week to pay the mortgage, food, transportation, clothes for the children—the basics of life.

Wherever I go in my State, on the Iron Range in northern Minnesota, in rural communities in western and southern Minnesota, in parts of the Twin Cities, I am stunned by the impact of the recession and unemployment on the people of my State. This recession is different. It is not confined to specific geographic areas. It has affected Minnesotans and Americans across the board: factory workers and computer programmers, professionals and government workers.

My offices in Minnesota get calls every day from workers in their 40's and 50's who are unable, through no fault of their own, to find meaningful work in this economy.

A recent profile in the St. Paul Pioneer Press quoted one unemployed man:

After you look for so long and get turned down enough, you don't have the ambition to go out every day and beat the pavement. You lose hope.

In the calls we get every day at our Minnesota offices, many are from long-time workers who have contributed to the economy for years. Now they are looking for a little help through the rough times.

A computer engineer, 29 years old, called. Four of the five firms he has worked for no longer exist. He has been out of work for almost a year. A man in the prime of life unable to find work. His benefits have run out.

Other callers and letter writers face a rising level of desperation. A mother writes to describe her son who has been laid off from his plant after 17 years. He has applied at over 200 places for jobs. He has a wife and three children. His benefits have run out. He is destitute. He is depressed. They are talking about getting divorced so she can go on AFDC to support their three kids. The mother wrote, "What has happened to this country?"

How can we turn our backs on cries like that? How can we be so callous?

While this bill addresses, temporarily, the emergency needs of unemployed American workers, the underlying unemployment insurance system must be thoroughly reformed. During this recession only 40 percent of the unemployed have received unemployment insurance benefits. The system is not working.

We can make one part of the system work better by voting to override the veto on extended benefits. With more than $8 billion sitting in the Federal extended benefits account, paid by American employers for precisely this purpose, this is the time to act.

The bill would extend Federal unemployment compensation benefits from 7 to 20 weeks past the current 26 weeks, depending on the unemployment level in each State. For Minnesota, the extension would be 7 weeks.

According to the Department of Labor, over 3 million workers will exhaust their benefits this year, with an additional 3.4 million exhausting benefits next year.

I find it difficult to believe that the President could turn his back on these millions of unemployed American workers who have run out of unemployment benefits.

I would find it harder to believe if this Senate would also turn its back.

Now is the time when these unemployed workers most need our help.

The PRESIDING OFFICER. All time has expired.

Mr. RIEGLE. Mr. President, I ask unanimous consent to print in the RECORD an editorial from today's New York Times where they specifically refer to the Republican proposal as a sham.

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

[From the New York Times, Oct. 16, 1991]

STRANDING THE JOBLESS

President Bush vetoed the Democrats' bill to aid the long-term jobless because it wouldn't pay for itself. Yet the Republican proposals he perfers are a sham. They help too few people and depend on gimmicks that waste future revenue.

More than three million of the nation's eight million jobless are collecting unemployment insurance. New claims have mounted slowly but steadily. Mr. Bush has made much of his measures to boost the economy by easing credit. But he ignores the depressing effects of job insecurity. People don't spend when they fear being laid off.

The vetoed bill and two Republican bills all offer added benefits to workers who exhaust, or have exhausted, the basic 26-week maximum. The Democrats' $6.5 billion bill offered up to 20 weeks more. The Republicans propose a maximum of 10 more weeks in one bill, for $3.5 billion, or up to 15 more in the other, for $3.9 billion.

All three bills would aid workers whose benefits expire in months to come, if they work in states where the unemployment rate exceeds a specified level. But Democrats and Republicans are far apart on helping idle workers who have already exhausted the basic entitlement. The Democrats would have helped more than a million in 34 states; the Republicans, with a much tighter formula, would help only 200,000 in six states and Puerto Rico.

The other big difference is financing. The Democrats' bill has none; it would add to the deficit and to the Federal debt. That's forbidden by last year's budget pact between Congress and Mr. Bush, except in undefined emergencies.

The Democrats argue that the distress of the long-term unemployed warrants emergency treatment, no less than the emergency aid that went to Iraq's Kurds. Mr. Bush says he wants to help the unemployed but must also protect all taxpayers. Thus he rejects new deficit spending. But he's wrong to think the Republican approach protects taxpayers. It avoids new taxes or more borrowing now, but it robs the future.

Some of the Republican financing comes from student loan delinquencies. Washington already duns delinquents by deducting their debt if they claim tax refunds. Authority for this expires in 1994. The Republicans want the authority renewed now, so that future collections can be counted on the 1992 books. Federal budget accounting may tolerate such trickery, but it's still trickery.

The bulk of the Republicans' revenue scheme rests on a fire sale of unused radio frequencies. Mr. Bush has proposed an auction starting in 1994. To rush it through in the next 12 months is throwing money away. The Congressional Budget Office estimates a quick selloff could yield as much as $2 billion but that a properly managed sale later could yield up to $4.5 billion.

The Democrats are rightly concerned. But even though Communism's collapse has invalidated last year's assumptions, the budget pact still stands, giving Mr. Bush a reason to veto.

Voting to override the veto is expected today. If the president prevails, the wisest, most honest course would be to pay for extended benefit with a higher tax on employ-

ers. But given that 1992 is an election year, that's not likely. What is likely is that the losers will be America's jobless.

The PRESIDING OFFICER. All time having expired, the question is, shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 65, nays 35, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—65

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Graham	Packwood
Boren	Harkin	Pell
Bradley	Hatfield	Pryor
Breaux	Heflin	Reid
Bryan	Hollings	Riegle
Bumpers	Inouye	Robb
Burdick	Jeffords	Rockefeller
Byrd	Johnston	Sanford
Chafee	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
Cranston	Kerry	Simon
D'Amato	Kohl	Specter
Daschle	Lautenberg	Wellstone
DeConcini	Leahy	Wirth
Dixon	Levin	Wofford
Dodd	Lieberman	

NAYS—35

Bond	Gramm	Pressler
Brown	Grassley	Roth
Burns	Hatch	Rudman
Coats	Helms	Seymour
Cochran	Kassebaum	Simpson
Craig	Lott	Smith
Danforth	Lugar	Stevens
Dole	Mack	Symms
Domenici	McCain	Thurmond
Durenberger	McConnell	Wallop
Garn	Murkowski	Warner
Gorton	Nickles	

The PRESIDING OFFICER. On this vote, the yeas are 65, and the nays are 35. Two-thirds of the Senators present and voting, a quorum being present, not having voted in the affirmative, the bill, on reconsideration, fails to pass over the President's veto.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1992—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 2426, which the clerk will now report.

The assistant bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2426) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1991.)

Mr. SASSER. Mr. President, I am pleased to bring before the Senate the conference report on the military construction appropriations bill for fiscal year 1992.

Mr. President, the conference report is within the 602(b) budget allocation for both budget authority and outlays. The conference agreement is also below the President's budget request.

Mr. President, I would like to briefly mention two provisions of the conference agreement.

First, the conferees agreed with the Senate and approved an extension of the legislative prohibition on the use of funds appropriated for fiscal year 1992 for construction of a new Air Force base at Crotone, Italy. This legislative prohibition is identical to the provision signed into law last year which prohibited the use of fiscal year 1991 funds for Crotone.

Mr. President, the world has changed. Europe has changed. And NATO is changing. We simply do not need to build a new full service air base in southern Italy when we will be closing bases all over Europe and inside the United States.

Mr. President, with regard to the second issue, the Senate was unable to hold its position in conference to provide additional funds above the budget request for environmental cleanup at bases selected for closure. The additional funds could not be accommodated within the very limited 602(b) budget allocation the conferees has to meet.

The conferees did agree to earmark funds for environmental cleanup; $220,000,000 of the amount provided for base closure I activities is set aside specifically for this purpose. In addition, the conferees noted that $69,000,000 has been programmed from defense environmental restoration account for use at base closure II locations. The conferees regret that the budget allocation did not provide sufficient room to increase the amounts directed toward environmental cleanup. Environmental cleanup is a very important aspect of base closure activities. The conferees strongly support making closed bases available for alternative uses in an expeditious manner. The Department must request sufficient funds in future years to accelerate the environmental cleanup of closed bases.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference agreement on the military construction appropriations bill for fiscal year 1992. The conference agreement includes funding for a number of projects that are important to New Jersey. As a member of the Senate Appropriations Committee, I supported providing funding for these projects and am pleased that they were included in the final version of the bill.

The conference agreement includes $20 million for a sewage treatment plant at Fort Dix and $22.5 million for a sewage treatment plant at McGuire Air Force Base. A waste water treatment facility is needed to meet the stringent requirements of the Clean Water Act. The existing waste water treatment plant has violated the terms of State pollution discharge permits, as well as limits contained in a Federal facilities compliance agreement. A single waste water treatment plant is required to provide treatment of the wastes generated by Fort Dix and McGuire Air Force Base, and to meet the standards in an economical manner.

The conference agreement includes $5.2 million to upgrade two existing dormitories at McGuire Air Force Base. The majority of assigned unaccompanied enlisted personnel live in dormitories which do not meet current Air Force standards. This funding would be for the fifth phase of a seven-phase program to upgrade base dorms to meet current Air Force standards.

It also includes $3.8 million to construct a child development center annex at McGuire Air Force Base. The existing child development center provides only 35 percent of space needed to support eligible military and civilian children at McGuire. The capacity of the existing facility is limited to 210 children, yet the current waiting list for full-time day care exceeds 275 children. Without this funding, lack of quality and affordable child care would continue to persist at McGuire Air Force Base.

The conference agreement includes $340,000 for a housing office at Lakehurst Naval Engineering Center. The funding will be used to construct a single 3,000 square foot housing office at the Naval Air Engineering Center. The present family housing office is located on the second story of an administrative office building. Existing space does not meet criteria specified in the military's own handbook and does not provide adequate space. Without this funding, incoming military personnel and families will not be adequately served, and housing personnel will continue to work in a poor environment.

It includes $3.981 million for the Edison area maintenance support activity facility. This funding will be used to construct a maintenance shop for organizational and area maintenance support activities. The existing maintenance building is in poor condition. It is very expensive to maintain and operate because of inefficient heating systems and substandard construction compared with current construction standards.

It includes $359,000 for the Mount Freedom dining facility addition. The existing kitchen facility is substandard

and is a very small residential type kitchen. Because the area for washing pots and pans is insufficient, for example, initial washing has to be performed with a garden hose. Without this funding, meals will continue to be prepared under substandard conditions, and storage and scullery areas will continue to risk poor sanitation.

The conference agreement includes $1.25 million for a child development center at Earle Naval Weapons Center. The funding will be used to construct a child development center for school and preschool age children of military families. The station provides support to about 1,000 military families, but it has no adequate child care facilities. Children are presently cared for in unlicensed, informal private home arrangements where the child's safety and the quality of care being provided cannot be assured.

It also includes $3.65 million for road improvements at Earle Naval Weapons Center. The funding would be used to provide signal light systems at road intersections, automatic gate and light systems at grade crossings of public roads with the Navy railroad, and a vehicle parking lot in the waterfront area for ships crews.

Additionally, it includes $11.4 million for a trestle replacement at Earl Naval Weapons Center. The existing trestle is 47 years old and shows signs of severe structural deterioration. It needs to be replaced to ensure safety.

I'm proud of the role these New Jersey installations play in our Nation's defense. The funding included in this conference agreement is needed to improve and upgrade facilities for our service men and women in New Jersey.

I urge my colleagues to support the conference agreement.

YAKIMA FIRING CENTER COMPROMISE

Mr. ADAMS. Mr. President, I rise today to speak about the compromise reached on the expansion of the Yakima firing center in Washington State. I cannot say that I am completely pleased with this compromise. I continue to have serious questions, questions substantiated in two recent reports by the General Accounting Office, about whether additional land is even needed to conduct brigade level training exercises.

Despite my concerns, the compromise does an excellent job of tying in local government and citizens in administering all firing center lands. It is important to note that this is true not only before the Army can ever set foot on the newly acquired lands, but for all firing center lands for as long as the facility remains in use. Given the acrimonious debate over land administration and environmental mitigation before the expansion was approved, this participation is both necessary and warranted. I am also pleased with the respect this compromise accords the rights of the Yakima and Wanapum Indians to protect their graves and sacred sites. These people deserve a central role in this process, today and for the future.

Finally, and perhaps most importantly, the compromise eliminates the Columbia River crossing from the expansion plan. The river crossing troubled me from the outset, particularly in light of the tremendous regional concern about northwest salmon, and its elimination is a victory for the environment as well as the people who live on the eastern side of the Columbia.

Mr. President, I hold out the hope that the Army will decide not to use this land for training exercises. Thankfully, this language leaves the door open for achieving that objective.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Pennsylvania [Mr. WOFFORD], is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—99

Adams	Ford	Metzenbaum
Akaka	Fowler	Mikulski
Baucus	Garn	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Murkowski
Bingaman	Gorton	Nickles
Bond	Graham	Nunn
Boren	Gramm	Packwood
Bradley	Grassley	Pell
Breaux	Harkin	Pressler
Brown	Hatch	Pryor
Bryan	Hatfield	Reid
Bumpers	Heflin	Riegle
Burdick	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Rudman
Coats	Johnston	Sanford
Cochran	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Seymour
Craig	Kerrey	Shelby
Cranston	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Smith
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Symms
Dodd	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wellstone
Exon	McConnell	Wirth

NAYS—0

NOT VOTING—1

Wofford

So the conference report was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate concur en bloc with the amendments of the House to the amendments of the Senate.

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

The amendments are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2426) entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 10, 28, and 29.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$880,820,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$172,083,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 128. (a) The Secretary of the Army shall carry out such repairs and take such other preservation and maintenance actions as are necessary to ensure that all real property at Fort Douglas, Utah (including buildings and other improvements) that has been conveyed or is to be conveyed pursuant to section 130 of the Military Construction Appropriations Act, 1991 (Public Law 101-519; 104 Stat. 2248) is free from natural gas leaks and other safety-threatening defects. In carrying out this subsection, the Secretary shall conduct a natural gas survey of the property.

(b) In the case of property referred to in subsection (a) that is within the boundaries of the Fort Douglas National Historic Landmark, the Secretary—In lieu of the sum stricken and inserted by said amendment, insert "$883,859,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$1,005,954,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$9,700,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$198,440,000".

(1) shall carry out a structural engineering survey of the property; and

(2) in addition to carrying out the repairs and taking the other actions required by subsection (a), shall repair and restore such property (but only to the extent that structural repairs are necessary) in a manner and to an extent specified by the Secretary of the Interior that is consistent with the historic preservation laws (including regulations) referred to in section 130(c)(2) of the Military Construction Appropriations Act, 1991.

(c)(1) The Secretary of the Army, after consulting with the Governor of Utah regarding the condition of the property referred to in subsection (a), shall certify to the Committees on Appropriations of the Senate and the House of Representatives that the repairs and preservation and maintenance actions required by subsection (a) have been completed.

(2) The Secretary of the Army and the Secretary of the Interior shall jointly certify to the Committees on Appropriations of the Senate and the House of Representatives that the repairs and restoration of such property has been carried out in accordance with the requirements of subsection (b).

(d) The Secretary of the Army shall complete all actions required by this section not later than September 30, 1992.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the next two votes be for 10 minutes each.

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1992—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 2698 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2698) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1991.)

Mr. BURDICK. Mr. President, today we take up the conference report on the 1992 appropriations bill for agriculture, rural development, and related agencies—H.R. 2698.

In overall numbers, this bill contains $52.5 billion. Well over half of that—$32.7 billion—is for nutrition programs such as Food Stamps, Child Nutrition, and WIC. Most of this amount is considered mandatory spending. In addition, the bill contains $9.8 billion for other mandatory programs such as reimbursements to the Commodity Credit Corporation, the Conservation Reserve Program, and payments to the Farm Credit System Financial Assistance Corporation. My point is that of the total money in the bill, very little of it is for truly discretionary programs over which the committee can exercise control.

Mr. President, the conference report provides funding within the subcommittee's 602(b) allocation for both budget authority and budget outlays.

SPECIAL SUPPLEMENTAL FEEDING PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Mr. President, I know of the widespread interest in the WIC Program. And I share that interest. My colleagues will be pleased to know that the conference report recommends providing $2.6 billion for WIC—an increase of $26.6 million over the original Senate level.

FOOD AND DRUG ADMINISTRATION

The conference committee was also able to provide more funding for the Food and Drug Administration than the Senate had recommended. The conference report includes $726 million for salaries and expenses of the Food and Drug Administration. This amount is $189 million more than the President requested.

CREDIT PROGRAMS

The conference report provides adequate funding for Farmers Home Administration and Rural Electrification Administration programs. The conferees provided the best levels possible for rural housing loans, farm loans, rural development loans and rural development loans and grants. Several of these programs were reduced in 1991 by last year's reconciliation act and they are substantially restored in this bill.

RURAL DEVELOPMENT

The question of funding for the Rural Development Administration was not at issue in the conference committee. Neither the House nor the Senate provided funding to establish this new agency, and none is included in the conference report. The Senate report is clear, and it is confirmed by this conference report, that the Secretary is directed not to establish the Rural Development Administration, but is to use the existing programs that are funded through the Farmers Home Administration, the Rural Electrification Administration, the Extension Service, and other agencies to maximize the development activities in rural areas.

NEW PROGRAMS

Mr. President, I would like to highlight several new programs that are funded in this bill. First, the Wetlands Reserve Program is funded at $46.4 million to enroll up to $50,000 acres in five States. Also funded is an Agricultural Water Quality Incentive Program at $6.7 million, new agricultural telecommunications programs at $6.2 million and the alternative agricultural research and commercialization at $4.5 million.

With that brief summary, Mr. President, I commend the conference report to my colleagues and I ask for their support.

REA—DISTANCE LEARNING AND MEDICAL LINK PROGRAM

Mr. LEAHY. Mr. President, I rise to request a clarification regarding the conference report language regarding H.R. 2698 and specifically concerning the REA's Distance Learning and Medical Link Program which is funded at $5 million in the bill. This program is a rural development program aimed at enhancing the telecommunications capabilities of local schools in rural areas, rural medical facilities and rural communities. The legislative history is clear that Congress expects that partnerships will be formed between local institutions—end users—and entities providing telecommunications capabilities. Entities providing educational technical assistance would be the primary recipients. Entities, such as local schools, universities, rural medical facilities, telecommunication providers, regional educational laboratories and public television stations would all be expected to participate.

Now, I see in the conference report, language which encourages REA to work closely with the Extension Service and to participate with the Satellite Education Resources Consortium and the Agricultural Satellite Corporation. I also see that these programs will receive separately $1.2 million in funding in the Extension Service title of this bill for entirely different purposes.

I would appreciate an assurance from my colleague, the Senator from North Dakota, that the $5 million provided in this bill for the Distance Learning and Medical Link Program is to be allocated in a competitive process and that REA is to administer the program in accordance with the authorizing legislation and the House Appropriations Committee report language. The entities I mentioned earlier would be eligible to participate in this program if their applications are approved by REA. Is that correct?

Mr. BURDICK. Yes, the Senator from Vermont is correct. The organizations he mentioned would be eligible to apply for funding, and it is intended that other organizations may also apply and receive funding consistent with the program's authorization.

Mr. LEAHY. Mr. President, I thank my friend and colleague for all his hard work and assistance. At this point, I ask unanimous consent to have printed in the RECORD, language from the statement of managers on pages 1195 and 1196 of the conference report on the

1990 farm bill which authorized this program.

Additionally, I would like to insert language from the House Appropriations Committee Report on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, page 106, relative to funding the Distance Learning and Medical Link Program and a joint letter from organizations supporting this program.

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

[From the Conference Report on the Food, Agriculture, Conservation and Trade Act of 1990]

(16) Secs. 2335–2337. Rural communications access to advanced telecommunications

The House amendment allows business partnerships to apply for loans to the Secretary for the communications terminal equipment. There are authorized to be appropriated $15 million for each of fiscal years 1991 through 1995.

The Senate bill contains no comparable provisions.

The Conference substitute adopts the House provision with an amendment to not require that the State review panels analyze these applications except for the up to 5 States which have such panels.

The Managers wish to point out that rural development has been an issue of importance to both Committees during the 101st Congress. Dozens of public hearings gave Members the opportunity to hear from hundreds of witnesses. One of the major lessons learned from this process was that a vast number of diverse businesses, groups and organizations are anxious, able and willing to participate in the rural economic development effort. In this regard, the managers instruct the Secretary of Agriculture to make the broadest possible interpretation of eligibility to receive grants under the Department's rural development programs.

The Managers are concerned that the Federal resources provided in this Act not only act as a catalyst in the economic revitalization of rural areas through the activation of the broadest range of participants, but that the funds be used prudently and to their best advantage. End users should be encouraged to avail themselves of the vast array of services of already existing federally sponsored institutions providing technical assistance and research and development of proven approaches and programs. Partnerships between end users and the myriad of Federal and State sponsored technical and research organizations are to be encouraged.

In strengthening the capabilities of the rural labor force, the Secretary should make every effort to coordinate with other Federal and State programs already authorized, such as those operated under the Rural Electrification Administration, the Jobs Training Partnership Act, the Vocational Education Act, land grant and community colleges, regional education laboratories and vocational/technical schools.

The Enhancing Human Resources subtitle is designed to provide access to advanced telecommunications to improve rural opportunities, particularly for rural schools, rural health care providers and rural businesses. This subtitle establishes new grants and low-interest loan programs which will be administered by the REA and the Secretary, for rural areas to accomplish this purpose. The grants and low-interest loans are for up to 100 percent of the cost for an approved project and grants and low-interest loans are awarded to approved end users.

The program is intended to be "technology neutral" so that rural communities may determine the appropriate technology delivery system for their particular area. This is consistent with recommendations by the Office of Technology Assessment. The program also allows grantees to either lease or purchase telecommunications equipment.

The REA will establish and implement this program, as well as publicize and promote it in rural areas. In addition, the REA will assist grant and loan applications by developing qualifying technical standards that these telecommunications systems should meet to be eligible for funding.

[From the Committee Report 102–119 on the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill 1992]

DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

1991 appropriation	
1992 budget estimate	
Provided in the bill	$5,000,000
Comparison:	
1991 appropriation	+5,000,000
1992 budget estimate	+5,000,000

This program is authorized in the Food, Agriculture, Conservation, and Trade Act of 1990 to provide incentives for local telephone exchange carriers, rural community facilities and rural residents to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks, and to improve rural opportunities.

COMMITTEE PROVISIONS

For the distance learning and medical link programs the Committee provides an appropriation of $5,000,000, an increase of $5,000,000 above the budget request. There were no similar programs in fiscal year 1991.

In developing regulations for this program that Secretary shall take care to include appropriate organizations which have talents and capabilities in areas of rural economic development, technical assistance to schools and telecommunications technology and programming, such as regional education laboratories, land grant and community colleges and nonprofit public telecommunications entities.

SEPTEMBER 6, 1991.

DEAR CONFEREE: We are writing to you as a member of the Agriculture Appropriations Conference Committee regarding an important rural economic development issue.

The 1990 Farm Bill provided new authority (Title XXIII, Subtitle D, Enhancing Human Resources) for grants to rural schools and medical facilities for the purchase or lease of distance learning and medical telecommunications facilities, equipment or programming. The program will be administered by the Rural Electrification Administration (REA).

We believe it is imperative that this program be adequately funded. This program has an authorization level in FY 1992 of $50 million. The Senate bill does not provide funding. We strongly encourage you to adopt the House position of $5 million—without reduction.

This program follows the recommendations found in the Office of Technology Assessment's Report to Congress, Linking for Learning. Modern information links are a critical ingredient to the future economic prosperity of rural communities. No where is the link between telecommunications and economic development more apparent than in education and medical applications.

Distance learning technology has dramatic implications in rural settings where inherent geographic constraints can be reduced or eliminated. With this program we can transport ideas and information instead of people, as well as significantly reduce the educational inequities that exist between rural and urban schools.

Likewise, telecommunications systems can provide access for rural health care facilities to share training, diagnostic services, test results, x-rays and emergency procedures.

While fiscal constraints on the federal government are tight, we believe this program will spur further economic development in rural areas.

Thank you for your consideration. If you have questions, please contact Keith Krueger at (202) 342–5565.

Sincerely,

American Federation of Teachers.
America's Public Television Stations.
American Agricultural Movement.
American Family Farm Foundation.
Council for Educational Development and Research.
National Association of Counties.
National Education Association.
National Farmers Union.
National Grange.
National Rural Education Association.
National Rural Electric Cooperative Association.
National Rural Telecommunications Cooperative.
US WEST Communications.

Mr. COCHRAN. Mr. President, we have before us the conference report on H.R. 2698, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for Fiscal Year 1992. This agreement was reached Thursday, October 3, and the House passed it on Tuesday, October 8.

H.R. 2698 makes funds available for the many programs administered by the Department of Agriculture, such as research and extension; conservation; rural housing and farm loans, and farm income and prices support programs.

Total obligational authority in this conference agreement is $52.5 billion, which is $57.3 million below the President's budget request and $1.6 billion below the fiscal year 1991 level. Also, it is within the Agriculture Subcommittee's adjusted 602(b) allocation.

A major part of this bill—62 percent of the total amount appropriated—consists of funding for the various domestic food programs administered by the U.S. Department of Agriculture. These include the food stamp program; the child nutrition programs—school lunch, school breakfast, summer feeding programs and child and adult day care, and so forth; the Emergency Food Assistance Program; and the feeding program for Women, Infants, and Children [WIC]. I believe that adequate funding levels are provided for these very beneficial nutrition programs.

Mr. President, I am pleased to report that this conference agreement sup-

ports continuation of the existing conservation programs administered by the Soil Conservation Service and the Agricultural Stabilization and Conservation Service, including the Conservation Reserve Program. In addition, this report includes funding to establish a pilot Wetlands Reserve Program in five States and $6.75 million for a new Water Quality Incentives Program. These Department of Agriculture conservation activities are critical to improving and conserving our soil and water resources.

An important element in the success of agriculture in the United States is the support it has enjoyed from both private and public research. I believe this agreement provides a comprehensive, geographically broadbased, well-funded research program for agriculture, and technology transfer needs.

This conference agreement places increased emphasis on rural development. In fact, almost one-fourth of the bill total is available for programs that assist rural areas. Specifically, the agreement provides slight increase for rural water and waste disposal loans and grants, solid waste management grants, and low-income housing loans. Many of these programs have been very beneficial and have improved the lives of those who live in our Nation's small towns and rural communities.

Through various programs, the conference agreement also attempts to strengthen U.S. agriculture's potential in world markets. Continued efforts to expand agricultural markets overseas are critical to a healthy domestic farm economy. Reflected in this agreement are continued support of the intermediate and short-term export credit guarantee programs, export credit guarantees to emerging democracies, the Public Law 480 or Food for Peace Program, the Export Enhancement Program, and the Market Promotion Program.

In addition, adequate funding is provided for the Commodity Futures Trading Commission and for the Department of the Treasury for interest expenses incurred by the Farm Credit System Financial Assistance Corporation, and a limitation is established on the administrative expenses of the Farm Credit Administration.

The committee of conference on H.R. 2698 considered 241 amendments in disagreement between the two Houses. Although the conferees were faced with some major challenges due to the current fiscal conditions that we face, I believe those challenges were met and the differences were resolved to make this an agreement that is fiscally responsible and reflective of true agricultural needs.

Finally, Mr. President, I urge my colleagues to approve this conference report today. We are already in the new fiscal year, and the current continuing resolution is due to expire October 29.

Mr. CHAFEE. Mr. President, I would like to express my appreciation to the members of the Appropriations Committee for the record funding allocation they have provided in this bill for a very important program: the Special Supplemental Food Program for Women, Infants, and Children [WIC].

WIC is one of the Federal Government's best and most cost-effective programs. The WIC Program provides food vouchers to low-income mothers and their children who are at risk of serious nutritional deficiencies. This special, nutritious food includes milk, infant formula, orange and other juices, cheese, fruit, and cereals.

This simple idea—making sure that mothers and children receive good, basic, nutritious foods, and avoid nutritional deficiencies—is remarkably effective. Study after study has shown that every $1 invested in WIC saves approximately $3 in long-term health care costs and developmental problems. One USDA study revealed that for every pregnant woman who participated in WIC, the Government saved between $277 and $598 in Medicaid costs in the first 60 days after birth than for a pregnant woman who did not participate.

But WIC is not just a successful moneysaver. Just as important is the fact that WIC reaches infants and children at what is considered to be the most important stage in their physical and mental development—early on. At that critical stage, lack of crucial nourishment can mean impairment of cognitive functions. That kind of disadvantage is extremely heavy for a child who hasn't even started preschool yet. Participation in WIC has been proven not only to help reduce the risk of childhood anemia, low birthweight, and infant mortality, but to actually make a difference in a child's ability to perform well in school.

WIC also helps mothers. It helps them understand more about good nutrition, and it eases their entry into the health care system. A mother, who is used to going by the community health center to pick up the WIC foods, feels more comfortable going back to the center for medical care, or for referrals to other agencies that can help her.

I might also note that all this—better nutrition, better preventative health care, lower financial costs, and an end result of better-prepared youngsters for school and life beyond—is exactly what is important to corporate America. That is why last year, five chief executive officers heartily endorsed increased WIC funding before the House Budget Committee.

Sadly, however, this worthwhile program serves only about half of the eligible population. This gap in coverage represents a considerable missed opportunity, considering WIC's proven effectiveness for an especially vulnerable population.

There is much to be gained by expanding WIC to reach more low-income mothers and children, and over the years Senator DECONCINI and I have spearheaded efforts to gain steady increases in WIC Program funding.

This year, I am pleased to say that there has been a particularly strong convergence of support for WIC: the corporate sector and children's and health organizations have pressed for increased WIC funding. Both the President and Congress urged substantially increased funding for WIC—in fact, 86 of our colleagues joined Senator DECONCINI and me in requesting a full $2.7 billion for WIC in fiscal year 1992. This remarkable support comes from the fact that we all recognize that being pro-WIC is being both pro-children and pro-business; and that is pro-America.

Mr. President, the conference report before us contains a record $2.6 billion for WIC. That is an increase of $250 million over last year—nearly everything we requested, and the single largest increase in funding in WIC history. This money will go a long way toward ensuring that mothers receive vital health care, and children grow up healthy.

I am delighted by the committee's actions and again thank them for their strong support, both this year and in past years.

PROVISIONS AFFECTING WYOMING

Mr. SIMPSON. Mr. President, I rise to sincerely thank the members of the Agriculture Appropriations Subcommittee for including provisions in this bill which are so very important to my fine State of Wyoming.

An important provision which I am very pleased about is bill language which provides funds for the planning and design of an environmental simulation facility at the University of Wyoming. The proposed facility is very important to the State of Wyoming, to various Federal agencies, and to the private sector. I am pleased that the Senate has taken this important step toward making research in such an innovative facility a reality.

This computer controlled environmental facility is designed to use biological, technical, and modeling approaches to determine the most appropriate and efficient methods for vital environmental cleanup operations. By duplicating a particular ecosystem, this one-of-a-kind prototype laboratory has the potential to save precious time and money by proving the merits of various cleanup technologies.

The use of an environmental simulation laboratory will enable us to make better decisions on ways to protect and cleanup our environment and while we work toward resolving critical global environmental issues such as acid rain, contaminated surface and ground water, and the cleanup of hazardous waste.

I am also delighted to see a provision for joint research with the States of

Texas and Montana in order to investigate the problems facing the U.S. wool industry. Woolgrowers in this country are faced with declining world prices for their product and are finding it hard to compete. By researching the quality aspects of wool, producers may gain insightful information about the necessary quality standards their wool must pass.

In another vein, a provision was included in the bill which provides for a comprehensive study of the red meat packing industry. A chief concern of mine is concentration in the lamb industry, an important element of the overall red meat industry. The sheep industry is currently in a true economic crisis. Producers have watched their returns steadily decline over the last 4 years, while at the same time they have witnessed the price of lamb in the retail sector of the market peak at historical levels. I believe the study will provide needed information to both producers, packers, and retailers, and also the Government agencies which oversee the workings of the lamb industry.

My special thanks to friends and colleagues, Senator QUENTIN BURDICK, the chairman of the Committee on Environment and Public Works, and THAD COCHRAN, who so graciously assisted me and supported me in this matter. I also sincerely thank Senator THAD COCHRAN's fine and able staff who took the time to listen and understand the importance of the projects. I do look forward to working with the committee members and staff in the future.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2698, the Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriations bill and has found that the bill is under its 602(b) budget authority allocation by less than $50 million. It is also under its outlay allocation by less than $50 million.

I compliment the distinguished manager of the bill, Senator BURDICK, and the distinguished ranking member of the Agriculture Subcommittee, Senator COCHRAN on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the agriculture bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 2698—AGRICULTURE SUBCOMMITTEE SPENDING TOTALS

[Conference, in billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2698:		
New BA and outlays	51.2	36.4
Enacted to date	0.4	4.3
Adjustment to conform mandatory programs to resolution assumptions	−1.5	(*)
Scorekeeing adjustments	0.0	0.0
Bill total	50.2	40.7
Senate 602(b) allocation	50.2	40.7
Total difference	−(*)	−(*)
Discretionary:		
Domestic	10.8	9.9
Senate 602(b)	10.8	9.9
Difference	−(*)	−(*)
International	1.5	1.3
Senate 602(b)	1.5	1.3
Difference	0.0	−(*)
Defense	0.0	0.0
Senate 602(b)	0.0	0.0
Difference	0.0	0.0
Total discretionary spending	12.3	11.2
Mandatory spending	37.9	29.5
Mandatory allocation	37.9	29.5
Difference	0.0	0.0
Discretionary total above (+) or below (−):		
President's request	0.6	0.3
Senate-passed bill	0.2	0.3
House-passed bill	−0.1	−(*)

Mr. LAUTENBERG. Mr. President, I rise to highlight several items important to my State that are included in the conference agreement on the fiscal year 1992 Agriculture appropriations bill, and to commend the distinguished subcommittee chairman, Senator BURDICK, and the distinguished chairman, Senator BYRD, for their efforts.

RUTGERS PLANT BIOSCIENCE CENTER

At my request, and the request of my good friend and colleague Representative DWYER, $3.044 million is included for the construction of a Plant Bioscience Center at Rutgers University to be located on the Cook College of Agriculture campus. The Bioscience Center will integrate the latest technologies with traditional scientific approaches to solve problems facing modern production agriculture and the environment.

Construction will begin soon on this center which will house facilities for plant biotechnology research and genetic engineering of plants and microorganisms. The 280,000 square foot facility will be home to the Center for Agricultural Molecular Biology. This center will include state-of-the-art laboratories, a research library, teaching classrooms, and attached greenhouses. The complex will replace obsolete facilities and equipment and will provide first-class facilities for undergraduate and graduate training. The center will integrate basic and applied research with extension activities to ensure that agriculture in the region remains profitable and environmentally sound.

The funds included in the bill will supplement funds committed by Rutgers University and the State of New Jersey totaling $27 million. I am pleased that this funding will allow Rutgers to begin construction in the fall on this important new research facility which will enhance its reputation for excellence and innovation in agricultural research.

To meet environmental concerns and to grow crops more efficiently, I believe that we need to invest in innovative research which combines cutting-edge technology with basic science. The Bioscience Center will develop technologies to increase agricultural productivity in New Jersey, while training the next generation of plant biologists and researchers. I wish to thank the chairman for including these funds for this new facility.

CRANBERRY AND BLUEBERRY RESEARCH

As I have in previous years, I sought funding for Rutgers' blueberry and cranberry research facility at Chatsworth, NJ. I am pleased that the conferees have provided $260,000 in research funds to support the development of insect and disease-resistant varieties of berries.

Another important focus of cranberry and blueberry research is the development of alternative pest management technologies compatible for use in the environmentally sensitive wetlands where blueberries and cranberries are grown.

IR-4

The Agriculture appropriations conference agreement also includes $3.5 million in funding for the Interregional Research Program No. 4 [IR-4] program. This national research program, headquartered at Rutgers University, is a cooperative effort of the State agricultural experiment stations and the USDA working in concert with the agricultural chemical companies and the EPA to pursue registration of minor use pesticides. Minor use pesticides are used by many of the Nation's farmers of vegetables and nursery crops. Many farmers in my State rely on minor use pesticides for growing the fruit and vegetable crops which compromise almost 80 percent of New Jersey's farm production. This research provides data on the safety and effectiveness of minor use pesticides, which will ensure the continued availability of these products for farmers of so-called minor crops around the country.

APHIS LAB

Mr. President, I want to express my appreciation to the conferees for the inclusion of language in the conference report which expresses the support of the conferees for the continued operation of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service Methods Development Center in New Jersey. The Senate bill included an amendment I requested prohibiting the relocation of this facility to any other State before September 30, 1992. Following the Senate passage of that amendment, APHIS agreed to maintain this facility in New Jersey at the Port of Elizabeth. Consequently, bill language was no longer deemed necessary by the conferees, who did, however, include in the statement of managers a clear statement of their intent that the center remain in New Jersey.

The Methods Development Center provides important fumigation and quarantine services and consultation to the ports and related businesses in the North Atlantic region. The proximity of this research laboratory to the ports makes it a valuable resource to the mid-Atlantic region which ultimately benefits the consumers served by the ports. The inspection and fumigation of the large volume of fresh fruits and food products which enter the ports at New York, New Jersey, and Philadelphia are handled quickly with the assistance and expertise of the Methods Development Center. The continued operation of this valuable research and consultation facility is vital to the ports it serves, and I thank the chairman for his able assistance on this matter.

Mr. President, to amplify the record on this, I ask unanimous consent that a letter from USDA regarding the APHIS lab be printed in the RECORD at the conclusion of my remarks.

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

DEPARTMENT OF AGRICULTURE,
Washington, DC, September 4, 1991.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: This is in further response to your letter of July 18, 1991, concerning our Animal and Plant Health Inspection Service's (APHIS) plans to move the Hoboken Methods Development Center from its present site. This same information is being provided to the other Members of Congress who signed the letter.

We recognize your interest in keeping the services provided by the Hoboken Methods Development Center in the New Jersey area. You may be pleased to learn that we have decided to keep the current staff of five specialists and two secretaries in New Jersey. They will continue to provide services and technical assistance to the Northeastern ports as a part of their national and international responsibilities.

The city of Hoboken has been pursuing an urban renewal project that includes the land on which our current building is standing. As a result, in 1989, APHIS agreed to vacate the building as soon as a new site could be secured. At this time, our facility is underutilized and in need of extensive repair. Moreover, the costs for utilities and maintenance are not commensurate with the number of employees remaining at that location. Consequently, most of APHIS' Plant Protection and Quarantine (PPQ) staff have already relocated to a facility at Port Elizabeth, New Jersey, and we plan to move the current methods development staff and the remaining PPQ staff to Port Elizabeth as well.

We appreciate your interest in this matter.

Sincerely,

JO ANN R. SMITH,
Assistant Secretary,
Marketing and Inspection Services.

Mr. WELLSTONE. Mr. President, I want to commend the work of the agricultural appropriations committee of both Houses and the conference committee for their dificult work in funding programs and projects under trying budgetary constraints. Many programs of great merit will unfortunately be inadequately funded or unfunded in 1992. Still, the committees have performed admirably in balancing their selection among deserving funding requests.

The basic conservation and commodity price support provisions of the 1990 farm bill, funded in this appropriations measure, are the most important component of current American agriculture policy. I was not present for the debate or vote on that landmark omnibus bill, and so take this opportunity to remark that it only reinforced the extremely damaging trend in farm policy of the last decade. The low prices and budget cuts imposed on American farmers by that legislation already are having the disastrous effects that family farmers predicted it would. A noted economist, based in Minnesota at a major Midwestern bank, has projected that farm income in our region will be down by about 10 percent this year. The welcome, but partial, upturn in the U.S. farm economy at the end of the 1980's, a decade in which farm suicides reached record levels, has not restored vitality to this country's rural communities and economy. And I fear that the policies and philosophy enshrined in the 1990 farm bill will bring more hard times to the agricultural community in my State.

Again, however, I want to commend the conference committee for this appropriation bill, which funds a number of programs and projects that will assist agriculture in my State, and will contribute to the welfare of the country. I would especially like to note that the important research station expansion at the Federal North Central Soil and Water Research Station at Morris, MN, received $825,000, and Minnesota's very successful wolf control program, operated by USDA's APHIS Program, received $250,000. The Red River Trade Corridor, a project involving both Minnesota and North Dakota, received $200,000. I am also heartened by the restoration of full funding to REA lending and by the generous, and much needed, appropriation for programs aimed at eradicating pseudorabies. Other important research and assistance programs operating at the University of Minnesota and elsewhere in my State, such as swine research and Project Future, also received funding in this bill.

Mr. President, I am disappointed at our inability to fund the expansion of low-input and sustainable agriculture programs authorized in the 1990 farm bill. We must move forward in this area. Maintaining a healthy agricultural economy must be combined in this country with protecting the environment. We need to promote proper land stewardship practices in our agricultural policy and spending. In this respect, I am glad we are able to fund important wetlands provisions, but wish we could do much better for the environment overall.

I urge my colleagues to pass this appropriations bill.

Mr. SPECTER. Mr. President, the Subcommittee on Agriculture Appropriations has once again produced a bill of which Congress can be proud. After a disappointing allocation of funds from the Senate appropriations full committee, the subcommittee was still able to report a bill which was within its 602(b) allocation. Upon a reconciliation with the House of Representatives, a balanced conference report has been obtained to maintain vital agriculture and rural development programs.

I am particularly pleased with the bill's inclusion of several programs which are of significant importance to the Commonwealth of Pennsylvania, specifically, with Pennsylvania the fourth largest producer of dairy products in the United States and the Pennsylvania State University as a recognized leader in research concerning the production of safe and wholesome dairy products, Penn State will again be the recipient of funds to continue research into the understanding of the microbiology of the listeria organism and to make progress in determining the process and handling parameters that will help to ensure a safe milk supply.

Further, I am pleased that funds have been provided to begin research in the areas of pesticide use and postharvest technologies in apple production. This research will assist apple producers who have demonstrated a need to reduce the use of chemicals while retaining fruit quality and reducing the cost of production.

In addition, I applaud efforts to restore funds to the Rural Electric Administration's insured loan program. In the past, loss of funding has severely exacerbated the impact of the already large backlog of insured electric loan applications at REA. With Pennsylvania having the Nation's largest rural population, the activities by rural electric cooperatives are vital to provide basic services to this population.

Lastly, the nutrition and health programs that are funded in the bill are several steps forward in improving the diets of our Nation's low-income families, the elderly and our children. In particular, the Special Supplemental Food Program for Women, Infants and Children [WIC] contains an increase above last year's level to help pregnant, postpartum, and breast-feeding women, infants, and young children who are at a nutritional risk. This program has been found to provide an important contribution to reducing infant mortality and the health of our Nation's children.

We are all aware of the review currently being conducted by the Department of Agriculture of the Department's policy. regarding cereal contained in the WIC food package. Under

the WIC Program, the Department approves foods which are healthy and nutritious. The statute requires that the foods available under the WIC Program must contain appropriate levels of fat, salt, and sugar. Under the Department's current guidelines, the program excludes cereals which contain more than six grams of sugar per ounce. While the Department attempts to limit the amount of sugar available to WIC recipients, the Department recommends raisins as a nutritional snack. Raisins are high in iron and potassium, are a good source of fiber, and have virtually no fat. Raisins, however, like other fruits, contain sugar. In the case of a cereal manufacturer seeking to market a cereal under the WIC Program, the Department has ruled that if the cereal contains raisins it is disqualified if the raisins increase the product's sugar content above the WIC limit of 6 grams per ounce.

This matter deserves reviewing by the Department to best represent the nutritious guidelines of the WIC Program. I am pleased with the agreement reached by the conferees that the Department should complete its review of the issue of cereals containing fruit as expeditiously as possible, with the expectation that the Department will report on the matter by December 31, 1991. I am hopeful that the Department's conclusion on the issue will be sensible and explicable to WIC mothers, so as to ensure continued access to nutritious foods by recipients of this highly recognized and effective program.

Mr. President, I am pleased with the agriculture appropriations bill for fiscal year 1992 and urge my colleagues to join me in passage of this conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

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

The result was announced—yeas 88, nays 10, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—88

Adams	Burns	Dodd
Akaka	Byrd	Dole
Baucus	Chafee	Domenici
Bentsen	Coats	Durenberger
Biden	Cochran	Exon
Bingaman	Cohen	Ford
Bond	Conrad	Fowler
Boren	Craig	Glenn
Bradley	Cranston	Gore
Breaux	D'Amato	Gorton
Bryan	Danforth	Graham
Bumpers	Daschle	Gramm
Burdick	DeConcini	Grassley
Harkin	Lieberman	Robb
Hatch	Lott	Rockefeller
Hatfield	Lugar	Sanford
Heflin	Mack	Sarbanes
Hollings	McCain	Sasser
Inouye	McConnell	Seymour
Jeffords	Metzenbaum	Shelby
Johnston	Mikulski	Simon
Kassebaum	Mitchell	Simpson
Kasten	Moynihan	Specter
Kennedy	Murkowski	Stevens
Kerrey	Nickles	Symms
Kerry	Nunn	Thurmond
Kohl	Packwood	Warner
Lautenberg	Pressler	Wellstone
Leahy	Reid	
Levin	Riegle	

NAYS—10

Brown	Pell	Wallop
Dixon	Roth	Wirth
Garn	Rudman	
Helms	Smith	

NOT VOTING—2

Pryor	Wofford

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the amendments of the House to the amendment of the Senate that are reported in disagreement be considered and concurred in en bloc.

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

The amendments are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2698) entitled "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 28, 31, 61, 68, 75, 94, 111, 116, 125, 127, 138, 162, 178, 202, 209, 212, 213, 214, 215, 219, 222, 227, 228, 229, 230, 231, 232, 234, 235, 236, 237, 239, and 240 for the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$73,979,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$97,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$20,795,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$430,711,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$75,270,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$11,347,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$17,715,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 50 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$462,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$430,939,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

In fiscal years 1992 and 1993, section 32 funds shall be used to promote sunflower and cottonseed oil exports to the full extent authorized by section 1541 of Public Law 101-624 (7 U.S.C. 1464 note), and such funds shall be used to facilitate additional sales of such oils in world markets.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For expenses necessary to recapitalize Dairy Graders, $1,250,000, and to capitalize the Laboratory Accreditation Program, $600,000, making a total of $1,850,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

Notwithstanding the foregoing provisions of this Act, the reimbursement to the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, in fiscal year 1992 shall not exceed $7,250,000,000.

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1992, CCC shall not expend more than $3,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided*, That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further*, That not to exceed $6,750,000 of the amount appropriated shall be used for water quality payments and practices in the same manner as permitted under the program for water quality authorized in chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

WETLANDS RESERVE PROGRAM

For necessary expenses to carry out the Wetlands Reserve Program pursuant to subchapter C of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837), $46,357,000, to remain available until expended: *Provided*, That none of the funds made available by this Act shall be used to enter in excess of 50,000 acres in fiscal year 1992 into the Wetlands Reserve Program provided for herein: *Provided further*, That the Secretary is authorized to use the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of carrying out the Wetlands Reserve Program.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$319,900,000; and in addition such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the Rental Assistance Program under section 521(a)(2) of the Act".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "$488,750,000".

Resolved, That the House recede from its disagreement to the amendment to the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$2,832,140,000, of which $1,800,000,000 shall be for unsubsidized guaranteed loans and $182,140,000 shall be for subsidized guaranteed loans".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 156 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further*, That no funds appropriated in this Act may be used to implement any other criteria, ratio, or test to deny or reduce loans or loan advances".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 176 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$500,000 nor more than $1,000,000 of this appropriation shall be expended to provide community and economic development technical assistance and programs".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 177 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "and whose full-time responsibilities are to administer such community and economic development programs".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 184 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$3,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 205 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

SCIENTIFIC ACTIVITIES OVERSEAS

(FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for research activities authorized by section 104(c)(7) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(c)(7)), not to exceed $1,062,000: *Provided*, That not to exceed $25,000 of these funds shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 214 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 743. The Secretary shall ensure that no funds made available to carry out section 515 of the Housing Act of 1949, as amended, shall be used in a manner that differs from the Department's policies or practices in effect on July 1, 1991.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 2942 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2942) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 7, 1991.)

Mr. LAUTENBERG. Mr. President, I bring before the Senate the conference report on H.R. 2942, the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1992.

Mr. President, I would like to take a moment to summarize the funding levels in this appropriations measure.

The conference agreement contains a total of $14,302 million in new budget authority and $20,852 million in obligation limitations. The conference report is within the subcommittee's 602(b) domestic discretionary allocation and is consistent with the budget summit agreement.

The major increases over fiscal year 1991 are for the Federal Highway Administration, an increase of 16 percent over the 1991 enacted level; the Federal Aviation Administration, an increase of 11.8 percent; and the Coast Guard, an increase of 8.6 percent. Funding for mass transit, so important to urban areas across the country, is increased by 15 percent.

Overall, the spending provided in this bill, through a combination of new budget authority and limitations on obligations, totals $35.2 billion.

I believe that this bill marks a real watershed in transportation spending. This bill makes the investments the Nation needs to ensure the safe, efficient, and environmentally sound movement of people and goods. The bill invests in new technologies to increase the productivity, safety, and efficiency of our transportation network. The bill supports a balanced transportation system that relies on all the modes to meet the Nation's needs. The conference agreement calls for the historically high spending level of $16.8 billion for the Federal-Aid Highway Program, which is necessary if we want to get about the business of fixing the functionally obsolete and structurally unsound highways and bridges in this country, while at the same time adding needed capacity.

Citing a deteriorating infrastructure, many people have been calling for more highway spending. I note that our subcommittee has increased highway funding by 37 percent over the last 2 years. We are committed to rebuilding our infrastructure, I think it is especially appropriate that we will achieve this historic high-water mark in obligations from the highway trust fund at the time when both the Senate and the House are considering a new Surface Transportation Act that will provide States with much-needed flexibility to use a portion of their formula grants for mass transit or intercity rail projects if it best suits their needs.

This bill recognizes that congestion is not a problem we can just build our way out of with more pavement. The conference report provides $3.76 billion for transit, a 15-percent increase over last year. The bill recognizes that we must also apply our technological know-how to solve congestion problems, whether they occur in the air or on the land. The conference agreement calls for spending $2.4 billion in 1992 for the facilities and equipment account of the Federal Aviation Administration. This is a 14-percent increase over the 1991 enacted level and will provide the

latest state-of-the-art equipment for a more efficient and safer national aviation system.

This bill not only spends for the traditional bricks and mortar, but also makes investments in the most advanced technology available. We have discovered, at times, in most painful ways, that neither our air space nor ground space are limitless. The challenge before us is to use the physical space in the most efficient, safe, economic and environmentally sound way possible. I believe that this bill meets that challenge.

The bill makes a major pledge to advance the use of technology to solve our surface transportation problems by providing almost $140 million for the Intelligent Vehicle-Highway Program. These systems will help us achieve improved efficiency out of our existing highways as well as aid on the development of new, more efficient roadways utilizing a wide variety of innovative technologies such as electronic toll collection, traffic control signalization, and real-time traffic incidence management.

This bill also continues the committee's policy of encouraging passenger rail transportation—which remains the Nation's cleanest and safest transportation option. As in last year's Transportation Appropriations Act, the committee has reduced appropriations for operating subsidies for Amtrak, and accompanied this cut with increased support for Amtrak's capital acquisitions. Growing levels of congestion as well as the requirements in the Clean Air Act have greatly renewed interest across the country in rail passenger transportation. The appropriations subcommittee has heard a growing drumbeat from our fellow Senators as well as many Governors for more frequent and varied Amtrak service.

The $175 million provided in this bill for Amtrak's capital program will be pooled with Amtrak's own borrowings to address its most critical shortages of locomotives and passenger cars. Only through a very extensive capital investment program will Amtrak be able to maintain its current level of service and eventually expand the national route system. Amtrak's efforts to achieve operating self sufficiency by the end of this decade will surely fail if it cannot acquire the basic infrastructure of a modern passenger railroad.

Toward that end, the conference report includes $205 million for the Northeast Corridor Improvement Program [NECIP]. The Northeast corridor is the only major segment of track owned by Amtrak. High-speed operations over the corridor represent by far and away the most profitable of Amtrak's routes. Over $150 million of the amount provided for the NECIP Program will continue the electrification program intended to provide the same high-speed, 3-hour service between New York and Boston as is now available between Washington and New York. The Coalition of Northeastern Governors has estimated that 3-hour service between New York and Boston can divert almost 3 million passengers a year from some of the most congested airspace and highways in the Nation to Amtrak. These passengers from every State along the corridor will decide to take the train instead of flying or driving. The project will increase the convenience and transportation options, not just of the people of New York and New England, but the people of my State and others who want to travel throughout the eastern seaboard. The project promises to save 24.5 million gallons of gasoline and jet fuel annually, enhancing the environment of our region by reducing the emissions of carbon monoxide, hydrocarbons, and nitrogen oxides by more than 600 tons every year.

This project will also greatly reduce if not eliminate the need for sizable expenditures by the Appropriations Committee to expand airport capacity in the Boston area. Unlike other proposed route enhancements for the Amtrak system, this project will reduce maintenance costs to Amtrak and greatly increase ticket revenue, aiding Amtrak in achieving self-sufficiency. This project truly exemplifies all the factors of our transportation priorities—improving mobility, enhancing safety, minimizing pollution, and avoiding unnecessary costs associated with other less-efficient transportation options.

For the Coast Guard, the bill provides more than $3.3 billion in new budget authority, to be supplemented by transfers between the Coast Guard and the Defense Department, yielding a total program level of more than $3.5 billion. These transfers from DOD are similar to those executed in previous years to further the Coast Guard's national defense mission, including drug interdiction. After all transfers are accounted for, Coast Guard operating expenses will receive a funding increase well in excess of inflation in order to allow the Coast Guard to fully implement the Oil Pollution Act of 1990, as well as execute its many other missions, including drug interdiction, search and rescue, vessel and shore facilities inspections, and boating safety. Funding for Coast Guard acquisitions will be $390 million, well over the House-passed level to help the Coast Guard restore its deteriorating shore facilities and replace aging vessels and aircraft. For too long, Mr. President, we have asked the Coast Guard to do more with less, but this bill continues our efforts to adequately compensate the Coast Guard for its ever-growing list of responsibilities.

In keeping with the committee's position on the need for improved safety in all modes of transportation, I am very proud that the conference agreement before you includes the commitment that Congress will do everything it can to ensure that transportation employees who are in safety-sensitive positions are drug and alcohol free when performing their duties.

The Omnibus Transportation Employee Testing Act is included as title V of this bill and requires drug and alcohol testing of safety-sensitive employees in the aviation, rail, truck, bus, and mass transit sectors. It allows four types of testing: postaccident, preemployment, random, and reasonable suspicion testing. It is important to point out that the testing would be conducted according to Department of Health and Human Services guidelines to protect employees' rights and to ensure the accuracy of tests—and that initial screening tests must be followed up by highway reliable confirmatory tests at laboratories that meet rigorous certification standards.

Title V of this bill is identical to S. 676, which was passed by the Senate on May 20, and was also included as an amendment to S. 1204, the Surface Transportation Efficiency Act which passed the Senate. I believe that agencies seeking the legislative intent of these provisions should refer to Senate Report 102-54, issued by the Committee on Commerce, Science, and Transportation.

I am happy to report that, after 11 previous attempts going back to 1987, the Senate, by agreeing to the conference agreement before it, can—finally—send to the President legislation that will go a long way to ensure the traveling public that all transportation employees in safety-sensitive positions are drug and alcohol free, while at the same time protecting the rights of those employees.

In addition, the agreement before us calls upon the Secretary of Transportation to undertake a process for determining whether or not radar detectors should be banned from trucks involved in interstate commerce. This rulemaking process, I am hopeful, will make our highways even more safe by prohibiting devices that allow certain drivers to exceed the posted speed limits. Given the types of cargoes that are carried by motor carriers, we must do all we can to ensure that those cargoes are transported safely.

Mr. President, we had 163 amendments in conference. The conferees have agreed to a resolution of all of these amendments. The result is a package that I believe preserves a balanced transportation program for the Nation.

Mr. President, I believe this accurately and fairly summarizes the overall contents of our agreement. Before I yield, however, I want to thank my friend and ranking member, Senator D'AMATO from New York for his help in getting this bill through the committee, the floor, and the conference with

the House. Given the many hurdles we faced, the many needs that exist, and the number of Members' requests, it was at times difficult to develop and fully fund all the programs that we wished. Without Senator D'AMATO's assistance and cooperation, it would have been impossible.

I also want to pay tribute to my House counterparts, Chairman BILL LEHMAN and the subcommittee's ranking member, LARRY COUGHLIN. They and their colleagues worked hard to produce a good, solid transportation program and were unfailingly courteous and cooperative in working out reasonable accommodations between the two Houses.

I am also indebted to my colleagues who serve with me on the Transportation Subcommittee. Senators BYRD, HARKIN, SASSER, MIKULSKI, D'AMATO, KASTEN, DOMENICI, and HATFIELD, have been a constant source of sensible counsel and steadfast support.

Mr. President, I believe Senator D'AMATO has some remarks he would like to offer at this time, and I yield the floor.

Mr. D'AMATO. Mr. President, I join with Chairman LAUTENBERG in urging the Senate to approve the conference report accompanying H.R. 2942, the fiscal year 1992 appropriations bill for the Department of Transportation and related agencies.

This final conference agreement contains $14,301,797,569 in new budget authority for DOT during fiscal year 1992. This amount is $1.3 billion over the fiscal year 1991 level.

There are many important aspects of this legislation. Chairman LAUTENBERG has included an excellent summary of them in his remarks, so I will not repeat them here. However I would like to touch on one aspect of the drug- and alcohol-testing legislation that is included in our bill.

H.R. 2942 includes vital provisions to enable DOT to issue drug- and alcohol-testing rules. With respect to mass transit operators, I believe it is important to clarify that these provisions apply to all those involved in providing transit services to the public. Drug- and alcohol-testing requirements must not be circumvented through contracting out of transit work.

Safety-sensitive employees of recipients of the Federal transit grant money identified in the bill, and those safety-sensitive employees working for contractors of such recipients must be covered exactly to the same extent and in the same fashion. I know that I speak for all conferees when I say that we will not tolerate a situation where employees performing substantially the same safety-sensitive function are covered or not covered depending on whether they work directly for a public authority or an outside contractor.

Mr. President, I urge my colleagues to adopt this conference report.

MANDATING DRUG AND ALCOHOL TESTING OF TRANSPORTATION WORKERS

Mr. HOLLINGS. Mr. President, this is a historic moment, and one toward which I, and I know many others, have worked for many years. Finally, we will be enacting drug and alcohol testing for transportation workers. This is an important milestone in our efforts to make America's transportation system as safe as possible.

I thank my colleagues on the Transportation Appropriations Subcommittee, including the chairman, Senator LAUTENBERG, and the ranking member, Senator D'AMATO, for their support in the conference on H.R. 2942, the Department of Transportation and Related Agencies Appropriations Act, particularly with respect to the alcohol- and drug-testing provisions. During the Senate Appropriations Committee markup on September 12, 1991, I offered an amendment to H.R. 2942 that would mandate alcohol and drug testing for transportation workers. It was approved by the committee and the Senate. The conferees for the transportation appropriations bill have agreed to retain these provisions, and I very much appreciate their efforts.

I also must recognize the efforts of the many other groups and individuals who worked so hard to bring this legislation where it is today, including my colleague and ranking member on the Commerce Committee, Senator DANFORTH; my colleague and chairman of the Surface Transportation Subcommittee, Senator EXON; Mr. Art Johnson and Mr. Roger Horn of Safe Travel America; as well as Ms. Micky Sadoff and all of the members of Mothers Against Drunk Driving. Without the persistent efforts of these and others, we would not be where we are today.

I have spoken many times about the need for passage of mandatory random alcohol and drug testing for transportation workers. I have worked with my colleague Senator DANFORTH to obtain enactment of such legislation ever since the 1987 Chase, MD, Amtrak accident in which 16 people were killed, and the National Transportation Safety Board found that the use of marijuana by crew members was a probable cause of the accident. It now appears that we finally will achieve our goal.

It is often true that out of tragedy comes good, and the passage of this legislation is a good example of this truism. It is unfortunate that the lives of Cerise Horn and Christie Johnson had to be lost in the Chase accident, and Richard Lee Limehouse, Jr., a native of Moncks Corner, SC, in the New York subway accident, for stronger action to be taken against drug and alcohol abuse in the transportation sector. It is terrible to have watched families suffer such tragedies in senseless and needless accidents. Cerise Horn was 16, Christie Johnson was 20, both with full and promising lives ahead of them. Richard Limehouse, Jr., was 41. He left a wife and three children. Today, as we approve, for the final time, this important testing legislation, we must honor Christie, Cerise, and Richard, and their families for what they have contributed to making our transportation system safer.

I particularly extend my sincere appreciation to Art Johnson and Roger Horn, who turned their tragedy into hope for a better future. Without their tireless efforts toward enactment of this legislation, we would not be here today. They clearly have contributed much to making our transportation system safer.

The amendment, which the conferees have agreed to include in the appropriations bill, tells the American people that Congress is doing what it can to ensure that the transportation system is the safest and best possible. The clear need for this legislation was reinforced recently by the tragic New York City subway accident on August 28, 1991. I will not cite here today the many other tragedies that call out for this legislation to be passed. The Commerce Committee report on S. 676, virtually identical to the drug- and alcohol-testing provisions in H.R. 2942, chronicles the history of, and the need for, this legislation.

We know that many transportation workers are professional, responsible individuals. Yet the public needs to be reassured that we are doing all we can to make the system as safe as possible. Drug- and alcohol-testing legislation accomplishes that. At the same time, these testing provisions require all possible precautions are taken to ensure the accuracy of test results and to protect innocent employees. These safeguards include a requirement that testing follow Department of Health and Human Services [HHS] guidelines; that initial screening tests be followed up by confirmatory tests by laboratories that meet rigorous certification standards; and that the confidentiality of the results and medical histories be protected. The HHS guidelines also refer to the need for medical review officers go meet certain qualifications so that experts review test results, thereby further protecting workers.

Concerning random alcohol testing, the testing provisions in H.R. 2942 give the Department of Transportation [DOT] sufficient authority to develop rules to determine when testing will occur. This authority will allow DOT to require random tests centered around the time of employee performance. This legislation gives DOT ample authority to focus the rules and procedures appropriately and the ability to avail itself of the latest techniques, such as breathalyzers, to carry out the testing. The alcohol-testing requirements will ensure that transportation employees do not drink alcohol and op-

erate within the transportation system.

Mr. President, I have stated many times before my belief that those who drink alcohol or use illegal drugs have no business operating a train, plane, truck, or bus. I know the vast majority of transportation workers do not abuse the trust we place in them. However, accidents caused by alcohol or drugs cannot be tolerated. Drug and alcohol testing is a small price to pay to ensure that the Nation's transportation system is as safe as possible for all involved.

Mr. President, I urge my colleagues to join in supporting this legislation.

Mr. LAUTENBERG. Mr. President, language was adopted by the conference on H.R. 2942 under payments to air carriers governing the expenditure of $38.6 million appropriated for essential air service.

Provided further, That none of the funds in the Act shall be available for service to communities not receiving such service during fiscal year 1991, unless such communities are otherwise eligible for new service, provide the required local match and are no more than 200 miles from a large hub airport.

Mr. SIMON. Does the language included under the payments to air carriers account prohibit payments for service to points such as those in Illinois which were eligible for subsidized service in fiscal year 1991 and for which the necessary orders authorizing that service were also issued by DOT in fiscal year 1991?

Mr. LAUTENBERG. No; the language in question does not prohibit or restrict payments to such eligible points. If DOT issued orders authorizing essential air service prior to fiscal year 1992, this amendment does not affect such points and the Department may pay for such service in fiscal 1992.

Mr. STEVENS. May I engage the manager of the bill in a short colloquy concerning a Hovercraft demonstration project. The committee has provided $75,000 for a search and rescue demonstration project at the Upper Cook Inlet near Anchorage, AK. I want to clarify exactly how this Hovercraft project will be managed. The Department would issue a grant to the municipality of Anchorage which is arranging for the Hovercraft and managing the project. The $75,000 would be utilized by the municipality to fund the Hovercraft demonstration including necessary rental, transportation, and personnel expenses for the demonstration. Do I understand this correctly?

Mr. LAUTENBERG. That is correct. This money would be made available to the municipality of Anchorage as a grant for the use and necessary expenses for the Hovercraft demonstration project.

Mr. D'AMATO. I applaud the Senator from Alaska for his efforts. This technology could also have applications to upstate New York where water and cold weather are also a problem. The use of a Hovercraft on the St. Lawrence River is something in which I am very interested. I look forward to the results of this study.

Mr. LAUTENBERG. Mr. President, I would like to note that this conference report contains many items that benefit my State, New Jersey.

As I have noted, the bill sets an obligation ceiling for the highway program of $16.8 billion. Under this level, which is 16 percent higher than the fiscal year 1991 level, New Jersey would expect to receive approximately $700 million in formula highway and transit funds. That represents a tremendous infusion of funds to help meet our State's pressing transportation needs.

Additionally, the conference report provides $199 million in specific highway and transit earmarks for New Jersey. The committee and conference reports detail these earmarks, but I would like to briefly outline them.

First, $45 million is earmarked in the area of intelligent vehicle-highway systems. This program is an important one in our efforts to address the problems of congestion, air pollution, and poor productivity. Today, too many New Jerseyites are spending too much time in their cars, stuck in traffic, and away from family or work. IVHS can help change that, by making our roads, bridges, and tunnels more efficient.

For IVHS, the bill earmarks: $1 million for research and development at the New Jersey Institute of Technology: $3 million for the continuing traffic management efforts of Transcom; $4 million for a traffic management plan in an eight-county area of New Jersey, through the MAGIC Program; $25 million to help install electronic toll collection on the State's three major toll roads; $6 million to establish a comprehensive traffic management agency in southern New Jersey and Philadelphia; and $6 million for traffic signal computerization.

There are a number of highway projects funded under this bill. These projects are all worthy, and greatly needed. They will help ease congestion and improve safety in areas throughout the State, such as Newark, Bergen County, central New Jersey, and the fast-growing Camden-Burlington Counties area. Those projects are: Route 21 widening in Newark, $5 million; I-280 Downtown Connector improvement in Newark, $3 million; I-78 Downtown Connector in Newark, $4 million; Raymond Plaza (Penn Station, Newark) access improvements, $1.5 million; Route 21 Viaduct, Newark, $2.7 million; Route 4 bridge replacement in Bergen County, $2 million; Route 4/208 interchange in Bergen County, $4 million; Route 4/17 interchange in Bergen County, $4 million; and Routes 70/38 capacity expansion in Camden County, $6 million. The bill also earmarks $15 million, out of the funds provided for the parkways and park highways program, to build a new pedestrian bridge connecting Liberty State Park to Ellis Island, to make that historic place more accessible to the many Americans who want to visit it. The conference report also includes $3.5 million for an interstate emergency callbox system. It also provides $500,000 for trauma research on passenger compartment intrusions at a trauma center staffed by a research professional with extensive experience in this area. Important work in this area is being done by researchers at the University of Medicine and Dentistry in Newark, NJ. The report also directs NHTSA to conduct a study on the theft-resistance of automobiles, to explore ways to fight auto theft that plagues New Jerseyites.

In the aviation area, there are important provisions, including bill language that would allow Atlantic City to use revenues from the sale of Atlantic City Airport for nonaviation purposes, clearing the way for the sale of the airport to the State. I've worked hard for years to try to see this tremendous aviation resource developed. With the cooperative efforts of the State and Mayor Whelan of Atlantic City, we're now at a point where real progress can be made, and the development of the airport into a first-class facility can proceed. This provision will ensure that that progress won't be impeded by a technical problem.

The bill also prioritizes applications for Airport Improvement Program funds to make improvements at Atlantic City International Airport; contains bill language allowing parochial schools near airports to qualify for soundproofing funds; includes language prioritizing funds for further study of the proposed joint civilian use of McGuire Air Force Base; and provides $1.5 million for Rutgers University and the Georgia Institute of Technology for a joint center of excellence for aviation research.

In addition, 10 New Jersey airports are slated to receive grants for safety improvements. These airports make up a network that serves the varied aviation needs of our State, from scheduled commercial service to general aviation. These airports are: Newark Airport, Lincoln Park Airport, Somerset Airport in Somerville, NJ, Morristown Airport, Gibbsboro Airport, FAA Technical Center in Pomona, NJ, Cross Keys Airport, South Jersey Regional Airport in Mount Holly, NJ, Trenton-Robbinsville Airport in Robbinsville, NJ, and the Atlantic City Airport. Specific dollars amounts will be determined by the Federal Aviation Administration.

One way New Jersey is going to help improve its air quality and our ability to move people and goods is through improved mass transit. For transit to become a real alternative to the single

passenger car, it must be more affordable, reliable, and convenient. The bill before us includes funding for projects that would help meet those goals. In mass transit, the conference report contains: for the Hamilton Transportation facility (train, bus, highway), $3 million; for a new Atlantic City bus facility, $3 million; $21 million to New Jersey Transit for bus acquisition; $6.18 million to begin an upgrade of the New York, Susquehanna & Western freight rail line to provide needed commuter service in northern New Jersey; and $5.3 million for Central Electric Train Control to improve safety on New Jersey's rail lines between Trenton and Philadelphia. The bill also contains $500,000 for inner city youth job training, to help bring those youth into the transportation field.

A major new transit improvement, the Urban Core, would significantly improve transit in New Jersey by linking the State's rail lines into a coordinated network. This project would truly make transit more convenient for commuters now using rail, and open up new opportunities for thousands of new commuters. In the new start category, the conference report provides $70 million for the Urban Core.

The Urban Core project will consist of seven elements: the Secaucus Transfer—a new train station in Secaucus will link the Bergen and Main lines to the Northwest Corridor (Amtrak lines), providing access to Newark and midtown Manhattan for Bergen County residents; Newark-Elizabeth Rail Line—a new rail line to link Newark International Airport with major downtown centers in the Newark-Elizabeth corridor with connections to the regional rail network; Hudson Waterfront Transportation System—will establish a mass transit system along the Hudson waterfront and link it to the existing commuter rail system; Waterfront Connection—recently opened line links Newark Penn Station to Hoboken Terminal, providing access to the Hoboken and Hudson waterfront area and improved access to lower Manhattan for passengers traveling through Penn Station; Kearny Connection—will link the Morris and Essex rail lines to the Northeast corridor, significantly improving rail access to Manhattan; Northeast Corridor Signal System—improvements to the Northeast corridor signal system from Trenton to New York and to the Penn Station New York concourse will ensure reliability on the Northeast corridor and passenger safety and convenience at Penn Station New York; Rolling Stock—new rail cars will be purchased to meet the new demands under the Urban Core project.

Under the Coast Guard, the bill contains $4.3 million for phase III of the New York Vessel Traffic Service, a project that I have worked over the last 3 years to fund and get in place. New York harbor is one of the busiest harbors in the country; this VTS will help protect against accidents that could have disastrous effects on our precious coastal resources. The bill also contains: $3.4 million to build a new patrol boat pier at Ft. Hancock in Sandy Hook; $300,000 to the New Jersey marine sciences consortium to develop an instructional curriculum and educational materials on fishing vessel safety; and $5 million for an applied training facility at the recruit training center at Cape May.

Finally, I would like to note that the bill contains $250,000 for the Department of Transportation to study the feasibility of using dyes to label different gasoline octane levels to prevent consumer fraud. This is an issue that is of serious concern to many in New Jersey, and I hope that the study can be of some benefit in addressing the situation.

Mr. President, as chairman of the Transportation Appropriations Subcommittee, I work hard to see that the transportation problems of New Jersey and the Nation are addressed. These projects are important ones that will provide significant benefit to the people of New Jersey, and to those who travel to and through our State.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined the conference report on H.R. 2942, the Transportation appropriations bill, and has determined that the report is under its 602(b) budget authority allocation by $3 million and under its 602(b) outlay allocation by $7 million.

I compliment the distinguished manager of the bill, Senator LAUTENBERG, and the distinguished ranking member of the Transportation Subcommittee, Senator D'AMATO, for all of their hard work.

Mr. President I have a table prepared by the Budget Committee which shows the official scoring of the Transportation appropriations bill and I ask unanimous consent that it be printed in the RECORD at this point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 2942—TRANSPORTATION SUBCOMMITTEE—SPENDING TOTALS—CONFERENCE

[In billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2942:		
New BA and outlays	14.3	12.2
Enacted to date	0.0	20.1
Adjustment to conform mandatory programs to resolution assumptions	−(*)	(*)
Scorekeeping adjustments/PLRs	0.0	0.0
Bill total	14.3	32.3
Senate 602(b) allocation	14.3	32.3
Total difference	−(*)	−(*)
Discretionary:		
Domestic	13.8	31.8
Senate 602(b)	13.8	31.8
Difference	−(*)	−(*)
International	0.0	0.0
Senate 602(b)	0.0	0.0
Difference	0.0	0.0

SENATE BUDGET COMMITTEE SCORING OF H.R. 2942—TRANSPORTATION SUBCOMMITTEE—SPENDING TOTALS—CONFERENCE—Continued

[In billions of dollars]

Bill summary	Budget authority	Outlays
Defense	0.0	0.0
Senate 602(b)	0.0	0.0
Difference	0.0	0.0
Total discretionary spending	13.8	31.8
Mandatory spending	0.5	0.5
Mandatory allocation	0.5	0.5
Difference	0.0	0.0
Discretionary total above (+) or below (−):		
President's request	−0.8	0.6
House-passed bill	0.1	−(*)
Senate-passed bill	−0.1	−(*)

Mr. ADAMS. Mr. President, this appropriations bill holds major significance for the State of Washington. As I mentioned when the Senate passed its version of the transportation appropriations bill, rapid population growth in the Pacific Northwest is putting enormous pressure on the transportation infrastructure. This legislation contains a number of projects that will ease the strain on our transportation systems and infrastructure.

Of critical importance to Central Puget Sound is a provision to allocate $10 million to a commuter rail project between Seattle and Tacoma. The traffic on the I-5 corridor between these two cities gridlocks every day during the rushhours, and the rushhours continue to grow longer and longer. The railroad alone won't solve the whole traffic problem, but it will help a great deal. This funding will allow Seattle's metropolitan transit authority, Metro, to go forward with its environmental impact statement and negotiations with a private carrier to operate the trains.

Local communities, the transit districts and private businesses all favor the proposed commuter railroad. I want to emphasize that they will provide the lion's share of the funding. It is my hope that train service will begin as quickly as possible. When it proves successful—I hope it eventually will be extended to communities north of Seattle, too.

The bill also contains $800,000 for the construction of HOV lanes/park and ride lots in Snohomish County, WA. These funds will help link the northern section of the Seattle metropolitan area, located in Snohomish County, to the I-5 and I-405 HOV lanes in King County. Industrial development is occurring in this region and more HOV funding is desperately needed. The bill also provides $2.72 million for an I-5 Marysville interchange to relieve congestion on the ramps in this area and to facilitate the flow of traffic into a major industrial center.

The bill also includes funding to finish the Puget Sound Vessel Transit System [VTS]. Recently, a collision between two foreign ships in international waters damaged a large section of the pristine coastline along

Washington State. The VTS would help guard against similar collisions and spills in Puget Sound, which current technology is incapable of adequately cleaning.

Another provision, which the junior Senator from Washington State and I sponsored, would allow Washington State to use Federal emergency relief funds to repair a sunken portion of the I-90 bridge. The bridge section sunk during a major flood in Washington State last fall. The bridge is a vital link in Seattle's commuter highway network. Its expedited repair will be good news for the Seattle metropolitan area. Without this, commuters in the Seattle metropolitan area may have had to wait for years of civil litigation before repair work could begin. If cause for the sinking was human error, then the State will reimburse the Federal Government.

There is $480,000 in funding for a study of the Tacoma Narrows Bridge. Important engineering questions need to be resolved. This earmark, which will allow all the alternatives to be evaluated, will be money well spent.

Washington is a large and economically diverse State. It has pressing urban and rural transportation needs. I want to thank the conferees for acknowledging and funding many of our priorities. These projects include $1 million for the Pangborn Memorial Airport. A level I control tower is seriously needed for safety concerns at this airport in Wenatchee. There is also $270,000 for the Highway 101 tristate feasibility study. Part of these funds will go to the communities in southwestern Washington that have been heavily affected by the downturn in the timber industry. Among the UMTA bus and bus facility projects, $4.2 million has been designated to an intermodel facility in Spokane. These funds will be used to create a central transit depot for all the mass transit systems which includes space for commercial development. Also in western Washington, the bill designates $3.6 million for road access to the Bryden Canyon Bridge in Clarkston. Better access is necessary for both safety and economic reasons in this primarily rural region along the Washington-Idaho border.

Finally, I would like to thank Senator LAUTENBERG and the conferees in both chambers for the excellent work they have done in crafting this bill. I urge the President to sign this important legislation into law.

Mr. DANFORTH. Mr. President, I would like to ask Senator HOLLINGS to confirm and clarify, for the record, the intent of certain aspects of the drug and alcohol testing provisions contained in title V of the conference report.

Mr. HOLLINGS. I would be pleased to clarify certain provisions of title V.

Mr. DANFORTH. I thank the Senator. The drug and alcohol testing provisions contained in title V of the conference report to accompany H.R. 2942 are the same as those contained in S. 676, the Omnibus Transportation Employees Testing Act of 1991, which was reported by the Committee on Commerce, Science and Transportation (S. Rept. 102-54) and passed by the Senate as free-standing legislation earlier this year. Therefore, I assume that questions with regard to the background and intent of these provisions generally are addressed by that report.

Mr. HOLLINGS. The Senator's assumption is correct.

Mr. DANFORTH. Also, I understand that the enactment of this legislation is not intended to disturb the work already done by the Department of Transportation [DOT], both with regard to drug testing and also related to the use of alcohol in transportation.

Mr. HOLLINGS. The Senate language expressly was drafted to avoid upsetting the requirements that already are in place, whether or not they are addressed directly by the new mandates. DOT has done a great deal of work in the drug testing area, and the Senate language does not threaten the validity or the scope of the current regulations.

For example, under this legislation, new section 614(e)(2) of the Federal Aviation Act of 1958 would reaffirm the validity and scope of current regulations governing the use of alcohol and controlled substances by aviation personnel in safety-sensitive positions. New section 614(b)(3) would bar a safety-sensitive worker from the position he or she occupied at the time of a positive drug test until rehabilitation is completed successfully. The new 614(e)(2) language specifically is intended to allow FAA to continue to apply existing regulatory requirements, based on DOT's existing statutes which provide extremely broad authority to regulate safety in the various transportation modes, and to supplement them. Comparable language in the legislation applies to the other modes.

Similarly, the term "controlled substance" has been defined in this legislation as a substance listed in the Controlled Substances Act. However, at least one chemical already being tested for under DOT programs, PCP, is not listed in that act, although it has been designated a Schedule I controlled substance under Drug Enforcement Administration regulations. Again, because its intent is to allow DOT to build upon existing regulations and authority, the legislation would not affect DOT's ability to test for the five chemicals, including PCP, that the Secretary already has determined constitute a risk to transportation safety. Also, the legislation would not require another determination of such risk.

Mr. DANFORTH. Also, I ask to clarify the effect of the Senate language on the existing Federal Railroad Administration's drug and alcohol testing program.

Mr. HOLLINGS. I would be glad to do so.

The Federal Railroad Administration's [FRA] alcohol and drug testing regulations have been in effect since 1985. This legislation provides for the continuation of FRA's program, which includes preemployment, reasonable cause, random and postaccident testing, the latter of which has been recommended by the National Transportation Safety Board [NTSB] as a model for postaccident toxicology in the transportation industry. In fact, in the case of postaccident testing in all modes, it is intended that DOT retain its full authority to conduct full toxicological analysis related to accident investigations, and to use the results in accident investigation reports. The legislation would not disrupt FRA's approach to employee assistance through voluntary referral and coworker reporting, which is highly regarded by both railroad labor and management. Also, this legislation allows the Secretary to determine which positions, in addition to those who perform covered service subject to the Hours of Service Act—45 U.S.C. 61-64b)—should be considered safety-sensitive for purposes of testing. However, it does not require FRA to change its current level of coverage. Finally, this legislation would not prohibit FRA from continuing class exclusions for very small railroads.

Mr. DANFORTH. Let me ask about the existing DOT drug and alcohol testing regulations and court decisions concerning those rules. It is my understanding that the Senate language contained in new section 614(e)(2), and parallel language addressing other modes, is significant in regard to the judicial rulings that have been rendered concerning drug testing authority under the Federal Aviation Act of 1958, the Railroad Safety Act of 1970, the Commercial Motor Vehicle Safety Act of 1986, and drug testing for FAA employees with responsibility for safety-sensitive functions pursuant to Executive Order 12564.

A consistent series of rulings, including several by the Supreme Court, has upheld random drug testing of transportation workers and Federal employees where justified on the basis of assignment to safety-related tasks or security positions. Enactment of this legislation would not disturb these favorable holdings, and should not be read to give litigants a new bite at the apple in terms of challenging the meaning and content of what constitutes permissible random drug testing.

This legislation assumes that the meaning of "random drug testing" is settled. Therefore, the use of the phrase throughout title V refers to the type of testing that has been upheld by the courts. However, as made clear in

the conference report, DOT appropriately could limit the time during which random alcohol testing is conducted to ensure that it is closely related in time to the actual performance of safety-sensitive functions.

Mr. HOLLINGS. The Senator's understanding is correct.

Mr. DANFORTH. Title V of the conference report states that DOT must issue regulations for the various modes, providing for the opportunity for treatment of employees in need of assistance in resolving problems with alcohol or drug use. My understanding is that this does not mandate that rehabilitation be provided but does encourage companies to make such programs available. The legislation does not discuss who pays for treatment, wages during this period, or rights of reinstatement.

Mr. HOLLINGS. The Senator's understanding is correct. Such arrangement could be left to negotiation between the employer and employee, either through individual arrangement or collective bargaining, as appropriate, except for a number of limitations specifically included in title V.

Mr. DANFORTH. Mr. President, I want to ask my colleague from South Carolina his views concerning random testing required under the Senate language. I realize, as he does, that random testing is critical to this program and, in fact, has proven itself effective in the existing DOT drug testing rules.

Mr. HOLLINGS. I agree that it is an effective and necessary tool. For example, in the airline industry the number of positive drug tests has been less than one-half of 1 percent. That is good. The deterrence value of random testing must be maintained. DOT, under title V, has the authority to establish the random testing rate, which currently is 50 percent. It is the intent of the legislation that the rate be set to accomplish its goal—deterrence. DOT, of course, has the authority to choose a different rate, based on safety and efficiency. In addition, if DOT chooses to set different rates for different categories of workers, title V does not prohibit such action. Title V is not intended to heap unnecessary costs on the affected industries, but to ensure that the transportation system is as safe as possible. Finally, let me also state that if DOT chooses to combine the drug and alcohol test programs, and establish a single random testing rate, which may prove to be effective, title V does not prohibit such action.

Mr. DANFORTH. I appreciate this clarification. I would note that questions have arisen as to whether mandatory procedures for testing, included for each of the transportation modes, apply to both drug and alcohol testing in all cases.

Mr. HOLLINGS. In fact, the report accompanying S. 676 specifically addresses the procedures. For example, individual privacy obviously is of great concern, and must be promoted to the maximum extent possible.

In addition, confirmation of alcohol and drug tests must be by a scientifically recognized method capable of providing quantitative data. This clearly applies to both drug and alcohol tests. DOT already provides this for drug testing. However, in the case of alcohol testing, DOT will need to explore through rulemaking the actual means of implementing this requirement.

There are also requirements for split samples, primarily included in the legislation to allow urine samples to be retested. DOT would have the authority to determine that blood samples should be similarly handled. This specific requirement is not relevant in the case of breath testing for alcohol, but DOT is directed by this legislation to provide necessary safeguards in this area to ensure the validity of test results.

The report also emphasizes that the selection of employees for testing must be by nondiscriminatory and impartial methods. This applies to random testing for both alcohol and drugs.

Mr. DANFORTH. The legislation states that regulations must be "consistent with international obligations of the United States," and that the Federal Aviation Administrator must take into consideration any applicable law and regulations of foreign countries. Is this language intended to imply that the Secretary would have the authority to grant exemptions or waivers from U.S. rules where such action is justified, and to make allowances in regulations where necessary?

Mr. HOLLINGS. The legislation intends to strike a balance between the need to ensure that foreign transportation workers who affect public transportation in this country are not substance abusers, and the need to observe fundamental principles of international law.

Mr. DANFORTH. I thank the Senator for providing clarification with regard to these important drug and alcohol testing provisions.

Mr. D'AMATO. I appreciate this further clarification of the intent of this legislation as well. I would ask Senator HOLLINGS to comment on two additional issues. First, I note that mass transit operators clearly must establish a conforming testing program in order to receive Federal mass transit grants. I trust that this means that a program must be both established and implemented in order to continue to qualify for grants?

Second, it is my understanding that this legislation is intended to broadly cover all those involved in providing transit services to the public, and that drug and alcohol testing not be circumvented through contracting out of work. Safety-sensitive employees of recipients of the Federal grant money identified in the bill, and those safety-sensitive employees working for contracts of such recipients must be covered exactly to the same extent and in the same fashion. I know I speak for all conferees when I say that we will not tolerate a situation where employees performing substantially the same safety-sensitive function are covered or not covered depending on whether they work directly for a public authority or an outside contractor.

Mr. HOLLINGS. The Senator is correct. Enactment of this legislation is intended to ensure that effective drug and alcohol testing programs are in place for all providers of mass transportation services, whether they are employed by the transit authority directly, or are under contract to them. It was the intent of conferees to prevent tragedies like the one that occurred recently in the New York City subway.

I appreciate this opportunity to discuss with my colleagues this important legislation.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

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

The result was announced—yeas 95, nays 3, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—95

Adams	Exon	McConnell
Akaka	Ford	Metzenbaum
Baucus	Fowler	Mikulski
Bentsen	Garn	Mitchell
Biden	Glenn	Moynihan
Bingaman	Gore	Murkowski
Bond	Gorton	Nickles
Boren	Graham	Nunn
Bradley	Gramm	Packwood
Breaux	Grassley	Pell
Brown	Harkin	Pressler
Bryan	Hatch	Reid
Bumpers	Hatfield	Riegle
Burdick	Heflin	Robb
Burns	Hollings	Rockefeller
Byrd	Inouye	Rudman
Chafee	Jeffords	Sanford
Coats	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Seymour
Conrad	Kennedy	Shelby
Craig	Kerrey	Simon
Cranston	Kerry	Simpson
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Symms
DeConcini	Levin	Thurmond
Dixon	Lieberman	Wallop
Dodd	Lott	Warner
Dole	Lugar	Wellstone
Domenici	Mack	Wirth
Durenberger	McCain	

NAYS—3

Helms	Roth	Smith

NOT VOTING—2

Pryor Wofford

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate concur, en bloc, in the amendment of the House to the amendments of the Senate.

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

The amendments agreed to, en bloc, are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2942) entitled "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 24, 29, 31, 32, 85, 92, 113, 156, 158, 159, 160, and 161 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: ": *Provided further*, That none of the funds in this Act shall be available for service to communities not receiving such service during fiscal year 1991, unless such communities are otherwise eligible for new service, provide the required local match and are no more than 200 miles from a large hub airport: *Provided further*, That none of the funds in this Act shall be available to increase the service levels to communities receiving service unless the Secretary of Transportation certifies in writing that such increased service levels are estimated to result in self-sufficiency within three years of initiation of the increased level of service".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "; *Provided further*, That none of the funds provided in this Act shall be available for the operation, maintenance or manning of land-based and sea-based aerostationary balloons, or E2C aircraft".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "$2,394,000,000, including $2,244,052,000 to remain available until September 30, 1994, and including $149,948,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "$249,146,000, together with $4,628,000 to be derived by transfer from the "Nuclear Waste Transportation Safety Demonstration project" ".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

FEASIBILITY, DESIGN, ENVIRONMENTAL, ENGINEERING

For necessary expenses to carry out feasibility, design, environmental, and preliminary engineering studies, $18,448,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$148,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$12,600,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$2,700,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$7,200,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$4,800,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended) and the National Traffic and Motor Vehicle Safety Act, $78,528,000, to remain available until September 30, 1994.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$22,331,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Of the funds provided under this head, $2,500,000 is available until expended for grants to specific states to conduct detailed market analysis of potential maglev and/or high speed rail ridership and determine the availability of rights-of-way for maglev and/or high speed rail use: *Provided*, That any such grant shall be matched on a dollar for dollar basis by a State, local, or other non-Federal concern.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

DISCRETIONARY GRANTS

None of the funds provided in fiscal year 1992 to carry out the provisions of section 3 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.) shall be used for the study, design, engineering, construction or other activities related to the monorail segment of the Houston metro program.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first named in said amendment, insert: "$12,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert: "$927,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert: "$1,516,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert: "$5,428,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 125 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ", the strategic highway research program, the intelligent vehicle-highway systems program".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 325. Notwithstanding any other provision of law, the Secretary shall, with regard to the Discretionary Grants program of the Urban Mass Transportation Administration, by February 14, 1992, enter into a full funding grant agreement with the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) for the construction of the locally preferred alternative for the Westside Light Rail Project, including systems related costs, as defined in Public Law 101-516. That full funding agreement shall provide for a future amendment under the same terms and conditions set forth above, for the extension known as the Hillsboro project which extends from S.W. 185th Avenue to the Transit

Center in the city of Hillsboro, Oregon. Subject to a regional decision documented in the Hillsboro project's preferred alternatives report, the Secretary shall enter into an agreement with the Tri-County Metropolitan Transportation District of Oregon to initiate preliminary engineering on the Hillsboro project, which shall proceed independent of and concurrent with the project between downtown Portland, Oregon and S.W. 185th Avenue.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 330. SOUTH BOSTON PIERS TRANSITWAY.—Notwithstanding any other provisions of law, the Secretary shall, with regard to the Discretionary Grants program of the Urban Mass Transportation Administration—

(a) issue a letter of no prejudice, effective as of or retroactive to October 1, 1991, for preliminary engineering and final design, and enter into a full funding agreement, including system related costs, by June 1, 1992, for the portion of the South Boston Piers Transitway Project between South Station and the portal at D Street in South Boston, Massachusetts. That full funding agreement shall provide for a future amendment under the same terms and conditions set forth above, for the extension of the Transitway from South Station to Boylston Station; and

(b) issue a letter of intent by September 30, 1992, for the extension of the Transitway from South Station to Boylston Station.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "328", insert: "331".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "332", insert: "334".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 335. Notwithstanding any other provision of laws, payments to the City of Atlantic City relating to the transfer of Atlantic City International Airport shall not be considered airport revenues for the purposes of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. App. 2201, et seq.)

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "334", insert: "336".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 337. None of the funds contained herein may be used to enforce the series of Airworthiness Directives, commencing with the notice issued on November 28, 1987, regarding cargo fire detection and control in aircraft that (1) are operated solely within the State of Alaska, and (2) operate in a configuration with a passenger and cargo compartment on the main deck, until a thorough safety analysis and an economic impact statement have been completed by the Federal Aviation Administration, and have been submitted to and reviewed by the Committees on Appropriations of the Senate and House of Representatives. However, if the Secretary certifies that clear and convincing evidence exists that such rules should be implemented on an emergency basis to prevent a clear and present threat to passenger safety, such rules may be implemented on a temporary basis pending the outcome of the safety analysis and economic impact statement.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with amendments as follows:

In lieu of the section number "336", insert: "338".

In lieu of "et cet", insert: "et seq.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 143 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "337", insert: "339".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 144 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "338", insert: "340".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 145 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "339", insert: "341".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 146 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "340", insert: "342".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 147 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 343. Section 402 of Public Law 97-102 is amended by inserting immediately before the colon a comma and the following: "except that exempt abandonments and discontinuances that are effectuated pursuant to section 1152.50 of title 49 of the Code of Federal Regulations after the date of enactment of the Department of Transportation and Related Agencies Appropriations Act, 1992, shall not apply toward such 350-mile limit".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 148 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "342", insert: "344".

Resolved, That the House recede from its disagreement to the amendment the Senate numbered 149 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "343", insert "345".

Resolved, That the house recede from its disagreement to the amendment of the Senate numbered 150 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "344", insert: "346".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 347. none of the funds provided, or otherwise made available, by this Act shall be used by the Secretary of Transportation or the Federal Aviation Administration to consolidate flight service stations (including changes in flight service station operations such as permanent reductions in staff, hours of operation, airspace, and airport jurisdictions and the disconnection of telephone lines), until after the expiration of the 9-month period following the date of the submission to Congress of the Auxiliary Flight Service Station plan required under section 330 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101-516; 104 Stat. 2184). This section shall not apply to flight service stations in Laramie, Rawlins, and Rock Springs, Wyoming .

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "347", insert: "348".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 of the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 349. (a) Section 9308(d) of Public Law 101-508 is amended by striking the word "This" at the beginning of the first sentence thereof and inserting in lieu thereof the following—"Except for Hawaiian operations described in and provided for in subsection (i), this"

(b) Section 9308 of Public Law 101-508 is amended by adding a new subsection (i), to read as follows—

"(i) HAWAIIAN OPERATIONS—

"(1)(A) An air carrier or foreign air carrier may not operate within the State of Hawaii or between a point in the State of Hawaii and a point outside the 48 contiguous states a greater number of Stage 2 aircraft having a maximum weight of more than 75,000 pounds than it operated within the State of Hawaii or between a point in the State of Hawaii and a point outside the 48 contiguous states on November 5, 1990.

"(B) An air carrier that provided turnaround service within the State of Hawaii on November 5, 1990, using Stage 2 aircraft having a maximum weight of more than 75,000 pounds may include within the number of aircraft authorized under subparagraph (A) all such aircraft owned or leased by that carrier on such date, whether or not such aircraft were then operated by that carrier.

"(2) An air carrier may not provide turnaround service within the State of Hawaii using Stage 2 aircraft having a maximum weight of more than 75,000 pounds unless that carrier provided such service on November 5, 1990.

"(3) For the purpose of this subsection, 'turnaround service' means the operation of a flight between two or more points, all of which are within the State of Hawaii.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 157 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 351. (a) Notwithstanding any other law, the Secretary of Transportation shall construe all references in this Act to Title 23, the Urban Mass Transportation Assistance Act of 1964 as amended, and the Federal-Aid Highway Acts in a manner which continues to apply such references to the appropriate programs as may be authorized by a subsequent surface transportation assistance act.

(b) Section 329(a) of the Department of Transportation and Related Agencies Appropriations Act, 1988, Public Law 100-102, is amended by striking "and 1991" and inserting "1991, and 1992".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader.

Mr. LAUTENBERG. Mr. President, I believe that concludes the work of the Senate on the Transportation Appropriations bill for fiscal year 1992.

I would like to thank all the Senators for their cooperation, and in particular I would like to express my appreciation to the ranking member on our subcommittee, Senator D'AMATO, as well as to the chairman of the full committee, the President pro tempore, Senator BYRD, whose commitment to investing in our Nation's infrastructure is second to none, and to the ranking member of the full committee and distinguished member of the subcommittee, Senator HATFIELD, whose advice and assistance is always appreciated.

Mr. President, I yield the floor.

UNANIMOUS-CONSENT REQUEST—S. 1791

Mr. DOLE. Mr. President, as I indicated earlier, I will make a unanimous-consent request, and I think Senator DURENBERGER may do the same. I ask unanimous consent that the Senate Committee on Finance be discharged from further consideration of S. 1791, a bill to provide emergency unemployment compensation, and for other purposes, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

UNANIMOUS-CONSENT REQUEST—S. 1789

Mr. DURENBERGER. Mr. President, both the Republican leader and I had indicated that at the conclusion of this vote we would move to consider the amendments which both of us had circulated. So at this time, I ask unanimous consent that the Senate Committee on Finance be discharged from further consideration of S. 1789, a bill to provide emergency unemployment compensation, and for other purposes, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?.

Mr. MITCHELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

A TRIBUTE TO CERES MILLICENT HORN AND CHRISTINE BROOKS JOHNSON

Mr. DANFORTH. Mr. President, the Department of Transportation appropriations conference report, which the Senate approved today and sent to the President, contains provisions which will require random alcohol and drug testing for safety sensitive personnel in the aviation, rail, mass transit, and motor carrier industries. This legislation is a tribute to two exceptional young women by their fathers—fathers who loved them very much.

Sixteen-year-old Ceres Millicent Horn was a freshman honors student at Princeton. Her high school English teacher described her as "a spritely Ariel who beautifully balanced the cerebral and the corporeal." She was an athlete, an actress, a special, special person. Energetic. Ceres was enthusiastic about everything: about life, about learning. She was a loving young woman with a wonderful sense of humor and a way with words. Ceres dreamed of being an astronaut. She said that she could not think of a better way to reach out to God.

Twenty-year-old Christine Brooks Johnson was vibrant and vivacious, an avid and accomplished equestrian, an excellent student. She was compassionate and friendly, at ease with people of all ages. A junior honors student at Stanford, Christy was looking forward to a career in adolescent psychology. She found purpose in counseling troubled teenagers. She was a certified emergency medical technician. She wanted to help others, to make a difference in the world.

Friends and family agree. Ceres, Christy, these bright and shining young women. They were so very alive.

Early on the afternoon of Sunday, January 4, 1987, both Ceres and Christy were aboard the Amtrak Colonial bound from Washington, DC, to Boston. At the same time, a Conrail train made up of three locomotives was headed out of Baltimore's Bayview Yard toward Harrisburg. Ricky Gates and Butch Cromwell, the engineer and brakeman of the Conrail train, shared a marijuana cigarette as they began their work shift. About 15 minutes later, Gates and Cromwell ignored a series of warning signals. By the time they realized their mistake, they were already in the path of the Amtrak train.

Traveling at 120 miles per hour, the Amtrak engineer applied the emergency brakes as soon as he saw the Conrail locomotive. Fourteen seconds later, at the Gunpowder switch near Chase, MD, the Amtrak Colonial slammed into the Conrail locomotives. Ceres, Christy, and 14 others were killed, 170 were injured.

Tragedy destroys some families. Unable to cope with the finality of death, with the loss, with the pain, some individuals, some families take out their hurt and anger on each other. But Ceres Horn and Christy Johnson were not only very special young women, they had very special families. Ceres Horn and Christy Johnson sought through their lives to make the world a better place, and their dedication to others did not die on that cold winter day. For the love of their children, Roger Horn and Art Johnson vowed to carry on. They decided to change the world. Today, after countless obstacles and setbacks, they have done just that. They have forced the Congress and forced the country to face squarely the problem of alcohol and drug abuse in public transportation. They have overcome special interests, inertia, and delay. They have given to their girls a tribute like none other. Because of Ceres Horn and Christy Johnson, because of the dreams they dreamed, because of the families they inspired, others will live.

Mr. President, we know that today there are in heaven two young women looking down on this body, proud of their fathers and proud of their families, with one thought in their hearts: "Thanks, Dad."

Mr. President, today the Senate is sending legislation to the President which requires random drug and alcohol testing for safety-sensitive employees in the aviation, rail, motor carrier, and mass transit industries. This is landmark legislation that will save lives, and it would not have happened but for the work of Gerri Hall, Alan Maness, and Mary Pat Bierle of the Senate Commerce Committee minority staff. They have worked on this legislation for nearly 5 years and have been instrumental in 13 successful Senate votes on random testing. I want to recognize and thank them for their outstanding service.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I join in the statements made by my colleague, the Senator from Missouri. I thank him for his advocacy on this issue of drug testing in safety positions in public transportation.

The terrible tragedy that my colleague from Missouri, Senator DANFORTH, outlined occurred in my own home State of Maryland. Mr. President, I will never forget it because it was the weekend before I was to be sworn in to the U.S. Senate. It was a very happy weekend. I had gathered with family visiting an old friend. It was a foggy day in Maryland. And I will tell you, when we heard of the terrible crash, the mist never lifted. That night I was in the emergency room in Baltimore talking to the medical personnel because they were flooded with the injured from that terrible tragedy. It is seared forever in the minds of Marylanders about that event, and we often say when an event occurs, let us do something about it, let us make reforms. The world will never forget.

Sometimes, Mr. President, when all is said and done, more gets said than done. However, thanks to the Senator from Missouri and his colleague, Senator HOLLINGS, of South Carolina, of the Commerce Committee, they steadfastly pursued this drug-testing legislation. As a member of the Appropriations Committee on Transportation, I advocated it in the conference. Why? Because we never want that to happen again.

One of the advocates in Maryland was a family by the name of Horn, Roger and Susan Horn, parents of a young lady who was admitted to a prestigious Ivy League school and herself was going to attend college at the age of 16.

Now, 5 years have passed. This young lady would have been 21 years old, a graduate of Princeton, and probably would have been now working here on Capitol Hill. She was one of the best and brightest young woman coming out of Maryland and now she lies dead on a grassy knoll somewhere, and buried with her are the dreams that her own family had for her. We can never bring back Ms. Horn or the other people who were killed, but we can make sure that will never happen again.

I am pleased that we will now ensure that our people involved in transportation will be drug free, and in that we have also set up procedures that look out for their civil liberties as we are trying to look out for public safety.

Mr. President, it has been a long time in coming to pass this legislation, but now we know that the highways and byways, the rail lines and the subway lines will be a lot safer because of the transportation legislation we have passed and that hopefully will then have contributed significantly to the public good.

Mr. President, I yield back my time, and once again I thank all of my colleagues who have been so persistent in passing this legislation.

I thank the Chair.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

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

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

FEDERAL FACILITY COMPLIANCE ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that at noon tomorrow, the Senate proceed to Calendar No. 99, S. 596, the Federal facilities bill.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. There is an objection heard.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I move to proceed to Calendar No. 99, S. 596, the Federal facilities bill, and I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m., Thursday, October 17; 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; that there then be a period for morning business not to extend beyond 12 noon, with Senators permitted to speak therein, with Senator WOFFORD recognized to speak for up to 20 mintues; that on Thursday, at 12 noon, the Senate proceed to vote on the motion to invoke cloture, which I now send to the desk, on the motion to proceed to Calendar No. 99, S. 596, and that the mandatory live quorum be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will read the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 596, Federal Facility Compliance Act of 1991:

George Mitchell, Daniel Patrick Moynihan, Quentin Burdick, Paul Simon, John D. Rockefeller IV, Terry Sanford, Max Baucus, Howard M. Metzenbaum, Edward M. Kennedy, Don Riegle, Frank R. Lautenberg, Alan Cranston, John F. Kerry, Albert Gore, Jr., Pat Leahy, Wendell Ford.

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

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

INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992

Mr. BOREN. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1539, the Intelligence authorization bill that, with the exception of the amendments reported by the Armed Services Committee, the only amendment in order to the bill be one offered by Senator GLENN to require Senate confirmation for the general counsel and five Deputy Directors of the CIA; that there be 4 hours of debate on the Glenn amendment, equally divided and controlled in the usual form; that there be 30 minutes of debate on the bill, including the committee amendments, equally divided and controlled between the chairman and ranking members of the Intelligence and Armed Services Committees;

That, after all debate has been completed on the bill and the Glenn amendment, and the committee amendments have been disposed of, the Senate vote on, or in relation to, the Glenn amendment, to be followed immediately by third reading and final passage of the bill, and that the preceding all occur without any intervening action or debate.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

The clerk will now report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1539) to authorize appropriations for fiscal year 1992 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

(The parts of the bill intended to be inserted are shown in italics.)

S. 1539

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 "Intelligence Authorization Act, Fiscal Year 1992".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1992 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1992, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany S. 1539 of the One Hundred Second Congress.

(b) AVAILABILITY OF THE SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations described in subsection (a) shall be made available to the Committees on Appropriations of the Senate and the House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers for such personnel authorized for fiscal year 1992 under sections 102 and 202 of this Act whenever he determines that such action is necessary for the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 percent of the number of civilian personnel authorized under such section for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. PRESIDENTIAL BUDGET SUBMISSION.

Section 1105(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(29) a separate, unclassified statement of the aggregate amount of expenditures for the previous fiscal year, and the aggregate amount of funds requested to be appropriated for the fiscal year for which the budget is submitted, for intelligence and intelligence-related activities.".

SEC. 105. FUNDING OF INTELLIGENCE ACTIVITIES.

Section 502 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Any bill reported by a committee of conference of the Congress which authorizes funds to be appropriated for *all* intelligence and intelligence-related activities of the United States shall contain an unclassified statement of the aggregate amount of such funds authorized to be appropriated.".

SEC. 106. EFFECTIVE DATE OF SECTIONS 104 AND 105.

The amendments made by sections 104 and 105 shall take effect on the date of the enactment of an Act authorizing appropriations for fiscal year 1993 for the conduct of intelligence activities of all of the elements of the United States Government referred to in section 101.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Intelligence Community Staff for fiscal year 1992 $28,832,000, of which amount $6,566,000 shall be available for the Security Evaluation Office.

SEC. 202. AUTHORIZATION OF PERSONNEL END-STRENGTH.

(a) AUTHORIZED PERSONNEL LEVEL.—The Intelligence Community Staff is authorized 240 full-time personnel as of September 30, 1992, including 50 full-time personnel who are authorized to serve in the Security Evaluation Office. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) REPRESENTATION OF INTELLIGENCE ELEMENTS.—During fiscal year 1992, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) REIMBURSEMENT.—During fiscal year 1992, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

SEC. 203. INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.

During fiscal year 1992, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency are subject to those provisions.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund $164,100,000 for fiscal year 1992.

SEC. 302. SURVIVOR BENEFITS FOR CHILDREN WHO HAVE A SURVIVING PARENT.

(a) COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES.—Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) in subsection (c)(1), by striking out "wife or husband and by a child or children, in addition to the annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each" and inserting in lieu thereof "spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant, there shall be paid to or on behalf of that surviving";

(2) in subsection (c)(2), by striking out "wife or husband but by a child or children, each surviving child shall be paid" and inserting in lieu thereof "spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant, there shall be paid to or on behalf of that surviving child";

(3) by amending subsection (d) to read as follows:

"(d) On the death of the surviving spouse or former spouse or termination of the annuity of a child, the annuity of any remaining child or children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the participant. If the annuity to a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children were then being initiated.";

(4) by adding at the end thereof the following new subsection:

"(q) For purposes of this section—

"(1) the term 'former spouse' includes any former wife or husband of the participant, regardless of the length of marriage or the amount of creditable service completed by the participant; and

"(2) the term 'spouse' has the same meaning given the terms 'widow' and 'widower' in section 204(b).."; and

(5) in subsection (e), by striking out "under paragraph (c) or (d) of this section, or (c) or (d)" and inserting in lieu thereof "under subsection (c) of this section, or subsection (c) or (d)".

(b) DEATH IN SERVICE.—Section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) in subsection (c)—

(A) by striking out "wife or a husband and a child or children, each" and inserting in lieu thereof "spouse or a former spouse who is the natural or adoptive parent of a surviving child of the participant, that";

(B) by striking out "section 221(c)(1)" and inserting in lieu thereof "subsections (c)(1) and (d) of section 221"; and

(C) by striking out the last sentence;

(2) in subsection (d)—

(A) by striking out "wife or husband, but by a child or children, each" and inserting in lieu thereof "spouse or a former spouse who is the nature or adoptive parent of a surviving child of the participant, that";

(B) by striking out "section 221(c)(2)" and inserting in lieu thereof "subsections (c)(2) and (d) of section 221"; and

(C) by striking out the last sentence; and

(3) by adding at the end thereof the following new subsection:

"(e) For purposes of subsections (c) and (d)—

"(1) the term 'former spouse' includes any former wife or husband of the participant, regardless of the length of marriage or the amount of creditable service completed by the participant; and

"(2) the term 'spouse' has the same meaning given the terms 'widow' and 'widower' in section 204(b).".

SEC. 303. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY.

(a) Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) by redesignating subsection (q) (as added by subsection (a)) as subsection (r); and

(2) by inserting after subsection (p) the following new subsection:

"(q)(1)(A) A participant or former participant—

"(i) who, at the time of retirement, is married, and

"(ii) who elects at such time (in accordance with subsection (b)) to waive a survivor annuity for the spouse, may, during the 18-month period beginning on the date of the

retirement of such participant, elect to have a reduction under subsection (b) of this section made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for such spouse of the participant.

"(B) A participant or former participant—

"(i) who, at the time of retirement, is married, and

"(ii) who, at such time designates (in accordance with subsection (b)) that a portion of the annuity of such participant is to be used as the base for a survivor annuity, may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) is deposited into the fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the system which is associated with providing a survivor annuity under subsection (b) and results from such election, taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this title and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i), computed using the interest rate specified or determined under section 8334(e) of title 5, United States Code, for the calendar year in which the amount to be deposited is determined.

"(3) An election by a participant or former participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant or former participant whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the participant involved elected such annuity at the time of retiring.

"(6) The Director shall, on an annual basis, inform each participant who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b)(1) The amendments made by subsection (a) shall take effect three months after the date of enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendment made by subsection (a)(2) shall apply with respect to participants and former participants who retire before, on, or after such amendment first takes effect.

(B) The provisions of paragraph (1)(B) of section 221(q) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (as added by subsection (a)(2) of this section) shall apply to participants and former participants who retire before the date on which the amendments made by subsection (a) first takes effect. For the purpose of applying such provisions to these annuitants—

(i) the 18-month period referred to in section 221(q)(1)(B) of such Act shall be considered to begin on the date on which the amendments made by subsection (a) first becomes effective; and

(ii) the amount referred to in paragraph (2) of section 221(q) of such Act shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

SEC. 304. WAIVER OF THIRTY-MONTH APPLICATION REQUIREMENT.

(a) WAIVER.—Section 224(c)(2)(A) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new sentence: "The Director may waive the 30-month application requirement under this subparagraph in any case in which the Director determines that the circumstances so warrant.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of October 1, 1986.

SEC. 305. REIMBURSEMENT FOR DISABILITY EXAMS—DIRECTOR'S DISCRETION.

Section 231(b)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), is amended in the sixth sentence by striking "shall" and inserting in lieu thereof "may".

SEC. 306. TECHNICAL CORRECTIONS TO SECTION ON PREVIOUS SPOUSES OF CIARDS PARTICIPANTS.

(a) SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES.—Section 226 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) in subsection (a)—

(A) by striking out "whose retirement or disability or FECA (chapter 81 of title 5, United States Code) annuity commences after the effective date of this section";

(B) by striking out "applicable to spouses" and inserting in lieu thereof "applicable to former spouses (as defined in section 8331(23) of title 5, United States Code)"; and

(C) by striking out "married for at least nine months with service creditable under section 8332 of title 5, United States Code" and inserting in lieu thereof "as prescribed by the Civil Service Retirement Spouse Equity Act of 1984"; and

(2) in subsections (a) and (b), by striking out "the effective date of this section" each place it appears and inserting in lieu thereof "September 29, 1988".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) The amendments made by subparagraphs (B) and (C) of subsection (a)(1) shall be deemed to have become effective as of September 29, 1988.

(3) The amendment made by subparagraph (A) of subsection (a)(1) shall be deemed to have become effective as of September 30, 1990, and shall apply in the case of annuitants whose divorce occurs on or after such date.

SEC. 307. TECHNICAL CORRECTION TO MANDATORY RETIREMENT PROVISION UNDER CIARDS.

Section 235(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) in the first sentence, by striking "grade GS-18 or above" and inserting in lieu thereof "of level 4 or above of the Senior Intelligence Service pay schedule"; and

(2) in the second sentence, by striking "less than GS-18" and inserting in lieu thereof "that of level 4 of the Senior Intelligence Service pay schedule".

SEC. 308. EXCLUSION OF CIA FOREIGN NATIONAL EMPLOYEES FROM CERTAIN CSRS PROVISIONS AND FROM FERS.

(a) DEFINITION OF "EMPLOYEE".—Section 8331(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of clause (xii);

(2) by striking the period at the end of clause (xii) and inserting in lieu thereof "; or"; and

(3) by adding after clause (xii) the following: "(xiii) a foreign national employee of the Central Intelligence Agency whose services are performed outside the United States and who is appointed after December 31, 1989.".

(b) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Section 8351 of title 5, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) A foreign national employee of the Central Intelligence Agency whose services are performed outside the United States shall be ineligible to make an election under this section.".

(c) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8402(c) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(7) The Director of Central Intelligence may exclude from the operation of this chapter a Central Intelligence Agency foreign national employee who is a permanent resident alien.".

(d) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall be effective as of January 1, 1990.

(2) The amendments made by subsections (b) and (c) shall be effective as of January 1, 1987.

(3) Any refund which becomes payable as a result of the effective dates made by this subsection shall, to the extent that such refund involves an individual's contributions to the Thrift Savings Fund (established under section 8437 of title 5, United States Code), be adjusted to reflect any earnings attributable thereto.

SEC. 309. CORRECTIONS AND CLARIFICATIONS TO QUALIFIED FORMER SPOUSE PROVISIONS UNDER FERS.

(a) SPECIAL RULES FOR FORMER SPOUSES.—Section 304 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended to read as follows:

"SPECIAL RULES FOR FORMER SPOUSES

"SEC. 304. (a) Except as otherwise specifically provided in this section, the provisions of chapter 84 of title 5, United States Code, including subsections (d) and (e) of section 8435 of such title, shall apply in the case of an officer or employee of the Agency who is subject to chapter 84 of title 5, United States Code, and who has a former spouse (as defined in section 8401(12) of title 5, United States Code) or a qualified former spouse.

"(b) For purposes of this section—

"(1) the term 'employee' means an officer or employee of the Agency who is subject to chapter 84 of title 5, United States Code, including one referred to in section 302(a) of this Act;

"(2) the term 'qualified former spouse' means a former spouse of an employee who was divorced from the employee after November 15, 1982 and who was married to the employee for at least 10 years during periods of service by the employee which are creditable under section 8411 of title 5, at least five years of which were spent outside the United States by both the employee and the former spouse during the employee's service with the Central Intelligence Agency;

"(3) the term 'pro rata share' means the percentage that is equal to (A) the number of days of the marriage of the qualified former spouse to the employee during the employee's periods of creditable service under chapter 84 of title 5 divided by (B) the total number of days of the employee's creditable service;

"(4) the term 'spousal agreement' means any written agreement (properly authenticated as determined by the Director) between an employee and the employee's spouse or qualified former spouse that has not been modified by court order; and

"(5) the term 'court order' means any court decree of divorce, annulment or legal separation, or any court order or court-approved property settlement agreement incident to such court decree of divorce, annulment or legal separation.

"(c)(1)(A) Unless otherwise expressly provided by any spousal agreement or court order governing disposition of benefits payable under subchapter II or subchapter V of chapter 84 of title 5, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of all benefits otherwise payable to such employee under subchapter II or subchapter V of chapter 84 of title 5.

"(B) The share referred to in subparagraph (A) equals—

"(i) 50 percent, if the qualified former spouse was married to the employee throughout the entire period of the employees service which is creditable under chapter 84 of title 5; or

"(ii) a pro rata share of 50 percent, if the qualified former spouse was not married to the employee throughout such creditable service.

"(2) The benefits payable to an employee under subchapter II of chapter 84 of title 5 shall include, for purposes of this subsection, any annuity supplement payable to such employee under sections 8421 and 8421a of title 5.

"(3) A qualified former spouse shall not be entitled to any benefit under this subsection if, before commencement of any benefit, the qualified former spouse remarries before becoming 55 years of age.

"(4)(A) the benefits of a qualified former spouse under this subsection commence on—

"(i) the day the employee upon whose service the benefits are based becomes entitled to the benefits; or

"(ii) the first day of the second month beginning after the date on which the Director receives written notice of the court order of spousal agreement, together with such additional information or documentation as the Director may prescribe;

whichever is later.

"(B) The benefits of such former spouse and the right thereto terminate on—

"(i) the last day of the month before the qualified former spouse remarries before 55 years of age or dies; or

"(ii) the date the retired employee's benefits terminate (except in the case of benefits subject to paragraph (5)(B)).

"(5)(A) Any reduction in payments to a retired employee as a result of payments to a qualified former spouse under this subsection shall be disregarded in calculating—

"(i) the survivor annuity for any spouse, former spouse (qualified or otherwise), or other survivor under chapter 84 of title 5, and

"(ii) any reduction in the annuity of the retired employee to provide survivor benefits under subsection (d) of this section or under sections 8442 or 8445 of title 5.

"(B) If a retired employee whose annuity is reduced under subparagraph (A) is recalled to service under section 302(c) of this Act, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

"(6) Notwithstanding paragraphs (1) and (4), in the case of any qualified former spouse of a disability annuitant—

"(A) the annuity of such former spouse shall commence on the date the employee would qualify, on the basis of his or her creditable service, for benefits under subchapter II of chapter 84 of title 5, or on the date the disability annuity begins, whichever is later; and

"(B) the amount of the annuity of the qualified former spouse shall be calculated on the basis of the benefits for which the employee would otherwise qualify under subchapter II of chapter 84 of title 5.

"(7) Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the share of such employee's qualified former spouse shall equal the sum of—

"(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5, United States Code, or under title II of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

"(B) if applicable, 50 percent of the employee's benefits under chapter 84 of title 5, United States Code, or section 302(a) of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

"(8) For purposes of the Internal Revenue Code of 1986, payments to a qualified former spouse under this subsection shall be treated as income to the qualified former spouse and not to the employee.

"(d)(1)(A) Subject to an election under section 8416(a) of title 5, United States Code, and unless otherwise expressly provided by any spousal agreement or court order governing survivor benefits payable under this subsection to a qualified former spouse, such former spouse is entitled to a share, determined under subparagraph (B), of all survivor benefits that would otherwise be payable under subchapter IV of chapter 84 of title 5, to an eligible surviving spouse of the employee.

"(B) The share referred to in subparagraph (A) equals—

"(i) 100 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 5; or

"(ii) a pro rata share of 100 percent, if the qualified former spouse was not married to the employee throughout such creditable services.

"(2)(A) The survivor benefits payable under this subsection to a qualified former spouse shall include the amount payable under section 8442(b)(1)(A) of title 5, and any supplementary annuity under section 8442(f) of title 5, that would be payable if such former spouse were a widow or widower entitled to an annuity under such section of title 5.

"(B) Any calculation under section 8442(f) of title 5, United States Code, of the supplementary annuity payable to a widow or widower of an employee referred to in section 302(a) of this Act shall be based on an 'assumed CIARDS annuity' rather than an 'assumed CSRS annuity' as stated in section 8442(f) of such title. For the purpose of this subparagraph, the term 'assumed CIARDS annuity' means the amount of the survivor annuity to which the widow or widower would be entitled under title II of this Act based on the service of the deceased annuitant determined under section 8442(f)(5) of such title.

"(3) A qualified former spouse shall not be entitled to any benefit under this subsection if, before commencement of any benefit, the qualified former spouse remarries before becoming 55 years of age.

"(4) If the survivor annuity payable under this subsection to a surviving qualified former spouse is terminated because of remarriage before becoming age 55, the annuity shall be restored at the same rate commencing on the date such remarriage is dissolved by death, divorce, or annulment, if—

"(A) such former spouse elects to receive this survivor annuity instead of any other survivor benefit to which such former spouse may be entitled under subchapter IV of chapter 84 of title 5, or under another retirement system for Government employees by reason of the remarriage; and

"(B) any lump sum paid on termination of the annuity is returned to the Civil Service Retirement and Disability Fund.

"(5)(A) Except as provided in subparagraph (B), a modification in a court order or spousal agreement to adjust a qualified former spouse's share of the survivor benefits shall not be effective if issued after the retirement or death of the employee, former employee, or annuitant, whichever occurs first.

"(B) In the case of a post-retirement divorce or annulment, a modification referred to in subparagraph (A) shall not be effective if issued—

"(i) more than a year after the date the decree of divorce or annulment becomes final, or

"(ii) after the death of the annuitant,

whichever occurs first.

"(C) To the extent a modification under subparagraph (B) increases a qualified former spouse's share of the survivor benefits, the annuitant shall pay a deposit computed in accordance with the provisions of section 8418 of title 5, United States Code.

"(6) After a qualified former spouse of a retired employee remarries before becoming age 55 or dies, the reduction in the retired employee's annuity for the purpose of providing a survivor annuity for such former spouse shall be terminated. The annuitant may elect, in a signed writing received by the Director within two years after the

qualified former spouse's remarriage or death, to continue the reduction in order to provide or increase the survivor annuity for such annuitant's spouse. The annuitant making such election shall pay a deposit in accordance with the provisions of section 8418 of title 5, United States Code.

"(7) Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the share of such employee's qualified former spouse to survivor benefits shall equal the sum of—

"(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5 or under title II of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

"(B) if applicable, 50 percent of—

"(i) the employee's annuity under chapter 84 of title 5, United States Code, or section 302(a) of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), plus

"(ii) the survivor benefits referred to in subsection (d)(2)(A), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

"(e) An employee may not make any election or modification of election under section 8417 or 8418 of title 5, United States Code, or any other section relating to the employee's annuity under subchapter II of chapter 84 of title 5, United States Code, that would diminish the entitlement of a qualified former spouse to any benefit granted to such former spouse by this section or by court order or spousal agreement.

"(f) Whenever an employee or former employee becomes entitled to receive the lump-sum credit under section 8424(a) of title 5, United States Code, a share (determined under subsection (c)(1)(B) of this section) of that lump-sum credit shall be paid to any qualified former spouse of such employee, unless otherwise expressly provided by any spousal agreement or court order governing disposition of the lump-sum credit involved.

"(g)(1) Except as provided in paragraph (2) in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the provisions of sections 224 and 225 of this Act shall apply to such employees former spouse (as defined in section 204(b)(4) of this Act) who would otherwise be eligible for benefits under such sections 224 and 225 but for the employee having elected to become subject to such chapter.

"(2) For the purpose of computing such former spouse's benefits under sections 224 and 225 of this Act—

"(A) the retirement benefits shall be equal to the amount determined under subsection (c)(7)(A) of this section; and

"(B) the survivor benefits shall be equal to 55 percent of the full amount of the employee's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act.

"(3) Benefits provided pursuant to this subsection shall be payable from the Central Intelligence Agency Retirement and Disability Fund.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2) of this subsection, the amendments made by this section shall be deemed to have become effective as of January 1, 1987.

(2) Subsection (g) of section 304 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by this section, shall be deemed to have become effective as of December 7, 1987.

SEC. 310. ELIMINATION OF OVERSEAS SERVICE REQUIREMENT FOR FORMER SPOUSES.

(a) ELIGIBILITY.—Section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (60 U.S.C. 403 note) is amended by striking out "at least five years of which were spent outside the United States by both the participant and the former spouse" and inserting in lieu thereof "at least five years of which were spent by the participant outside the United States or otherwise in a position whose duties qualified him or her for designation by the Director as a participant pursuant to section 203 of this Act".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only to a former husband or wife of a participant or former participant whose divorce from the participant or former participant became final after the date of enactment of this Act.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

TITLE V—FEDERAL BUREAU OF INVESTIGATION PROVISIONS

SEC. 501. FBI CRITICAL SKILLS SCHOLARSHIP PROGRAM.

(a) STUDY.—The Director of the Federal Bureau of Investigation shall conduct a study relative to the establishment of an undergraduate training program with respect to employees of the Federal Bureau of Investigation that is similar in purpose, conditions, content, and administration to undergraduate training programs administered by the Central Intelligence Agency (under section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j)), the National Security Agency (under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 (note)), and the Defense Intelligence Agency (under 10 U.S.C. 1608).

(b) IMPLEMENTATION.—Any program proposed under subsection (a) may be implemented only after the Department of Justice and the Office of Management and Budget review and approve the implementation of such program.

(c) AVAILABILITY OF FUNDS.—Any payment made by the Director of the Federal Bureau of Investigation to carry out any program proposed to be established under subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.

TITLE VI—CENTRAL INTELLIGENCE AGENCY PROVISIONS

SEC. 601. AMENDMENT TO TITLE 5.

Section 5315 of title 5, United States Code, is amended to insert at the end thereof the following:

"Inspector General, Central Intelligence Agency".

TITLE VII—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

SEC. 701. AMENDMENT TO THE NATIONAL SECURITY ACT OF 1947.

The National Security Act of 1947 is amended by adding at the end thereof the following new title:

"TITLE VIII—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS"

"SEC. 801. SHORT TITLE.

"This title may be cited as the 'National Security Education Act of 1991'.

"SEC. 802. FINDINGS.

"The Congress finds that—

"(1) the security of the United States is and will continue to depend on our Nation's international leadership;

"(2) United States leadership is and will increasingly be based on our Nation's political, economic, as well as military strength around the world;

"(3) recent changes in the world pose threats of a new kind to international stability as Cold War tensions continue to decline while economic competition, regional conflicts, terrorist activities, and weapon proliferations have dramatically increased;

"(4) the future national security and economic well-being of the United States will substantially depend on the ability of its citizens to communicate and compete by knowing the languages and cultures of other countries;

"(5) the Federal Government has a vested interest to ensure that the employees within its national security agencies are prepared to meet the challenges of this changing international environment;

"(6) the Federal Government also must address the fact that American undergraduate and graduate students are inadequately prepared to meet the challenges posed by increasing global interaction among nations; and

"(7) American colleges and universities must place a new emphasis on improving the teaching of foreign languages, regional studies, and international studies to help meet such challenges.

"SEC. 803. PURPOSES.

"It is the purpose of this title—

"(1) to establish the National Security Education Trust Fund to—

"(A) provide the necessary resources, accountability, and flexibility to meet the Nation's security needs, especially as such needs change over time;

"(B) increase the quantity, diversity, and quality of teaching and learning of subjects in the fields of international studies, area studies, and foreign languages deemed to be critical to the Nation's interest;

"(C) enhance the pool of possible applicants to work in the national security agencies of the United States Government; and

"(D) in conjunction with other Federal programs, expand the international experience, knowledge base, and the perspectives on which the United States citizenry, government employees, and leaders shall rely; and

"(2) to permit the Federal Government to advocate the cause of international education;

"SEC. 804. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The National Security Education Board shall conduct a program of—

"(A) awarding scholarships to undergraduate students who are United States citizens or resident aliens to enable such students to study abroad, for at least 1 semester, in

countries identified by the Board as critical countries pursuant to section 805(c)(2);

"(B) awarding fellowships to graduate students who—

"(i) are United States citizens or resident aliens to enable such students to pursue education in the United States in the disciplines of international studies, area studies, and foreign languages, that the Board determines pursuant to section 805(c)(3) to be critical areas of such disciplines; and

"(ii) agree to work for the Federal Government or in the field of education, in the area of study for which the scholarship was awarded, in accordance with the agreement described in paragraph (3); and

"(C) awarding grants to institutions of higher education to enable such institutions to establish, operate, and improve programs in international studies, area studies, and foreign languages that the Board determines pursuant to section 805(c)(4) to be critical areas of such disciplines.

"(2) RESERVATIONS.—The Board shall have as a goal reserving—

"(A) ⅓ of the amount available for obligation under section 806(f)(1) to award scholarships pursuant to paragraph (1)(A);

"(B) ⅓ of such amount to award fellowships pursuant to paragraph (1)(B); and

"(C) ⅓ of such amount to award grants pursuant to paragraph (1)(C).

"(3) AGREEMENT.—Each individual receiving a fellowship pursuant to paragraph (1)(B) shall enter into an agreement with the Board which shall provide assurances that each such individual—

"(A) shall maintain satisfactory academic progress; and

"(B) shall agree to work for the Federal Government or in the field of education, in the area of study for which the fellowship was awarded, for a period determined by the Board which shall at least be equal to the period that fellowship assistance was provided under this title and shall not exceed 3 times such period, upon completion of such individual's education.

"(b) CRITERIA AND INFORMATION.—The Board shall—

"(1) develop criteria for awarding scholarships, fellowships, and grants under this title; and

"(2) provide for the wide disbursement of information regarding the activities assisted under this title.

"(c) DISTRIBUTION OF ASSISTANCE.—The Board shall take into consideration providing an equitable geographic distribution of scholarships, fellowships, and grants awarded under this title among the various regions of the United States.

"(d) MERIT REVIEW.—The Board shall utilize a merit review process in awarding scholarships, fellowships, and grants under this title.

"(e) INFLATION.—The amount of scholarships, fellowships, and grants awarded under this title shall be annually adjusted for inflation.

"SEC. 805. NATIONAL SECURITY EDUCATION BOARD.

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a National Security Education Board.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Board shall be composed of the following individuals or the representatives of such individuals:

"(A) The Secretary of Defense, who shall serve as the chairperson of the Board.

"(B) The Secretary of Education.

"(C) The Secretary of State.

"(D) The Secretary of Commerce.

"(E) The Director of the Central Intelligence Agency.

"(F) The Director of the United States Information Agency.

"(G) 4 individuals appointed by the President, by and with the advice and consent of the Senate, who have expertise in the fields of international, language, and area studies education.

"(2) SPECIAL RULE.—Individuals appointed to the Board pursuant to paragraph (1)(G) shall be appointed for a period not to exceed 4 years. Such individuals shall receive no compensation for service on the Board but may receive reimbursement for travel and other necessary expenses.

"(c) FUNCTIONS.—The Board shall—

"(1) establish qualifications for students and institutions of higher education desiring scholarships, fellowships, and grants under this title;

"(2) identify as the critical countries described in section 804(a)(1)(A) those countries that are not emphasized in other United States study abroad programs, such as countries in which few United States students are studying;

"(3) identify as the critical areas within the disciplines described in section 804(a)(1)(B) those areas that the Board determines to be critical areas of study in which United States students are deficient in learning;

"(4) identify as critical areas those areas of study described in section 804(a)(1)(C) in which United States students, educators, and government employees are deficient in learning and in which insubstantial numbers of United States institutions of higher education provide training; and

"(5) review the administration of the program assisted under this title.

"SEC. 806. NATIONAL SECURITY EDUCATION TRUST FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Security Education Trust Fund'. The Fund shall consist of amounts transferred to it pursuant to subsection (b) of this section and amounts credited to the Fund under subsection (d) of this section.

"(b) TRANSFER OF AMOUNTS.—

"(1) TRANSFER.—The Secretary of Defense is authorized to transfer to the Trust Fund $180,000,000 from funds appropriated for fiscal year 1992 pursuant to section 101 of the Intelligence Authorization Act, Fiscal Year 1992.

"(2) RESERVATIONS.—From the amounts transferred pursuant to paragraph (1) for fiscal year 1992, the Board shall reserve—

"(A) $15,000,000 to award scholarships pursuant to section 804(a)(1)(A);

"(B) $10,000,000 to award fellowships pursuant to section 804(a)(1)(B); and

"(C) $10,000,000 to award grants pursuant to section 804(a)(1)(C).

"(c) INVESTMENT OF FUND ASSETS.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts transferred to the Fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

"(d) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

"(e) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

"(f) OBLIGATIONS FROM THE ACCOUNT.—The Board is authorized to obligate such sums as are available in the Fund (including any amounts not obligated in previous fiscal years) for—

"(1) awarding scholarships, fellowships, and grants in accordance with the provisions of this title; and

"(2) properly allocable administrative costs of the Federal Government for the activities described in this title.

"SEC. 807. ADMINISTRATIVE PROVISIONS.

"(a) IN GENERAL.—In order to carry out this title, the Board may—

"(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule;

"(2) prescribe such regulations as the Board considers necessary governing the manner in which its functions shall be carried out;

"(3) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Board, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

"(4) accept and use the services of voluntary and noncompensated personnel;

"(5) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurrence of two-thirds of the members of the Board, without performance or other bonds and without regard to section 5 of title 41, United States Code;

"(6) rent office space in the District of Columbia; and

"(7) make other necessary expenditures.

"(b) ANNUAL REPORT.—The Board shall submit to the President and to the Congress an annual report of its operations under this title. Such report shall contain—

"(1) an analysis of the mobility of students to participate in study abroad programs;

"(2) an analysis of the trends within language, international, and area studies, along with a survey of such areas the Board determines are receiving inadequate attention;

"(3) the impact of the Board's activities on such trends; and

"(4) an evaluation of the impediments to improving such trends.

"SEC. 808. EXECUTIVE SECRETARY.

"(a) APPOINTMENT BY BOARD.—There shall be an Executive Secretary of the Board who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Board and shall carry out the functions of the Board subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this title as the Board shall prescribe.

"(b) COMPENSATION.—The Executive Secretary of the Board shall be compensated at the rate of basic pay payable for employees at level III of the Executive Schedule.

"SEC. 809. AUDITS.

"The activities of the Board under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Board pertaining to such activities and necessary to facilitate the audit.

"SEC. 810. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'Fund' means the National Security Education Trust Fund established pursuant to section 806;

"(2) the term 'Board' means the National Security Education Board established pursuant to section 805; and

"(3) the term 'institution of higher education' has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965.".

TITLE VIII—MISCELLANEOUS MATTERS

SEC. 801. TRANSPORTATION OF REMAINS OF CERTAIN NSA EMPLOYEES.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new section.

"SEC. 17. (a) The Director of the National Security Agency may pay the expenses referred to in section 5742(b) of title 5, United States Code, in the case of any employee of the National Security Agency who dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty.

"(b) For the purposes of this section, the term 'rotational tour of duty', with respect to an employee, means a permanent change of station involving the transfer of the employee from the National Security Agency headquarters to another post of duty for a fixed period established by regulation to be followed at the end of such period by a permanent change of station involving a transfer of the employee back to such headquarters.".

SEC. 802. MINOR TRANSFERS OF INTELLIGENCE APPROPRIATIONS FOR OPERATIONAL EMERGENCIES.

(a) AUTHORITY TO TRANSFER.—Title V of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 503 the following new section:

"MINOR TRANSFERS FOR OPERATIONAL EMERGENCIES

"SEC. 504. (a) In addition to any other transfer authority provided in this or any other Act, the Director of Central Intelligence may transfer funds appropriated for the Department of Defense for an intelligence agency or program within the National Foreign Intelligence Program to another such agency or program in order to respond to unforeseen foreign intelligence operational emergencies.

"(b) Funds transferred under this section shall remain available for the same purposes, and for the same period, as the appropriation to which transferred.

"(c) The total amount that may be transferred under this section in any fiscal year may not exceed $10,000,000.

"(d) Funds transferred under this section may not be used to support any covert action of the United States.

"(e)(1) A transfer may not be made under the authority of this section until the fifth day after the Director of Central Intelligence submits a report on the proposed transfer to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) The report shall include a determination by the Director of Central Intelligence that the proposed transfer is necessary to meet a foreign intelligence operational emergency. Each determination shall contain all necessary programmatic data, a full description of the emergency, and a discussion of the consequences of not responding to the emergency.

"(3) The Director of Central Intelligence may not submit a transfer report under this subsection until the Director has consulted with and obtained the concurrence of the head of each department and agency affected by the transfer.

"(f) Not later than 90 days after the date on which a transfer report is submitted pursuant to subsection (e), the Director of Central Intelligence shall report in a timely fashion to the committees referred to in that subsection regarding the results of each foreign intelligence operational emergency for which funds were transferred as described in that transfer report.".

(b) TABLE OF CONTENTS.—The table of contents at the end of the first section of such Act is amended by inserting the following after the item relating to section 503:

"Sec. 504. Minor transfers for operational emergencies.".

SEC. 803. CLARIFICATION OF EXCEPTION FOR CERTAIN NATIONAL SECURITY INFORMATION FROM CERCLA DISCLOSURE REQUIREMENTS.

Section 120(j)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(j)(2)) is amended—

(1) by striking out "Atomic Energy Act and" and inserting in lieu thereof "Atomic Energy Act,";

(2) by inserting after "information," the following: "and all statutes or Executive orders that authorize the protection of specified types of unclassified information from disclosure,"; and

(3) by striking out "classified information" and inserting in lieu thereof "such information".

The PRESIDING OFFICER. The Senator from Oklahoma, the chairman of the committee.

Mr. BOREN. Madam President, the unanimous-consent request, which I just propounded a few moments ago and which was agreed to, had been previously cleared by the leadership on the other side of the aisle.

Madam President, it is an honor for me to present to the Senate today the intelligence authorization bill for fiscal year 1992. This is the 15th consecutive year, dating back to the creation of the Select Committee on Intelligence in 1976, where the Senate will have considered a separate authorization bill for U.S. intelligence activities.

I might add it has been my pleasure now to have presented at least five of these authorization bills.

Joining me in offering this bill is the distinguished Senator from Alaska, the vice chairman of the committee, Senator MURKOWSKI. This is his first year as vice chairman, and I want to express to him my appreciation for the cooperative spirit that he has brought to our work together on the committee.

In many ways, this has been a momentous year for both of us.

The committee began the year with intensive review of organizational arrangements for the intelligence community, looking toward possible legislation on this subject later in this Congress. Indeed, the events that have taken place in the Soviet Union just since August have provided an even greater impetus for the review that we are already undertaking.

This summer, we enacted a comprehensive overhaul of the statutory framework for congressional oversight of covert actions, which addressed the key weaknesses in the current system revealed in the Iran-Contra affair some 5 years before. After literally years of negotiations, with the administration, with the executive branch, with two Presidents, we were finally able to arrive at a compromise, which I believe respects the institutional prerogatives of both the legislative and executive branches of Government.

It is good for this country that we were able to place those reforms, those lessons learned from the Iran-Contra affair into the statutory law of the United States so that they will be binding not only on this administration, but future administrations and Congresses as well.

Of course, we have only recently completed a series of hearings on the nomination of Robert Gates, to be Director of Central Intelligence, which are unprecedented really in the history of the committee. Never before have the American people had such a glimpse into the internal workings of the Central Intelligence Agency. While they have seen the tensions and the frustrations that exist within that community, they have been able to also see what the CIA contributes to the security of this country. I think these hearings may have done more to educate the American people about the role that the CIA has played and can continue to play than anything ever before made a matter of public record, and we are proud of that hearing record. As members or our committee, we are proud of the thoroughness and the fairness with which we attempted to proceed.

It is a timely point in evolution of the CIA that this should have been done. With the dramatic events unfold-

ing in the Soviet Union and Eastern Europe, the future role and the utility of the CIA is being called into question. The resources previously allocated to intelligence are being challenged not only by those on the outside but those on the inside as well, including the oversight committees of Congress. Indeed, the committee has recommended in this year's authorization bill a substantial cut in terms of the administration's request originally made to us.

Because of the sensitivity of the matters dealt with by the bill, we cannot, unfortunately, discuss in detail the nature of the specific reductions we are recommending. However, the committee's recommendations are set forth in a classified supplement to the committee's report on the bill, which has been available to all Members of the Senate since July 24, under the provisions of Senate Resolution 400.

But if cuts are in order, certainly the events of the past year have tempered our rush to slash away at budgets too precipitously without thinking where we are headed and without thinking through the ultimate framework that should be established. We must be prepared to anticipate events like the invasion of Kuwait, and we must have the intelligence capabilities needed to support military commanders in the field, wherever they might be deployed around the world.

The world of the 1990's is a hopeful, but uncertain place. Will the reforms in the Soviet Union succeed? What will be their implications for the United States? How will they effect other countries such as China, Cuba, or North Korea and others? Will we be able to detect and control threats to our security: nuclear, chemical and biological weapons, and the missile technology needed to deliver them? Can we detect and counter terrorist acts or narcotics trafficking?

The United States must be prepared to deal with these problems, to cope as best we can, with events around the world. While U.S. intelligence does not and cannot provide all of the answers, it does provide a capability, a resource, that the United States must preserve if we are to maintain our place of leadership in the world.

With that, Madam President, let me turn to the bill itself.

As we do annually, the committee has conducted a detailed, thorough review of the administration's budget request for the National Foreign Intelligence Program for fiscal year 1992, as well as a review of the tactical intelligence and related activities of the Department of Defense for the same period. This entailed document reviews, staff visits and briefings, and a series of formal hearings with witnesses from the intelligence community, as well as policy officials from the Departments of Defense and State. It also included an intensive look at the performance of intelligence agencies at both the national and tactical levels during Desert Shield/Desert Storm.

On the basis of this comprehensive review, we have arrived at our recommendations to the Senate, the budgetary portions of which, are, as I previously mentioned, contained in the classified annex of the committee's report. With respect to the public portions of the bill:

Title I authorizes the funds for the intelligence activities of the U.S. Government, incorporating by reference the classified schedule of authorizations. This title also contains two sections dealing with the public disclosure of certain information relating to the intelligence budget.

Section 104 provides that the President's annual budget submission to the Congress must include a separate, unclassified statement of the aggregate expenditures for the previous fiscal year, and the aggregate amount of funds requested for the fiscal year for which the budget is submitted, for intelligence and intelligence-related activities. Put another way, this section would require the President to disclose the total amount spent the previous year, and the total amount being requested for the next fiscal year, for both the National Foreign Intelligence Program and for DOD tactical and related intelligence activities.

This would mark the first time that this information would be put forward in a public forum and shared with the American people.

Section 105 is a companion to section 104. It would require any bill reported by a committee of Congress which authorizes funds to be appropriated for intelligence and intelligence-related activities to contain an unclassified statement of the aggregate amount authorized to be appropriated. It was intended that the annual intelligence authorization bill be the only bill that would meet the criteria of this section. Moreover, if enacted as written, this section would require such a disclosure in the next intelligence authorization bill, the intelligence authorization for fiscal year 1993.

So this would be prospective in its application. It would be 1 year before this particular provision, if enacted into law, takes affect.

Title II of the bill authorizes appropriations for the intelligence community staff for fiscal year 1992 in the amount of $28,832,000 and provides that $6,566,000 of this amount shall be allocated to the security evaluation office at CIA. This title also authorizes 240 full-time personnel for the intelligence community staff.

Title III of the bill authorizes appropriations for the CIA retirement and disability fund in the amount of $164,100,000 for fiscal year 1992, and contains a number of provisions pertaining to the CIA retirement and disability programs. Most of these provisions are technical in nature, conforming to changes in other federal retirement programs or to clarify elements within existing provisions. I highlight only section 310 which drops the requirement contained in existing law that in order for a former spouse of a CIA employee to qualify for a portion of the employee's retirement benefits, the divorced spouse must have been married to the employee for 10 years, 5 of which were spent outside the United States. As revised by section 10, the divorced spouse must have been married to the employee for 10 years, but only the employee must have served 5 years outside the United States. This change conforms to similar provisions in the Foreign Service Retirement System Act.

Title IV authorizes increases in personnel benefits where such increases have otherwise been authorized by law.

Title V provides that the Director of the FBI will undertake a study with respect to the establishment of an undergraduate training program to meet critical needs of the FBI, similar to other programs in effect at CIA, NSA, and DIA.

Title VI provides that the statutory inspector general at the CIA will be compensated at the same level as inspector generals at other departments and agencies of the Government.

The last title of the bill, title VII, amends the National Security Act of 1947 to create a new National Security Education Program.

I want to pause on this one, Madam President, and give my colleagues some additional background.

Several weeks ago, on September 26, 1991, I offered an amendment to the Defense appropriations bill to provide funding for a program that I do want to mention specifically, and that is a program to create a national security education program. it passed the Senate on a voice vote. The language in the intelligence authorization bill would specifically authorize the funds which have already been appropriated under the Department of Defense authorization bill. While I will later offer an amendment to conform the wording in the intelligence authorization bill to that contained in the amendment to the Defense bill, the basic thrust of these provisions remains, for the most part, unchanged.

I will not repeat today all of the justification I provided at the time my amendment was offered to the Defense bill. If any of my colleagues wish to refer to it, it can be found at pages 24301-24302 of the CONGRESSIONAL RECORD of September 26, 1991.

Suffice it to say, this title of the bill would specifically authorize the use of $180 million of the intelligence budget to create an international education trust fund to help the United States and its national security agencies meet

the challenges of the postcold war period.

It provides funding for graduate fellowships and grants to universities for foreign language studies and area studies programs. It also provides undergraduate scholarships for study abroad, programs in countries that are now under-represented in terms of American studies at this time.

It is tragic indeed that while we have 386,000 foreign college undergraduate students studying in the United States, coming here to learn about our language, to learn about our culture, to learn about our economic system and our markets, that we have only about 50,000 American students studying in the rest of the world, and most of those are concentrated in only three countries.

It is a sad thing that we are about the only leading country in the world that provides no Government help to allow our students to gain the skills they need by studying abroad, learning other languages and other cultures firsthand. Only those from affluent families or those that receive special kinds of scholarship help from nongovernmental sources are able to have that opportunity to study abroad today, Madam President. It is time that the United States filled that gap and provided that opportunity for all of our young people, so that we can begin to build the kinds of international skills that are going to be so necessary in a world environment in which we are getting ready to move in the next century.

So this bill would do that. After the launching of Sputnik, we had the National Defense Education Act. We all remember the good that it did to prepare our country in the fields of math and science and many other fields. Many talented people who later came into Government services were educated through the aid provided by the National Defense Education Act.

We again face a new world, a new challenge, a new situation, that is going to demand that the next generation of Americans speak the languages of the world, understand how people think, understand their cultures, are able to relate to them. We cannot begin to compete in the world's markets, for example, if we do not speak the world's languages.

Gone is the time in which we could sit back, smug in our knowledge that others would have to come to us, learn our language, and learn about our culture without us having to bother ourselves to know about them. The private sector, the Government itself, in sensitive agencies like the Defense Department, the State Department, the Central Intelligence Agency, is having a harder and harder time finding those people with the skills and the education and the training necessary in these particular areas.

So it is time, as we passed the National Defense Education Act in an earlier period, to now pass the National Education Security Act, as we propose in this particular piece of legislation.

It is the first major national security education initiative undertaken in this country since the passage of the National Defense Education Act, and it is included in this bill.

It will provide out of the trust fund in the first year $35 million in fiscal year 1992. That will be broken down as follows: $15 million for study abroad for undergraduate students; $10 million for grants to colleges and universities to strengthen and improve their courses of study and curriculum in foreign languages, area studies and international studies; and $10 million for graduate fellowships.

A board of trustees is established by the bill to advise the Secretary of Defense with respect to the administration of the trust fund, and to develop specific criteria and guidelines for the distribution of grants, fellowships, and scholarships. The Secretary of Defense or his designee will chair the board, which will also include the Secretaries of State, Education, and Commerce, and the Director of Central Intelligence, and the Director of the U.S. Information Agency, or their respective designees. The program would be administered through the defense intelligence college.

Madam President, at the committee's recent hearing on the Gates nomination, I had the opportunity to ask a number of our witnesses for their opinion of this proposed program.

The PRESIDING OFFICER. The Senator has spoken for 15 minutes.

Mr. BOREN. Madam President, I ask unanimous consent I might be able to complete my remarks without it counting against the time to run on the bill.

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

Mr. BOREN. These included not only the nominee himself, but also Adm. Bobby Inman, the former Deputy DCI and Director of the National Security Agency, and Richard Kerr, now currently serving as Acting Director of Central Intelligence. All testified that it would meet a clear need of the intelligence community, a need that was likely to grow in the future.

It is my hope that with the significant degree of cooperation we have had to date in developing this proposal and bringing it to fruition in the Senate—particularly from the Committee on Armed Services and the Committee on Appropriations—we will be able to reach agreement in conference to make this program a reality. I am convinced that in the long run, it will make a difference, in terms of both the quality and quantity of those who serve the Government in the area of national security.

So, Madam President, I urge my colleagues to act favorably on the legislation which we present with great pride, a product of the bipartisan work of all of the members of our committee and staff.

I will conclude my remarks and yield the floor to the vice chairman for his opening remarks, the distinguished Senator from Alaska [Mr. MURKOWSKI]. But before I yield the floor, I ask unanimous consent that a letter from the Congressional Budget Office on cost estimates for S. 1539 be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 12, 1991.

Hon. DAVID L. BOREN,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate of S. 1539 except for Titles I and IV, the Intelligence Authorization Act for Fiscal Year 1992, as reported by the Senate Select Committee on Intelligence on July 24, 1991.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. Should the Committee so desire, we would be pleased to provide additional information on the estimate.

Sincerely,

ROBERT D. REISCHAUER.

COST ESTIMATE

1. Bill number: S. 1539 (Except for Titles I and IV).

2. Bill title: Intelligence Authorization Act for Fiscal Year 1992.

3. Bill status: As reported by the Senate Select Committee on Intelligence on July 24, 1991.

4. Bill purpose: To authorize appropriations for fiscal year 1992 for the intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

5. Estimated cost to the Federal Government of S. 1539 except for titles I and IV:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
Direct spending:					
Estimated budget authority	–(1)	–(1)	–(1)	–(1)	–(1)
Estimated outlays	–(1)	–(1)	–(1)	–(1)	–(1)

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
Amount subject to appropriations:					
Stated Authorizations:					
Authorization level	193	0	0	0	0
Estimated outlays	183	8	1	*	0
National Security scholarship fund:					
Estimated authorizations	9	12	10	7	5
Estimated outlays	−107	6	34	37	41
Total:					
Estimated budget authority authorizations	202	12	10	7	5
Estimated outlays	77	13	35	37	41

[1] Less than $500,000.

BASIS FOR ESTIMATE

The CBO was unable to obtain the necessary information to estimate the costs for Titles I and IV of this bill because of the classified nature of the material. The estimated costs in the table above, therefore, reflect only the costs of Titles II, III, and V through VII of the bill. The information about the budget functions in which some of these costs would fall also is classified. Therefore, a functional distribution of these costs has been excluded from this estimate.

Direct Spending

Title III contains several provisions that could directly change federal spending by altering entitlement of federal government employees or their survivors. Most of these provisions would not increase the spending of the federal government because they either put into law current practices of the Central Intelligence Agency (CIA), or distribute current retirement payments between divorced spouses. Two sections would bring about savings to the federal government. Section 302 would reduce the survivor benefits paid to children of deceased participants in the CIA Retirement and Disability System (CIARDS) if they have another surviving parent. Under current law these children are paid as if both parents are deceased. This provision is expected to save approximately $700 per year per child; total savings would not exceed $10,000 in any year of the estimate period.

Section 305 would remove the requirement that the CIA pay the full cost for disability exams at the retirement of a CIARDS employee. If enacted, some portion of the costs of these exams could be paid by the employees' health insurance providers. The CIA estimates that savings associated with this provision would not be significant.

Title VII of the bill contains the National Security Education Act of 1991, which would establish a National Security Education Board to oversee a program of scholarship, fellowship and grant awards for foreign language studies. The administrative provisions of the Act would allow the Board to accept gifts and to use or sell these gifts to carry out its functions. This would grant direct spending authority for the Board, though the CBO estimates that the net outlay effect would be zero since over time the spending cannot exceed the receipts.

The administrative provisions in Title VII also would provide the Board with the authority to enter into contracts to carry out the provisions of the title. This is similar to the authority regularly granted to new agencies, commissions, and boards as part of their administrative provisions. These new entities normally do not use this contract authority to enter into obligations in advance of receiving appropriations, thus the CBO does not expect this to increase outlays.

Amounts Subject to Appropriations

This estimate assumes that funds will be appropriated for the full amount of the authorization and that all resources will be available for obligation by October 1, 1991. Outlays are estimated based on historical outlays rates.

Titles II and III of the bill state fiscal year 1992 authorizations for appropriations for the Intelligence Community Staff of $28.8 million and for the required contribution to the Central Intelligence Agency Retirement and Disability Fund of $164.1 million.

The National Security Education Act in Title VII would create a National Security Education Trust Fund and would authorize the transfer of $180 million from intelligence activities funding for fiscal year 1992 to the fund. The amounts in this fund are to be invested in Treasury securities and the balances would be available for scholarships, fellowships and grants for foreign language studies, and for the administrative expenses of the fund. The fund is to disburse $35 million in fiscal year 1992 for the foreign language studies. In the future, these scholarships, fellowships and grants are to be adjusted for inflation. This estimate assumes inflation rates and interest rates that are consistent with rates in the CBO summer baseline, and that the timing of interest payments would be the same as that for similar trust funds. The net change to federal outlays from this transfer were calculated as the difference between spending for intelligence activities (using the outlay rate for operations and maintenance for the Defense Department) and spending from the fund.

6. Pay-as-you-go-considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. The direct spending costs of this bill for provisions that are known to CBO and that are subject to the pay-as-you-go procedures are shown in the following table. CBO was unable to obtain the necessary information to review the full text of the bill and the reports accompanying it because they are classified at a level above the clearances now held by CBO employees. Consequently, CBO does not know if the bill contains additional provisions with pay-as-you-go implications.

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Change in outlays	*	*	*	*
Change in receipts	.....	[1]	.....	.....

[1] Not applicable.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO cost estimate: None.

10. Estimate prepared by: Barbara Hollinshead (226-2840) Kent Christensen (226-2840).

11. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Mr. BOREN. Madam President, I now ask unanimous consent the distinguished vice chairman be recognized following a brief motion that I will make on another matter, and that whatever time is used by the vice chairman for his opening remarks not be counted against the time to run on the bill.

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

Mr. BOREN. Madam President, this bill was reported last July 24 as an original bill by the Select Committee on Intelligence. It was subsequently referred to the Committee on Armed Services for a period of 30 days for matters within the jurisdiction of that committee.

The Committee on Armed Services reported out this bill on October 3, 1991, Senate Report No. 102-172, with several amendments.

It is my understanding that all of these amendments are acceptable to both sides of the aisle, and I therefore ask unanimous consent that they be considered en bloc.

The first of these amends section 105 of the bill which provides that any bill reported by a conference committee which authorizes funds to be appropriated for intelligence and intelligence-related activities of the United States shall contain an unclassified statement of the aggregate amount of the funds to be appropriated. The Armed Services amendment inserts the word "all" before "intelligence and intelligence-related activities," making it clear that only the annual intelligence authorization bill is subject to the disclosure requirement contained in section 105. This is agreeable to us.

The second amendment also relates to the disclosure of the aggregate number for the intelligence and intelligence-related budget, and would delay the effective date of the disclosure requirements until the enactment of next year's intelligence authorization. Thus, it would delay the effective date of the budget disclosure provisions for approximately a year. This amendment is also agreeable to the committee.

Finally, the Armed Services Committee added three new provisions to the bill.

The first, found in section 801, would provide authority for the Director of the National Security Agency to pay the costs of transporting the remains of employees who had died while on ro-

tational assignment within the United States to their home for burial.

The second, set forth in section 802, would permit the Director of Central Intelligence to transfer funds between accounts in the National Foreign Intelligence Program to meet operational emergencies. Such transfers would be permitted, however, only for amounts less than $10 million, and only where prior notice had been provided the relevant congressional committees, and where the head of the department or agency concerned had provided concurrence to the transfer.

The third provision, set forth in section 803 of the amended bill, would amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide that where unclassified information is protected from public disclosure by law or Executive order, that any such information furnished under the act will be handled in accordance with such laws or Executive orders.

Madam President, it is my understanding that these amendments are acceptable to both sides of the aisle.

I therefore ask unanimous consent that the amendments reported by the Committee on Armed Services be agreed to en bloc.

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

The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

AMENDMENT NO. 1256

(Purpose: To require the establishment of a national security scholarships, fellowships, and grants program)

Mr. BOREN. Madam President, I now send to the desk an amendment in the nature of a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to considering the amendment? Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 1256.

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

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

The amendment is as follows:

Title VII of S. 1539 is amended by striking section 701 in its entirety and inserting in lieu thereof the following:

SEC. 701. (a) The Congress finds that—

(1) the security of the United States is and will continue to depend on the ability of the United States to exercise international leadership;

(2) United States leadership is and will increasingly be based on the political and economic strength of the United States, as well as United States military strength around the world;

(3) recent changes in the world pose threats of a new kind to international stability as Cold War tensions continue to decline while economic competition, regional conflicts, terrorist activities, and weapon proliferations have dramatically increased;

(4) the future national security and economic well-being of the United States will substantially depend on the ability of its citizens to communicate and compete by knowing the languages and cultures of other countries;

(5) the Federal Government has a vested interest in ensuring that the employees of its national security agencies are prepared to meet the challenges of this changing international environment;

(6) the Federal Government also has a vested interest in taking actions to alleviate the problem of American undergraduate and graduate students being inadequately prepared to meet the challenges posed by increasing global interaction among nations; and

(7) American colleges and universities must place a new emphasis on improving the teaching of foreign languages, area studies, and other international fields to help meet such challenges.

(b) The purposes of this section are as follows:

(1) To provide the necessary resources, accountability, and flexibility to meet the national security education needs of the United States, especially as such needs change over time.

(2) To increase the quantity, diversity, and quality of the teaching and learning of subjects in the fields of foreign languages, area studies, and other international fields that are critical to the Nation's interest.

(3) To produce an increased pool of applicants for work in the national security agencies of the United States Government.

(4) To expand, in conjunction with other Federal programs, the international experience, knowledge base, and perspectives on which the United States citizenry, Government employees, and leaders rely.

(5) To permit the Federal Government to advocate the cause of international education.

(c)(1) The National Security Act of 1947 (47 U.S.C. 401 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

"SEC. 801. SHORT TITLE.

"This title may be cited as the 'National Security Education Act of 1991'.

"SEC. 802. PROGRAM REQUIRED.

"(a) PROGRAM REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense; in consultation with the National Security Education Board established by section 803, shall carry out a program for—

"(A) awarding scholarships to undergraduate students who are United States citizens or resident aliens in order to enable such students to study, for at least 1 semester, in foreign countries;

"(B) awarding fellowships to graduate students who—

"(i) are United States citizens or resident aliens to enable such students to pursue education in the United States in the disciplines of foreign languages, area studies, and other international fields that are critical areas of such disciplines; and

"(ii) pursuant to subsection (c)(1), enter into an agreement to work for the Federal Government or in the field of education in the area of study for which the fellowship was awarded; and

"(C) awarding grants to institutions of higher education to enable such institutions to establish, operate, and improve programs in foreign languages, area studies, and other international fields that are critical areas of such disciplines.

"(2) RESERVATIONS.—The Secretary shall have a goal of reserving for each fiscal year—

"(A) for the awarding of scholarships pursuant to paragraph (1)(A), ⅓ of the amount available for obligation out of the National Security Education Trust Fund for such fiscal year;

"(B) ⅓ of such amount for the awarding of fellowships pursuant to paragraph (1)(B); and

"(C) ⅓ of such amount to provide for the awarding of grants pursuant to paragraph (1)(C).

"(b) CONTRACT AUTHORITY.—The Secretary may enter into one or more contracts, with private national organizations having an expertise in foreign languages, area studies, and other international fields, for the awarding of the scholarships, fellowships, and grants described in subsection (a) in accordance with the provisions of this title. The Secretary may enter into such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law that requires the use of competitive procedures.

"(c) SERVICE AGREEMENT.—In awarding a fellowship under the program, the Secretary or contract organization referred to in subsection (b), as the case may be, shall require the recipient of the fellowship to enter into an agreement that contains the assurances of such recipient that the recipient—

"(1) will maintain satisfactory academic progress; and

"(2) upon completion of such recipient's education, will work for the Federal Government or in the field of education in the area of study for which the fellowship was awarded for a period specified by the Secretary, which period shall be equal to not less than one and not more than three times the period for which the fellowship assistance was provided.

"(d) DISTRIBUTION OF ASSISTANCE.—In selecting the recipients for awards of scholarships, fellowships, or grants pursuant to this title, the Secretary or a contract organization referred to in subsection (b), as the case may be, shall take into consideration the extent to which the selections will result in there being an equitable geographic distribution of such scholarships, fellowships, or grants (as the case may be) among the various regions of the United States.

"(e) MERIT REVIEW.—A merit review process shall be used in awarding scholarships, fellowships, or grants under the program.

"(f) INFLATION.—The amounts of scholarships, fellowships, and grants awarded under the program shall be adjusted for inflation annually.

"(g) ADMINISTRATION OF PROGRAM THROUGH THE DEFENSE INTELLIGENCE COLLEGE.—The Secretary shall administer the program through the Defense Intelligence College.

"SEC. 803. NATIONAL SECURITY EDUCATION BOARD.

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a National Security Education Board.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Board shall be composed of the following individuals or the representatives of such individuals:

"(A) The Secretary of Defense, who shall serve as the chairman of the Board.

"(B) The Secretary of Education.

"(C) The Secretary of State.

"(D) The Secretary of Commerce.

"(E) The Director of Central Intelligence.

"(F) The Director of the United States Information Agency.

"(G) Four individuals appointed by the President, by and with the advice and consent of the Senate, who have expertise in the fields of international, language, and area studies education.

"(2) TERM OF APPOINTEES.—Each individual appointed to the Board pursuant to paragraph (1)(G) shall be appointed for a period specified by the President at the time of the appointment but not to exceed 4 years. Such individuals shall receive no compensation for service on the Board but may receive reimbursement for travel and other necessary expenses.

"(c) FUNCTIONS.—The Board shall—

"(1) develop criteria for awarding scholarships, fellowships, and grants under this title;

"(2) provide for wide dissemination of information regarding the activities assisted under this title;

"(3) establish qualifications for students and institutions of higher education desiring scholarships, fellowships, and grants under this title;

"(4) make recommendations to the Secretary regarding which countries are not emphasized in other United States study abroad programs, such as countries in which few United States students are studying, and are, therefore, critical countries for the purposes of section 802(a)(1)(A);

"(5) make recommendations to the Secretary regarding which areas within the disciplines described in section 802(a)(1)(B) are areas of study in which United States students are deficient in learning and are, therefore, critical areas within such disciplines for the purposes of such section;

"(6) make recommendations to the Secretary regarding which areas within the disciplines described in section 802(a)(1)(C) are areas in which United States students, educators, and Government employees are deficient in learning and in which insubstantial numbers of United States institutions of higher education provide training and are, therefore, critical areas within such disciplines for the purposes of such section; and

"(7) review the administration of the program required under this title.

"SEC. 804. NATIONAL SECURITY EDUCATION TRUST FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Security Education Trust Fund'.

"(b) AVAILABILITY OF SUMS IN THE FUND.—(1) To the extent provided in appropriations Acts, sums in the Fund shall be available for—

"(A) awarding scholarships, fellowships, and grants in accordance with the provisions of this title; and

"(B) properly allocable administrative costs of the Federal Government for the program under this title.

"(2) Any unobligated balance in the Fund at the end of a fiscal year shall remain in the Fund and may be appropriated for subsequent fiscal years.

"(c) INVESTMENT OF FUND ASSETS.—The Secretary of the Treasury shall invest in full the amount in the Fund that is not immediately necessary for obligation. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

"(d) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

"(e) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

"SEC. 805. ADMINISTRATIVE PROVISIONS.

"(a) IN GENERAL.—In order to conduct the program required by this title, the Secretary may—

"(1) prescribe regulations to carry out the program;

"(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purpose of conducting the program required by this title, and to use, sell, or otherwise dispose of such property for that purpose;

"(3) accept and use the services of voluntary and noncompensated personnel; and

"(4) make other necessary expenditures.

"(b) ANNUAL REPORT.—The Secretary shall submit to the President and to the Congress an annual report of the conduct of the program required by this title. The report shall contain—

"(1) an analysis of the mobility of students to participate in programs of study in foreign countries;

"(2) an analysis of the trends within language, international, and area studies, along with a survey of such areas as the Secretary determines are receiving inadequate attention;

"(3) the impact of the program activities on such trends; and

"(4) an evaluation of the impediments to improving such trends.

"SEC. 806. AUDITS.

"The conduct of the program required by this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property of the Department of Defense pertaining to such activities and necessary to facilitate the audit.

"SEC. 807. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'Board' means the National Security Education Board established pursuant to section 803;

"(2) the term 'Fund' means the National Security Education Trust Fund established pursuant to section 804; and

"(3) the term 'institution of higher education' has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965.".

(2) The table of contents for such Act is amended by inserting at the end the following:

"TITLE VIII—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

"Sec. 801. Short title.
"Sec. 802. Program required.
"Sec. 803. National Security Education Board.
"Sec. 804. National Security Education Trust Fund.
"Sec. 805. Administrative provisions.
"Sec. 806. Audits.
"Sec. 807. Definitions.".

(d) Of the amounts made available in the National Security Education Trust Fund for fiscal year 1992 for the scholarships, fellowships, and grants program provided for in title VIII of the National Security Act of 1947, as added by subsection (c), the Secretary shall reserve—

(1) $15,000,000 for awarding scholarships pursuant to section 802(a)(1)(A) of such Act;

(2) $10,000,000 for awarding fellowships pursuant to section 802(a)(1)(B) of such Act; and

(3) $10,000,000 for awarding grants pursuant to section 802(a)(1)(C) of such Act.

Mr. BOREN. Madam President, this amendment amends title VII of the bill by substituting the language that was passed by the Senate on September 26, 1991, as an amendment to the Defense appropriations bill. As my colleagues will recall, this amendment established a national security education fund to provide for scholarships, fellowships, and grants to educational institutions to encourage and develop scholarship in language studies, foreign area studies, and international studies.

As I explained in my opening statement and when this amendment was considered as part of the debate on the Defense appropriations bill, I believe there is a critical need for this type of educational assistance program in the national security area.

The purpose of this amendment is simply to conform the language in the intelligence bill with the language which has already passed the Senate in the Defense bill. The basic purposes and framework of the proposal remain the same.

We have also been advised by the Office of Management and Budget that if this legislation is enacted, the appropriation would be scored within the 0-50 account, consistent with the budget agreement.

I, therefore, urge the adoption of this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1256) was agreed to.

Mr. BOREN. Madam President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Madam President, I move to reconsider the amendments adopted en bloc as part of the conforming amendments earlier to the Armed Services Committee.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1257

(Purpose: To provide for the consolidation of certain airborne reconnaissance programs within the General Defense Intelligence Program)

Mr. BOREN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to considering the amendment? Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 1257.

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

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

The amendment is as follows:

Add at the appropriate place in the bill the following new subsection:

( ) The Secretary of Defense shall take appropriate action to ensure that included within the budget submitted to Congress for the General Defense Intelligence Program for fiscal year 1993, and for every fiscal year thereafter, shall be the amounts requested to be authorized and appropriated for the (1) the TR-1 airborne reconnaissance platform and related sensor programs; and (2) the Airborne Reconnaissance Support Program. The Secretary of Defense is further directed to consolidate management during fiscal year 1992 of the TR-1, U-2, and Airborne Reconnaissance Support Programs within the General Defense Intelligence Program.

Mr. BOREN. Madam President, this year, in their reports on the Department of Defense authorization and appropriations bills, both the Senate Armed Services Committee and the Senate Appropriations Committee recommended the transfer of funds for the TR-1 airborne reconnaissance platform and related sensor programs from the Tactical Intelligence and Related Activities Program [TIARA] to the General Defense Intelligence Program [GDIP]. The committees further directed the consolidation of the TR-1 and U-2 programs within the GDIP, and recommended that advanced sensor, data-link and ground station resources from another TIARA program—the Airborne Reconnaissance Support Program—also be transferred and managed as part of a consolidated U-2/TR-1 program.

The Select Committee on Intelligence endorses these recommendations. Indeed, the committee had previously recommended this course of action to the Senate Armed Services Committee as part of our independent review of the fiscal year 1992 TIARA request, both to improve program management and achieve savings in a period of declining defense resources. Because the Intelligence Committee does not have jurisdiction over TIARA, however, we could not direct the transfer of the appropriate funds to the GDIP in our own authorization bill without the agreement of the Armed Services Committee.

As I have indicated, that agreement, as well as the agreement of the Senate Appropriations Committee, is now a matter of record. Accordingly, the committee now wishes to offer an amendment to the fiscal year 1992 Intelligence authorization bill to mirror the actions already taken by the Senate Armed Services and Appropriations Committees in their reports on the Defense authorization and appropriation bills, respectively.

Madam President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 1257) was agreed to.

Mr. BOREN. Madam President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Madam President, this concludes the opening comments that I have to make and also the housekeeping business that it is necessary for us to undertake.

I have been joined on the floor by my distinguished colleague, the vice chairman of the committee, the Senator from Alaska. As I have indicated, it is my privilege to work with him. We have carried forward a tradition in this year that was begun by Senator COHEN and myself, when we served together in previous years, of a bipartisan approach to the sensitive issues we must face on the Intelligence Committee, a common commitment to be truly trustees for the rest of the Senate and the American people in overseeing these very sensitive activities.

I again want to express my appreciation to him for the spirit that he has brought to this process, for the bipartisan spirit with which he has approached these challenges, for his diligence in trying to ensure that the oversight which our committee provides will be as thorough as possible and as efficient and effective as possible for the American people. I, again, want to express my appreciation to him. We have already obtained unanimous consent that his opening remarks not count against the time on the bill.

I happily yield the floor at this time so that the vice chairman can make his opening remarks.

The PRESIDING OFFICER. The Senator from Alaska, the vice chairman of the committee.

Mr. MURKOWSKI. Madam President, if I may just for a moment embellish the extraordinary relationship that exists with the chairman and, as a consequence of this relationship, I think that we have worked together in a manner that I think reflects professionalism on behalf of an extraordinary staff on both sides and have been able to fashion harmoniously, for the most part, an agenda that represents a consensus of the committee. As we look forward to the increasing responsibility associated with this oversight by the Intelligence Committee and look to new challenges ahead, I think we both agree that the efforts to achieve accountability within the agencies is something that both the chairman and I are dedicated to achieve in a greater degree, as well as the staff.

So I am very pleased to join with the distinguished chairman of the Select Committee on Intelligence and the other Members on our side as a cosponsor of the fiscal year 1992 intelligence authorization bill.

As we all know, Madam President, the world has changed more dramatically in the last year than any time probably since the Second World War. Nowhere are the effects and challenges of these changes felt more acutely than within the intelligence agencies. We have seen that in the hearings held in the committee for Mr. Gates.

Almost overnight, the great adversary against which we built the CIA and other components of the intelligence community seems to have disappeared. Threats to our national security that were acute just 2 or 3 years ago have now faded to the point where they might be considered invisible. As a result, questions that were unthinkable a short time ago are now asked seriously, including whether or not we even need a Central Intelligence Agency any more in this Nation.

Madam President, I and my colleagues on the committee will not hesitate to answer: Of course, we need the continuity, the commitment, and the capabilities of the Central Intelligence Agency to serve this country.

The world remains a very dangerous place, as our recent military involvement in Iraq makes clear. The threat from the Third World countries is a very real one and the world is aware of it. New perils are emerging as the alarming revelations about the Iraq nuclear program indicate. Each day we are hearing more and more about what their capability was at a crucial time of that conflict. Whether the challenge is the proliferation of weapons of mass destruction or terrorism or economic competitiveness or monitoring of arms

control, information, accurate information, is vital. We cannot act to forestall dangers we are unaware of or do not understand.

The criticism has been laid to the agency from time to time about the adequacy of information. But as the chairman and I, and members and staff of the Intelligence Committee are well aware of, if you begin to disclose the extent of your information, you also begin to disclose the sources, and if you disclose the sources, why, more often than not, it is quite likely that you can lose those sources, or even a worse set of circumstances.

Having said this, I think it is also clear that ways will have to be found to conduct the Nation's intelligence business at less cost. Basically, Madam President, we should be able to get better intelligence for less money through the process of consolidation, and I think this is a pledge that has been made in the hearings that we have had so far by the President's nominee, Dr. Gates.

The bill before this body has made major cuts in the budget request of the President. The committee made some very, very hard choices and some of the cuts will clearly hurt, but the committee, I think, did a responsible job in a time of increasing budget constraints.

I think it important to point out that we had a discussion on the floor with the Armed Services Committee. I, as one, regret, and I regret deeply, that the committee was unsuccessful in persuading the Armed Services Committee to pass on all of the savings directly to the Treasury, and these were savings that were made within the committee. I think it is a matter that we are going to have to revisit next year with the Armed Services Committee in a more diligent and forceful manner because it is appropriate that if these savings are made by the committee, they be passed on for the benefit of the bottom line and not necessarily incorporated in some aspects of the budget in the Armed Services Committee.

Further, Madam President, in addition to budget cuts, the new environment requires us to reexamine the whole structure of the intelligence community, look for opportunities to reorganize and streamline these agencies. The staff of the Intelligence Committee has already undertaken a major effort to identify the available options.

Chairman BOREN and myself have conducted lengthy conversations with Senator NUNN and Senator WARNER, and because of the complexity of the issue and the time that was unavoidably lost in the dealing of the confirmation of the new DCI, we have agreed, somewhat reluctantly, certainly on my part, to defer most of the reorganization initiatives to the fiscal year 1993 authorization bill. My feeling is the longer we put things off, the less likely we are to complete them with diligence. But my staff assures me otherwise. So I am going to hold my staff to that. I trust that the chairman will, as well.

It is also important that the committee hear from the new DCI before it acts, and we hope to have that opportunity in the not-too-distant future, assuming that we can wind up our confirmation process in an expeditious manner, not follow the most recent pattern we have seen here in this body. But let me emphasize that we have already done much of the spadework needed for the initiatives with regard to increasing the efficiency of the agency.

The bill before us contains many, many provisions, some of which will be discussed at great length on the floor this afternoon. We anticipate a number of amendments with regard to the increased number of confirmations that should be made within the agency. It is my understanding that there was some talk of an FBI amendment being offered relative to the Thomas case concerning leaks. It is my understanding that has been dropped and will be pursued on other legislation at a more appropriate time.

Clearly, it is an obligation of the committee to address matters of intelligence, and the FBI is certainly under our oversight. But as we reflect on the significance of the charge of those leaks, why, I think it references a responsibility that we all have, particularly on the Intelligence Committee, to have the assurance from our staffs that leaks will not occur and we certainly should be setting an example for all committees. Of course, there is absolutely no excuse for leaks of any kind.

So I think the point is well taken. But clearly it is going to get more attention by this body as a consequence of what happened with the Thomas and the Professor Hill incident.

Madam President, the bill before us, as I have said, contains many of the provisions that I think are important, and I know the chairman believes they are important. The chairman already spoke of the educational program which is designed to put significant resources into international education to better prepare our population, as he indicated, to cope with the kind of changes that are occurring in the world. And I mentioned this in the previous part of my opening statement.

The committee has crafted this program under an endowment concept. It is a departure from the normal activities of the committee. Yet, the merits of reaching out and meeting the obligation, of having trained people, I think, is certainly meritorious and deserves the support of the committee.

The idea of a self-sustaining source of income in the years ahead under the endowment concept certainly has an application.

I understand that there has been general thought and some acceptance to require recipients of graduate fellowships to work for the Government in the area of study at least for which the fellowships were awarded. The chairman and I have had some conversations about this. I would like to see this at further levels. I believe the chairman still has somewhat of an open mind to it. But I think it is fair to say that since we no longer have a mandatory draft type of an arrangement—yet we have the ROTC, NROTC, all of which requires some kind of contribution back to the Government for the educational opportunities—I think some type of service commitment is an appropriate responsibility for the recipient of these types of grants or scholarships, as the case may be. I urge my colleagues to give that consideration.

But overall it is an important initiative. It is worthy of careful consideration.

I encourage that consideration also be given that these scholarships and basic opportunities for higher education in the sense of an international opportunity be extended to regional institutions throughout the country as opposed to the more traditional recognition that the larger, more well-established Eastern schools more traditionally are favored with this type of endowment.

I think consideration should be given to those educational institutions which interact more directly with some of the new and exciting regions of the world that are opening up as a consequence of may changes which have occurred in Eastern Europe and the Soviet Union. I refer specifically to the Pacific rim activities associated with the situation as it unfolds in Vietnam, Cambodia. Clearly we are going to want people who have an expertise and an interest in that part of the world; Eastern Siberia, where in my State of Alaska, through the University of Alaska, we have exchange programs set up; we have probably 40 students from Siberia in residence in Fairbanks, AK; Alaska Pacific University specializing in the Pacific rim countries.

We need to see that these endowment scholarships are spread out to areas for regional coverage and provide these educational institutions with opportunities to provide even more and better programs in serving, if you will, the needs of communication between our two peoples. I have talked with these students who have been over in Siberia, Alaskans, young people from the State of California who have gone to our schools. When they live in a Soviet home in Siberia, they have a different appreciation and understanding not only of Western values but an appreciation of the trials and tribulations of our Soviet neighbors and have a tremendous contribution that they can make in the sense of easing tensions and establishing a better world understanding.

So I hope that I can appeal to my good friend, the chairman, the senior Senator from Oklahoma, to encourage universities in regional areas that have an expertise to step up and become involved in this program.

Finally, Madam President, I would also stress that the existence of this body of anticipated trained intelligence specialists will not only benefit the Government agencies, including the intelligence community, but also the business community as well.

I think it is critical to our national future that American business become more equipped to compete in the international marketplace. Oftentimes, this is difficult because of antitrust regulations. One only has to follow the effectiveness of a Japanese trading corporation and the interlock, the linkage between their ability not only to manufacture raw materials but produce, advertise, finance, transport, you name it. We are precluded from those kinds of things, so how are we going to be competitive in an international marketplace?

We have to have people who are versed in business as well as diplomacy representing us in our missions overseas. This will require more skilled managers, analysts, knowledgeable people about foreign countries and international conditions and, most of all, fluent in language.

It is a terrible thing to observe, Madam President, but you know and I know it is so easy to do business overseas because your hosts understand English and the American person doing business overseas being conversant certainly pays off.

Another difficulty we have, and it has been expressed by a number of colleagues on the committee, is the question of just how we handle information that is gathered from an intelligence source and made available to our private sector when more often than not we have two or three competing businesses and how do you share the information. It is a very difficult thing to do. But it is commonplace. And we are aware that the other countries are very much involved in their intelligence-gathering process in determining advantages in the U.S. marketplace and they share that with firms in their country. Unfortunately, more often than not, many of these firms are partially owned by the Government or participated in substantially through financial commitments by that Government. It is easier for them to provide the intelligence.

But this is a world of survival, Madam President, and if we are going to survive in the international marketplace we must have the capability of playing on a level field, and that means competing in an international marketplace in a different manner than we compete domestically. And this is going to put not only a challenge on the committee and the staff but all Members of the Senate to recognize that we must maintain an international competitiveness if we are to prosper as a nation.

I thank the Chair. I thank my colleague and good friend, the chairman of the committee, for his diligence in proceeding to get our bill up today, and I look forward to the process ahead.

Madam President, I yield the floor.

Mr. BOREN. Madam President, I thank my colleague for his generous remarks. As I have said, it is, indeed, a pleasure to work with him in these constructive endeavors.

We have talked a lot in our opening remarks about the new educational initiative proposed by the committee, one already acted upon in the appropriations bill on the floor earlier. It is an exciting proposal.

As I have indicated, it is the first major educational initiative of this type understanding that the national security interests of the United States cannot be defined in very narrow terms, technical terms, dealing only with items of military hardware, for example. But the national security interests of the United States, especially in these changing times, must be viewed broadly and making certain that we have the human resources we need, that we have the well-trained people coming out of the next generation in the field of foreign languages, the understanding of various religions and cultures and other communities around the world is absolutely essential and vital to our national security in the broadest sense of that term and in the most meaningful sense of that term.

We are, indeed, proud of the National Security Education Act and the initiative our committee has taken.

I should also indicate that while we have not been able to discuss in detail the cuts we have made in the original administration request in the intelligence bill and have not been able to describe, because of reasons of classification, the detailed nature of the shifts of priorities we have undertaken also in the intelligence bill, this bill does reflect a greater emphasis on improving our human intelligence source capability.

As many of us have said, with all the changes in the world, we are going to be facing a situation where we will have fewer troops stationed around the world in forward positions.

This means that we will need to have earlier warning of the intentions of those that might inflict danger on the world, that might cause regional conflicts. We learned very painfully with the situation in the Middle East, with the Iraqi invasion of Kuwait, that by the time we can learn through national technical means of the movement of forces on the ground that it is often too late to give the policymakers a whole range of actions that they might take to avoid a conflict.

Had the President of the United States had good human source intelligence about the intentions of Saddam Hussein, for example, 6 months before the invasion of Kuwait, he could have considered a whole range of policy options that might have enabled us to avoid that war, that conflict—perhaps joint exercises with Saudi Arabia in the forward positionings of aircraft and supplies, sending a signal a Saddam Hussein, a very clear signal that any attempt at aggression would be resisted.

These are the kinds of actions that, had we had intelligence warning from human sources early enough, might have enabled us to avoid the Persian Gulf conflict, costly as it was both in material goods, and even more important, in terms of the cost of precious lives. Perhaps it could have been avoided with earlier warning.

In this kind of early warning, this kind of understanding of the intentions of potential adversaries, direct inside information from human sources becomes even more important. The nature of the threat also changes. We cannot, from satellite photography, have a good idea of what is going on in some tiny garage behind some residence where a terrorist group might be putting together a very potent but small explosive or chemical device to be used by the terrorist organizations.

This kind of information basically must come from human sources through development of the expertise, both in terms of language and ethnic understanding and background, to make it possible to have very legitimate and credible human source intelligence in various areas of the world given the nature of the challenges we face.

So the committee has undertaken in this bill to shift some priorities to continue the very strong emphasis on improvement of our human source intelligence, the human resources available, into the intelligence community that we began over 2 years ago.

This bill continues to reflect that shift of priorities. It makes some initial changes that reflect the changes that have gone on in the Soviet Union. More will remain to be done on this score. It does also reflect the fiscal environment, the very difficult fiscal environment in which we are now living and trying to get the most to the American taxpayers for the dollars spent in the intelligence field.

It does represent not only a major new educational initiative, but also some substantial adjustments of priorities within the intelligence budget that we provide in this bill.

Madam President, I see the distinguished Senator from Ohio is on the floor. Under the previous unanimous-consent request entered into, he will be

offering an amendment on which the time limitation has been set.

I will yield the floor so the Senator from Ohio might have an opportunity to offer his amendment.

Mr. MURKOWSKI. Madam President, if I may just make an inquiry from the standpoint of the agreement, would the Chair state the agreement on time that remains between the two sides?

The PRESIDING OFFICER. The time on the Glenn amendment is limited to 4 hours, equally divided, under control.

Mr. MURKOWSKI. Madam President, it is my understanding it is limited just to the Glenn amendment. And is there any time agreement pending on the bill?

The PRESIDING OFFICER. There is a time agreement. The Senator from Alaska controls the remaining time, which is 15 minutes.

Mr. MURKOWSKI. I thank the Chair.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1258

(Purpose: To provide for appointment by the President, by and with the advice and consent of the Senate, of certain officials of the Central Intelligence Agency)

Mr. GLENN. Madam President, I send an amendment to the desk on behalf of myself, Senator SPECTER, Senator HARKIN, Senator BYRD, Senator AKAKA, Senator BRYAN, Senator CRANSTON, and Senator ADAMS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, and Mr. SPECTER, Mr. HARKIN, Mr. BYRD, Mr. AKAKA, Mr. BRYAN, Mr. CRANSTON, and Mr. ADAMS, proposes an amendment numbered 1258.

On page 34, between lines 18 and 19, insert the following new section:

SEC. 602. APPOINTMENT OF CERTAIN OFFICIALS BY THE PRESIDENT.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by inserting at the end thereof the following new section:

"SEC. 18. APPOINTMENT OF CERTAIN OFFICIALS BY THE PRESIDENT.

"(a) PRESIDENTIAL APPOINTMENTS.—The President shall appoint, by and with the advice and consent of the Senate, the following officers of the United States who shall serve within the Central Intelligence Agency:

"(1) the Deputy Director for Operations.

"(2) the Deputy Director for Intelligence.

"(3) the General Counsel.

"(b) BASIS FOR REMOVAL.—Notwithstanding section 102(c) of the National Security Act of 1947 (50 U.S.C. 403(c)), any individual appointed pursuant to this section shall serve at the pleasure of the President and may be removed from office only by the President.".

Mr. GLENN. Madam President, the amendment I am offering today is a modified version of S. 1003, legislation which would require Presidential nomination and Senate confirmation of certain senior officials at CIA.

Currently, there are only three CIA officials, the Director of Central Intelligence, the DCI; the Deputy Director of Central Intelligence, DDCI; and the Inspector General, the IG; that are confirmed by the Senate.

Madam President, I ask unanimous consent that, at the conclusion of my remarks, the following documents be entered into the RECORD: A July 2 letter from Judge Webster; September 6 letter from former Secretary of State Cyrus Vance in support of this legislation; and the prepared statements of Dr. Richard Betts of Columbia University, Gen. William Odom of the Hudson Institute, and Dr. Allan Goodman of Georgetown University, as well as several press clippings.

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

(See exhibit 1.)

Mr. GLENN. I note that this amendment is the same as S. 1003, but with several modifications.

First, the original legislation, S. 1003, called for Senate confirmation of six senior officials, CIA's General Counsel, and the five Deputy Directors of CIA: the Deputy Director for Operations; the Deputy Director for Intelligence; the Deputy Director for Science and Technology; the Deputy Director for Administration; and the Deputy Director for Planning and Coordination.

I modified this amendment so that it requires Senate confirmation of only three of these senior CIA officials: the General Counsel, the Deputy Director for Operations, and the Deputy Director for Intelligence. Clearly, these positions are the most important of the second-tier management positions at CIA.

Second, I have deleted subsection (b) of the legislation, which specifies that appointments for these positions:

* * * shall be limited to persons with substantial prior experience and demonstrated ability in the field of foreign intelligence or counterintelligence.

This provision was originally placed in the legislation because of the concern that appointing nonprofessionals could cast doubt on the objectivity of intelligence judgments and the independence of intelligence leadership.

Some have argued that this provision does not permit sufficient flexibility to bring in qualified individuals from the outside of the intelligence community. So I have been persuaded by this argument, and therefore have deleted the subsection (b) provision from the amendment that I am offering today.

In striking this provision, I note that the confirmation process merely provides a Senate check on the President's judgment in selecting a nominee. It cannot compel the President to nominate a particular individual. Assuring that the nominee is qualified for a position is the primary objective of the confirmation process.

If the individuals holding top positions at CIA are subject to confirmation, the Senate will make the determination whether the individual nominee is sufficiently qualified for the position in question. Ultimately, such a determination must be made on a case-by-case basis.

If a majority of this body is convinced that a nominee for a particular position must be a career intelligence professional, such a view can be enforced whenever a confirmation vote comes before the Senate Select Committee on Intelligence or before the full Senate.

It is important to note that on the infrequent occasion when a Presidential nominee is rejected, it is often because the nominee is considered to lack the requisite professionalism for the position. Hence, the confirmation process tends to support professionals against administration efforts to place unqualified nonprofessionals into senior positions in the Federal Government.

Also on occasion, there may well be a legitimate reason to have a well-qualified outsider in one of these three positions.

As Robert Gates recently responded to a question by me:

I would obviously prefer to have senior CIA positions filled with individuals with substantial prior experience and demonstrated ability in the intelligence field. However, I do believe that the DCI should have some flexibility in this respect, recalling that DCI Turner appointed a very distinguished scholar as head of the analytical directorate [Robert Bowie of Harvard University]. * * * Also, several fine CIA general counsels have had little or no direct intelligence experience. I would not consider, under any circumstances, appointing someone as Deputy Director for Operations without substantial prior experience and demonstrated ability in the intelligence field.

Undoubtedly, it would be more the exception rather than the rule for the President to nominate an intelligence outsider for one of these positions. Traditionally, DCI's have relied on intelligence professionals for the senior positions at the CIA. As Judge Webster conceded in his July 2, 1991, letter to me, of "CIA's 47 Deputy Directors, spanning more than 40 years, only 7 did not have extensive intelligence experience. Of those seven, only three were appointed within the last 14 years." Clearly, intelligence professionals are preferred for these key senior positions.

Nevertheless, should the President make a mistake in appointing an outsider to one of these positions, it is the purpose of the confirmation process to reveal that mistake.

Madam President, the amendment I offer today will help ensure that only well-qualified individuals serve in these posts and prevent the possibility of appointments made by DCI's which might be based on political factors or personal and business ties. Such appointments could ultimately be damaging to the CIA, its mission, and most of

all, the confidence of the American people and the Congress in this important agency.

For example, shortly after he assumed his position as DCI, William Casey appointed Max Hugel as Deputy Director for Operations—one of the most-sensitive positions in American intelligence. Mr. Hugel, a friend of Mr. Casey's who had no experience in covert action or clandestine human intelligence, was ultimately forced to resign after 2 months as DDO amid allegations of business-related improprieties. While the allegations against Mr. Hugel were apparently baseless, many believe his brief tenure at the CIA was damaging to that vitally important directorate's effectiveness and morale.

I believe such an appointment would have never been confirmed by the Senate, and a President knowing this would have been highly unlikely to submit such a nomination to the Senate in the first place. In other words, one of our very prime purposes with this is to cut the chance of politicizing the CIA.

Confirmation can also serve to protect career professionals from political leaders in the executive branch who may be tempted to corrupt intelligence processes, and could make senior CIA personnel think twice about circumventing congressional oversight when they are pressured to do so from the executive branch.

For instance, during the Iran-Contra affair, CIA general counsel, Stanley Sporkin, provided a highly dubious legal rationale for the administration's ill-conceived arms-for-hostages policy by drafting a retroactive finding for President Reagan's signature that directed: "The Director of Central Intelligence not to brief the Congress of the United States * * * until such time as I may direct otherwise." The final version of this finding was not reported to the Congress for almost a year.

Had the general counsel and other senior agency officials gone through the Senate confirmation process, they would have undoubtedly been more sensitive than they apparently were to the fact that Congress shares both the power and the responsibility for our Nation's foreign policy. And they would have been much less inclined to look the other way while laws requiring notification to the intelligence committees were deliberately ignored.

(Mr. LIEBERMAN assumed the chair.)

Mr. GLENN. Mr. President, Senate confirmation is a constructive means of enhancing public and congressional confidence in the senior leadership of the CIA. That is the reason we do it for all of the other agencies of Government where it is required. This is accomplished not only by ensuring that the nominee has the necessary qualifications for the job, but that the nominee is also firmly committed to the intelligence oversight laws and will be truthful, candid, and forthcoming in dealing with Congress.

In the course of his confirmation hearings, Mr. Gates has declined to either endorse or oppose S. 1003, but he has stated that:

> * * * It is hard for me in principle to quarrel with the idea of senior officials of a Government agency not being subject to the confirmation process.

Senator SPECTER and I sponsored this legislation because we are convinced that the confirmation process has become an increasingly important means to insure the accountability of senior level executive branch officials to the American people through their duly elected representatives in the Congress. This is particularly true of the CIA, which plays a special role in our Government.

Indeed, the CIA is unique among all Federal agencies in the level of trust it demands from the American public and the Congress. And the CIA is unique from other intelligence agencies such as the Defense Intelligence Agency [DIA], the National Security Agency [NSA], and the FBI.

Although the CIA is not charged primarily with policymaking, it plays a significant role in the formulation of national security policy. The close relationship between the CIA and policymakers is recognized in the legislation that established the CIA. The National Security Act of 1947 specifically places the CIA under the National Security Council. The first two duties of the CIA under this Act specify that the Agency is:

> First, to advise the National Security Council in matters concerning such intelligence activities of the Government Department and Agencies as relate to national security; and second, to make recommendations to the National Security Council for the coordination of such intelligence activities of the Departments and Agencies of the Government as relate to the national security.

Among the duties assigned to the CIA by section 102(d) of the National Security Act of 1947 is "to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." This broad provision has been interpreted to include, among other things, the CIA's role in planning and implementing various types of sensitive activities overseas—including covert action, which is, need I remind my colleagues, operational U.S. policy.

As the CIA has grown over the years, its support for U.S. national security policies has broadened into many different areas. The individuals who hold these three positions advise the DCI and the DDCI about policy. The DCI and the DDCI are in turn responsible for providing leadership and direction not only to the CIA, but the entire U.S. intelligence community as well. Thus, the Deputy Director for Operations, the Deputy Director for Intelligence, and the CIA general counsel play a significant role supporting the entire national security infrastructure of our Nation.

For example, the CIA's general counsel is responsibile for providing legal advice to the DCI and the Agency as a whole on all matters and is responsibile for determining the legality of CIA activities and for guarding against any illegal or improper activity, and that is an enormous responsibility.

The Deputy Director for Operations has responsibility for clandestine human source intelligence collection and is responsible for extraordinarily sensitive and highly classified operations such as covert action.

The Deputy Director for Intelligence has responsibility for producing intelligence assessments in support of U.S. policymakers. These intelligence estimates form the foundation of our foreign policy and define the threat to U.S. national security that is the basis of our defense spending.

Unlike other intelligence agencies such as NSA, DIA, or the FBI, the CIA is not organizationally subordinate to another department of the Federal Government—by statute, it directly supports the National Security Council. NSA and DIA are Agencies of the Department of Defense, and the FBI is subordinate to the Department of Justice. In addition, the CIA, unlike the NSA, DIA, FBI, and all other components of the intelligence community, is the only intelligence agency—and indeed the only Federal agency—that is not subject to GAO audits.

Former DCI William Colby has stated that the CIA "was supposed to be above the other departmental intelligence centers. It wasn't coequal. It is a Central Intelligence Agency and not something off by itself." This organizational centrality places the CIA in a different category from other components of the intelligence community and argues for a greater degree of scrutiny of high-level agency officials.

Mr. President, in view of their responsibilities in supporting the National Security Council in sensitive areas of policy formulation, I believe that Senate confirmation of these three senior CIA officials will ultimately serve to create confidence and rapport between the nominees and the legislative branch. Through the record established during confirmation, the nominee and the Senate Select Committee on Intelligence could clarify and establish a common understanding of the position's role and responsibilities, develop a constructive working relationship, and define the appropriate constraints on CIA activities. This process will go a long way toward avoiding problems as a result of mis-

understandings, which in turn could lead to abuses of authority.

Senate confirmation could also bring greater stability to the CIA-congressional relationship by avoiding the adversarial oversight which replaces normal oversight after abuses of authority occur such as after the Iran-Contra affair. Such adversarial oversight is damaging to the intelligence process.

In addition, the Senate confirmation process provides a second forum to assess the competence of an individual for a high-ranking post in the Federal Government—serving as a check against possible executive branch politicization of these positions. And that is basically the purpose of this legislation today.

As Dr. Richard Betts of Columbia University has stated in expressing his support for this legislation, confirmation "should do more to prevent politicization than to promote it." This is because:

> * * * The confirmation process can * * * only block the Executive from appointing a given individual, it cannot force the appointment of anyone with a particular viewpoint or loyalty preferred by Congress. * * * Under current practice, nothing at all stands in the way of politicization of these offices by the administration. Considering the difference between the power to appoint and the power to review the appointment, politicization comes from the Executive more readily than from Congress. If a President or * * * DCI wish to put unqualified political cronies in sensitive CIA positions, they can do so, as of now, without challenge.

And that is really at the heart and soul of what we are talking about here.

I repeat the last sentence. "If a President or * * * DCI wish to put unqualified political cronies in sensitive CIA positions, they can do so, as of now, without challenge."

It should also be noted that the confirmation of senior officials in Government has traditionally worked to protect against the politicization of these positions, while failure to confirm has worked to protect politicization. For example, senior Government officials who are not confirmed, such as the White House Chief of Staff and the Assistant to the President for National Security Affairs, have been exempted from the confirmation process precisely to prevent Congress from interfering with the President's political control of these positions.

Mr. President, there have been various criticisms made about this legislation which I would like to address.

It has been argued that Senate and White House involvement in the selection of these senior CIA officials would somehow compromise the CIA's ability to provide objective intelligence to policymakers. Nothing could be further from the truth.

The CIA and its top officials give policy advice to the President and others, and conduct operations and activities that give them important roles and responsibilities in the field of policy development. Confirmation of three additional officials at the CIA would be no more likely to politicize the organization or impede the objectivity of its analyses than would the longstanding requirement to confirm the DCI, the DDCI, and the inspector general.

Indeed, Senate confirmation will help prevent politicizing these posts by raising the standards of these important deputy directorships. Because they must appear before the Senate Select Committee on Intelligence [SSCI], the nominees are more likely to be scrutinized carefully—by both the executive branch and the Congress—than otherwise. This process would help preclude a hasty or ill-considered appointment by a single individual—the DCI.

Mr. President, it has also been argued that this proposal could somehow adversely affect the DIC's managerial control over these senior officials and have a negative impact on CIA relationships abroad. Once again, I see absolutely no foundation for these concerns.

We should remember that ultimately all employees of the executive departments and agencies are under the authority of the President—whether or not they are directly appointed by the President. Commissioned officers of the armed services, even at lower ranks, are appointed by the President and confirmed by the Senate. As a 23-year veteran of the U.S. Marine Corps, and as chairman of the Senate Armed Services' Subcommittee on Manpower and Personnel, I feel confident in stating that there appears to be no evidence that this formal selection process has ever hindered commissioned officers' ability or willingness to respond to their immediate superiors.

Furthermore, it is extremely doubtful that the distinction between Presidential appointment and more routine methods of selecting senior intelligence officials is apparent to representatives of foreign governments. This is particularly true in the Third World, where much of America's intelligence activity will be focused in the years ahead. In Third World nations, control over intelligence agencies by the chief of state is pervasive. It would not be unusual, for example, for a chief of state to personally approve the appointment of comparatively junior intelligence officials.

In addition, it is quite likely that many foreign intelligence representatives already assume that senior U.S. intelligence officials are Presidential appointees. Indeed, foreign officials may even regard Presidential appointment and Senate confirmation as a mark of prestige and heightened status.

Mr. President, it is also argued that this legislation would somehow preempt the DCI from reorganizing the agency to meet future, unknown changes. I just find that concern as being baseless.

I would simply note that this amendment does not call for any specific organization within the agency, it simply establishes three statutory positions in addition to the three that already exist. It does not prevent the director from appointing other senior officials to serve in the agency in other capacities that the DCI may wish to designate.

I stress to my colleagues that this legislation merely recognizes positions that already exist—it does not create any new positions. These directorates have existed for at least 40 years: The First Deputy Director for Operations was appointed in 1951 and the First Deputy Director for Intelligence was appointed in 1952. The General counsel position was in existence when the agency was established in 1947.

Thus, the basic CIA organizational structure of the Directorate of Operations, the Directorate of Intelligence, and the general counsel's office implied in this measure has stood the test of time, and it is unlikely that a future DCI would choose to alter the broad organizational scheme which has been essentially in place virtually since the inception of the CIA. In any event, within this general framework, the DCI would be free to make numerous modifications as he or she may see fit.

If the DCI decided to eliminate these two directorates or the general counsel's office—and I think that would be extremely unlikely—the director would request the appropriate legislative authorization from the two intelligence committees. And this is precisely as it should be. Congress should be involved in approving the elimination or consolidation of any of these vitally important offices.

An additional concern has been raised about conducting public confirmation hearings for these officials which could harm the sensitive missions of these directorates.

Mr. President, I am sympathetic to this concern, and I would anticipate that these hearings would, for the most part, be conducted in the committee's secure hearing room in the Hart Building. If any Senator who does not serve on our committee wishes to review the nominee's background and the hearing transcript, they may review this material at our committee's secure spaces. Mr. President, this very procedure is followed at present when any Senator wishes to review the lengthy classified annex of our markup of the intelligence authorization bill before it reaches the Senate floor every year.

Finally, opponents of this amendment argue that this legislation is premature in light of the Senate Intelligence committee's reorganization effort.

Mr. President, I would only note that the prospect for reorganization is a

constant fact of life in modern American Government. If the possibility of reorganization is an excuse for failure to address the issue of Senate confirmation of these senior CIA positions, it could easily become a permanent excuse.

Over 1 year ago, the SSCI announced its effort to begin a review of intelligence organizations internal to the Department of Defense. Between that time and this year's markup of the fiscal year 1992 intelligence authorization bill, the committee held precisely two hearings on intelligence reorganization. In its markup of the fiscal year 1992 intelligence authorization bill, the SSCI overwhelmingly voted to create a brandnew position at the CIA—an assistant deputy director for operations. This was done without any hearing. This amendment, however, does not go as far as to create new positions. No new organizations or positions are created by this legislation. This legislation merely mandates that three existing positions are appointed by the President and confirmed by the Senate.

Furthermore, the confirmation of these three senior CIA officials can hardly be considered a major or dramatic change as opponents assert. In fact, this is an extremely simple and straightforward proposal.

I would note that the precedent for White House and Senate involvement in the selection of senior CIA officials was established at the inception of the present-day U.S. intelligence establishment. The National Security Act of 1947 provided for Presidential nomination and Senate confirmation of the DCI, and the same procedure for selection of the deputy director of central intelligence [DDCI] was established in 1953. In 1989, President Bush signed legislation into law which created a statutory inspector general [IG] for the CIA with a requirement that the nominee be confirmed by the Senate.

Confirmation of the CIA general counsel has also been proposed over the years. As early as 1976, the church committee recommended Senate confirmation of the general counsel, and a similar recommendation was made by the congressional committees investigating the Iran-contra affair in 1987.

I want to repeat that. The Iran-Contra committee in 1987 made a similar recommendation with regard to confirmation of the General Counsel at CIA.

Several distinguished past and current members of our Intelligence Committee served on the Iran-Contra Committee—such as Senator BOREN, Senator RUDMAN, and Senator COHEN. And I would also note that 17 general counsel positions, or the equivalent in other departments and agencies are confirmed by the Senate.

Mr. President, it is important to note that there are over 1,000 positions in the Federal Government requiring Senate confirmation, and that of that more than 1,000 positions in the Federal Government requiring confirmation, these three officials at the CIA are at least as high in rank and as high in importance of their position as officials in similar roles in other Federal agencies and departments.

Here are just a few of them: State has 187 positions that require confirmation. Many of those are Ambassadors, of course. But just for regular administrative purposes within these agencies, Energy has 20 confirmed positions, Commerce has 30 confirmed positions, Defense has 53 confirmed positions plus all the general officers in addition to that number. I believe the Governmental Affairs Committee I chair is responsible for over 30 confirmed positions that we oversee.

So confirmation is not an unusual thing that we are asking for in Government. Quite the opposite. Confirmation is very common, with the over 1,000 positions requiring Senate confirmation. Requiring Presidential appointment and Senate confirmation of these positions would merely validate this standing.

As Cyrus Vance has stated in endorsing this measure:

> I have served for many years in various positions in the Federal Government requiring Senate confirmation. I have worked with officials of the CIA serving in the . . . designated positions during my tenure as Secretary of the Army, Deputy Secretary of Defense, and Secretary of State. On the basis of my experience, I can see no harm and only good coming from the proposed legislation.

Mr. President, in his response to the Senate Select Committee on Intelligence [SSCI] questionnaire for his current confirmation hearings to become DCI, Robert Gates stated:

> Accountability—with respect to adherence to the law, relevant executive orders, guidelines, and regulations, as well as effective management and preformance—is in my judgment, the fundamental purpose of congressional review of intelligence activities.

I strongly agree with that statement.

Intelligence oversight imposes a unique burden on the two congressional intelligence committees which serve as surrogates, not only for the Congress as a whole, but the American people. because Congressional oversight of the CIA and the rest of the intelligence community must necessarily be conducted in the black box of secrecy, the committees must demand accountability and possess the will to conduct thorough oversight. I would also point out to my colleagues that the CIA is the only intelligence agency over which the Senate Select Committee on Intelligence has sole and exclusive jurisdiction.

Before the two intelligence oversight committees were created in the mid-1970's, Congress conducted what I refer to as "oversight by oversight" of U.S. intelligence—preferring to know little more than it was told by the CIA. As one Senator stated some years ago:

> It is not a question of reluctance on the part of CIA officials to speak to us. Instead, it is a question of our reluctance, if you will, to seek information and knowledge on subjects which I personally * * * would rather not have * * *.

Mr. President, this is an attitude that this body can ill afford, particularly in the post-cold war era.

I am second to no one in my support for a strong, effective, and responsible CIA. Nevertheless, the Central Intelligence Agency, like any large bureaucracy, is capable of waste, abuse, mismanagement, and incompetence. Because the CIA is such a vast and secretive organization, it is essential that it be made fully accountable for its actions.

Intelligence activities are consistent with democratic principles only when they are conducted in accordance with the law and in an accountable manner to the American people through their duly elected representatives. I am convinced that the confirmation process is a constructive means of demanding accountability, thereby enhancing public and congressional confidence in the senior leadership of the CIA.

Senate confirmation of the CIA's general counsel, the deputy director for operations, and the deputy director for intelligence will serve to strengthen the accountability of the CIA—and ultimately enhance the effectiveness of this important agency.

Mr. President, I urge my colleagues to support this amendment and I reserve the remainder of my time.

EXHIBIT 1

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, July 2, 1991.

Hon. JOHN GLENN,
Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR SENATOR GLENN: I am writing in response to your letter of 17 June 1991 in which you requested my assistance in obtaining information about past and current CIA Deputy Directors and General Counsels. Enclosed are a chronology of CIA's senior management structure since the beginning of the Agency and a separate list of those individuals (along with biographic data) who were appointed to senior Agency management positions and who did not possess substantial intelligence-related experience prior to attaining those positions.

Of CIA's 47 deputy directors, spanning more than 40 years, only seven did not have extensive intelligence experience. Of those seven, only three were appointed within the last 14 years.

I hope this information responds to your questions. I appreciate the candid way in which we have been able to communicate on some difficult issues during my tenure as Director of Central Intelligence. I would hope that you will accord my successor the same channel of communication on this issue following my departure from this office.

I am forwarding a copy of this letter and the enclosures to the Chairman and Vice

Chairman because I believe this topic is also of interest to them.

Sincerely,

WILLIAM H. WEBSTER,
Director of Central Intelligence.

CHRONOLOGY OF CIA'S SENIOR MANAGEMENT STRUCTURE

General Walter Bedell Smith, in his tenure as DCI (1950–1953), first organized the Agency into deputy directorates: the first Deputy Director for Administration (DDA) was appointed on 1 December 1950; the first Deputy Director for Operations (DDO—then titled Deputy Director for Plans) was appointed on 4 January 1951; and the first Deputy Director for Intelligence (DDI) was appointed on 1 January 1952. John McCone appointed the first Deputy Director for Science and Technology (DDS&T—then titled Deputy Director for Research) on 19 February 1962; and on 5 September 1989, I appointed the first Deputy Director for Planning and Coordination (DDP&C). The General Counsel position was transferred to the CIA from the Central Intelligence Group when the Agency was established in September 1947.

DEPUTY DIRECTOR FOR ADMINISTRATION

DDA, established effective 1 Dec 50.

Title change from Deputy Director for Administration to Deputy Director for Support was effective 3 February 1955.

Title change for Deputy Director for Support to Deputy Director for Management and Services was effective 22 March 1973.

Title change from Deputy Director for Management and Services to Deputy Director for Administration was effective 19 August 1974.

Murray McConnel, 1 Dec 50–30 Mar 51.
Walter Reid Wolf, 1 Apr 51–30 Jun 53.
Lawrence K. White (Col., USA Retired) Acting DDA, 1 Jul 53–21 May 54.
DDA, 21 May 54–5 Jul 65.
Robert L. Bannerman, 5 Jul 65–31 Dec 70.
John W. Coffey, 1 Jan 71–17 Mar 73.
Harold L. Brownman, 17 Mar 73–3 Aug 74.
John F. Blake, 3 Aug 74–12 Jan 79.
Don I. Wortman, 13 Jan 79–16 Jan 81.
Max Hugel, 13 Feb 81–11 May 81.
Harry Fitzwater, 11 May 81–31 Dec 84.
Richard J. Kerr, 1 Jan 86–21 Apr 86.
William F. Donnelly, 21 Apr 86–18 Jan 88.
R. M. Huffstutler, 25 Jan 88.

DEPUTY DIRECTOR FOR OPERATIONS

DDO, established effective 1 Dec 50.

Although the Office of the Deputy Director for Operations was established 1 December 1950, by the time Allen Dulles was appointed as the first incumbent the title was changed to Deputy Director for Plans.

Title change from Deputy Director for Operations to Deputy Director for Plans was effective 4 Jan 51.

Title change from Deputy Director for Plans to Deputy Director for Operations was effective 1 Mar 73.

Allen W. Dulles, 4 Jan 51–23 Aug 51.
Frank G. Wisner, 23 Aug 51–1 Jan 59.
Richard M. Bissell, Jr., 1 Jan 59–17 Feb 62.
Richard M. Helms, 17 Feb 62–28 Apr 65.
Desmond FitzGerald, 28 Jun 65–23 Jul 67.
Thomas H. Karamessines, 31 Jul 67–27 Feb 73.
William E. Colby, 2 Mar 73–24 Aug 73.
William E. Nelson, 24 Aug 73–14 May 76.
William W. Wells, 15 May 76–31 Dec 77.
John N. McMahon, 11 Jan 78–12 Apr 81.
Max Hugel, 11 May 81–14 Jul 81.
John H. Stein, 14 Jul 81–1 Jul 84.
Clair E. George, 1 Jul 84–1 Dec 87.
Richard F. Stolz, 4 Jan 88–31 Dec 90.
Thomas A. Twetten, 1 Jan 91.

DEPUTY DIRECTOR FOR INTELLIGENCE

DDI, established effective 1 Jan 52.

Title change from Deputy Director for Intelligence to Director, National Foreign Assessment Center (NFAC) was effective 11 Oct 77.

Title change from Director, National Foreign Assessment Center to Deputy Director for Intelligence was effective 4 Jan 82.

Loftus Becker, 1 Jan 52–30 Apr 53.
Robert Amory, Jr., 1 May 53–30 Mar 62.
Ray S. Cline, 23 Apr 62–17 Jan 66.
R. Jack Smith, 17 Jan 66–15 May 71.
Edward W. Proctor, 15 May 71–1 Jun 76.
Sayre Stevens, 1 Jun 76–11 Oct 77.
Robert R. Bowie, 11 Oct 77–17Aug 79.
Bruce C. Clarke, Jr., 18 Aug 79–12 Apr 81.
John N. McMahon, 12 Apr 81–4 Jan 82.
Robert M. Gates, 4 Jan 82–21 Apr 86.
Richard J. Kerr, 21 Apr 86–13 Mar 89.
John L. Helgerson, Acting DDI: 13 Mar 89–20 Mar 89.
DDI: 20 Mar 89.

DEPUTY DIRECTOR FOR RESEARCH

DDR, established effective 19 Feb 62.
Herbert (Pete) Scoville, 19 Feb 62–15 Jun 63.

DEPUTY DIRECTOR FOR SCIENCE AND TECHNOLOGY

DDS&T, established effective 5 Aug 63.

Title change from Deputy Director for Research to Deputy Director for Science and Technology was effective 5 Aug 63

Albert D. (Bud) Wheelon, 5 Aug 63–26 Sep 66.
Carl E. Duckett, Acting DDS&T: 26 Sep 66–20 Apr 67.
DDS&T: 20 Apr 67-1 Jun 76.
Leslie Dirks, 1 Jun 76—3 Jul 82.
R. Evans Hineman, 3 Jul 82—5 Sep 89.
James V. Hirsch, 5 Sep 89.

DEPUTY DIRECTOR FOR PLANNING AND COORDINATION

DDP&C, established 5 Sep 89.
Gary E. Foster, 5 Sep 89.

GENERAL COUNSEL

CIG, 1947; CIA/DS, 1955, established effective 27 Jan 49.

The functions of the General Counsel were transferred from the Personnel and Administrative Branch to the Office of the Director, Central Intelligence Group, effective 1 Jul 47.

The General Counsel was placed under the Office of the Deputy Director for Support, effective 3 Feb 55.

The General Counsel left the Directorate of Support and came under the Office of the DCI, effective 1 Jul 62.

Lawrence R. Houston, 27 Jan 49–29 Jun 73.
John S. Warner, Acting: 30 Jun 73–14 Jan 74
GC: 14 Jan 74–1 Apr 76
Anthony A. Lapham, 1 Jun 76–9 May 79
Daniel B. Silver, 27 May 79–30 Apr 81
Stanley Sporkin, 18 May 81–10 Feb 86
David P. Doherty, 10 Feb 86–16 Jan 88
Russell J. Bruemmer, 16 Jan 88–16 Apr 90
Elizabeth R. Rindskopf, 16 Apr 90.

CURRICULUM VITAE OF CIA DEPUTY DIRECTORS AND GENERAL COUNSELS WHO DID NOT HAVE SUBSTANTIAL PRIOR INTELLIGENCE-RELATED EXPERIENCE

A. DEPUTY DIRECTOR FOR ADMINISTRATION

Murray McConnel (1 December 1950–30 March 1951): McConnel was a businessman brought in by DCI Walter Bedell Smith and his DDCI, William Jackson, first as CIA Executive, 16 October 1950, and then appointed as first DDA on 1 December 1950. Remaining only until the spring of 1951, he left CIA to return to private business.

Walter Reid Wolf (1 April 1951–30 June 1953): Wolf, another businessman, joined CIA on 16 February 1951 as a Special Assistant to DCI Smith, who a few weeks later appointed him as the second DDA, to succeed Murray McConnel. Wolf also returned to private business when he resigned as DDA in mid-1953.

Don I. Wortman (12 January 1979–16 January 1981): Wortman was proposed as DDA by Frank Carlucci, Stansfield Turner's DDCI. In 1972–1974 Carlucci had been Under Secretary of the Department of Health, Education and Welfare where Wortman had been a career civil servant. At the time appointed DDA, Wortman was Deputy Commissioner of Social Security, and Acting Commissioner. Resigning as DDA at the end of the Carter Administration, he left CIA to become head of the national United Fund in Alexandria, Virginia.

Max Hugel (13 February 1981–11 May 1981): Hugel served in the U.S. Army in World War II, and in 1954 founded Brother International Corporation, an importing and distributing firm, which he headed until selling his interest in 1975. He was Executive Vice President of the Centronics Data Computer Corporation in New Hampshire before taking leave to join the Reagan campaign in April 1980. On his appointment as DCI in January 1981, William Casey brought Max Hugel into CIA as Special Assistant to the DCI, and two weeks later appointed him DDA. As noted below, on 11 May 1981 DCI Casey appointed Hugel DDO.

B. DEPUTY DIRECTOR FOR OPERATIONS

Max Hugel (11 May–1 July 1981): Having joined CIA in January 1981, and served (as noted above) as DDA from February to May 1981, Hugel was then appointed DDO by DCI Casey. After a series of press reports of alleged improper stock-trading practices, Hugel resigned from CIA on 1 July 1981. Hugel subsequently won a libel judgment against the individuals who had made the accusations against him.

C. DEPUTY DIRECTOR FOR INTELLIGENCE

Loftus Becker (1 January 1952–30 April 1953): Becker, a lawyer who had served as a military adviser at the Nuremberg War Trials, was brought into CIA on 29 November 1951 by DDCI William Jackson. Before becoming CIA's first DDI he served a month as Assistant to the DCI and in the Office of the Deputy Director for Plans (the 1951–1973 title for the DDO). When Becker resigned in February 1953 he was replaced as DDI by *Robert Amory*, anothr Harvard-educatted lawyer whom Becker had recruited into the Agency in 1952 with such a role in mind. On leaving CIA, Becker became a Washington partner of the law firm of Cahill, Gordon, Reindel & Ohl, and later served as a legal adviser to the Department of State, 1957–1959.

Robert R. Bowie (11 October 1977–17 August 1979): Robert Bowie was a graduate of Princeton and Harvard Law School who after serving in the Army in World War II, had been a Harvard Law professor, General Counsel to the U.S. High Commissioner for Germany, Director of the Policy Planning Staff and Assistant Secretary of State, as well as founder and director of Harvard's Center for International Affairs. He was a Professor of Government and International Affairs at Harvard when Stansfield Turner appointed him Director, National Foreign Assessment Center (D/NFAC—the title for the DDI, 1977–1982) in October 1977. He resigned as D/NFAC and left CIA to return to Harvard in August 1979.

D. GENERAL COUNSEL

Anthony A. Lapham (1 June 1976–9 May 1979): Lapham did his enlisted service in an Army intelligence detachment (doing photo

interpretation). This brief Army exposure probably would not be considered to be "substantial" intelligence-related experience. Before joining CIA as General Counsel, Lapham practiced law with the Washington litigation firm of Shea & Gardner, where he returned after CIA and remains today. Lapham was selected as a result of a systematic search in early 1976 by then-DCI George Bush to find a new General Counsel from outside of the intelligence world. This presumably had its roots in Bush's efforts to restore congressional and public confidence in CIA, in the wake of the Church and Pike Committee investigations.

Stanley Sporkin (18 May 1981–10 February 1986): After graduating from Penn State in 1953 and Yale Law School in 1957, Sporkin clerked for the presiding judge of the U.S. District Court for Delaware and had a solo practice in Washington, D.C. before joining the Securities and Exchange Commission (SEC) in 1961 as a Staff Attorney. Sporkin became Deputy Director of SEC's Division of Enforcement while William Casey was SEC Chairman, 1971–1973, then served as Director of that division from 1974 until DCI Casey appointed him CIA General Counsel in May 1981. He left CIA in 1986 on his appointment as a judge in the U.S. District Court for the District of Columbia.

Russell J. Bruemmer (16 January 1988–16 April 1990): After graduating from the University of Michigan Law School in 1977, Bruemmer served as law clerk to the Honorable William H. Webster, United States Court of Appeals for the Eighth Circuit. In February 1978, after Judge Webster became Director of the FBI, Bruemmer was appointed as his Special Assistant until June 1980, when he became the FBI's Chief Counsel for Congressional Affairs. In 1981 he went into private practice with the Washington firm of Wilmer, Cutler & Pickering, where he worked primarily in corporate and commercial areas (including federal regulation of financial institutions and commercial financing transactions). Bruemmer joined CIA in September 1987 as Special Counsel to DCI Webster, to investigate allegations of misconduct by CIA employees in the Iran-Contra affair. Judge Webster then appointed him General Counsel in January 1988. Resigning as General Counsel in April 1990, Bruemmer returned to Wilmer, Cutler & Pickering.

New York, NY, September 6, 1991.

Hon. JOHN GLENN,
U.S. Senate,
Washington, DC.

DEAR JOHN: I am very sorry that I will not be able to appear before the Intelligence Committee at the scheduled hearings. I am pleased, however, to express my views with respect to the proposed legislation contained in S. 1003.

I concur with the view expressed in your "Dear Colleague" letter dated May 21, 1991, to the effect that the Senate confirmation process provides an important forum to assess the competence of individuals for high-ranking posts in the Federal Government, and to serve "as a check against possible executive Branch politicization of these posts." I support wholeheartedly the provisions of S. 1003 requiring presidential appointment by the President, with the advice and consent of the Senate, of the six officials of the Central Intelligence Agency specified in the bill. These officials not only advise the Director of Central Intelligence about critical elements of policy, but also play a significant role supporting the entire national security infrastructure. The roles they play in the national security system are of signal importance. Moreover, as you state in your letter of May 21st, Senate confirmation of these positions will also serve to create confidence and improved understanding between the nominees and the Legislative Branch. Contrary to the argument advanced by some, the Senate confirmation process will help to prevent politicization of these positions.

As you know, I have served for many years in various positions in the Federal Government requiring Senate confirmation. I have worked with officials of the CIA serving in the six designated positions during my tenure as Secretary of the Army, Deputy Secretary of Defense, and Secretary of State. On the basis of my experience, I can see no harm and only good coming from the proposed legislation.

Sincerely yours,

CY VANCE.

BIOGRAPHICAL INFORMATION RICHARD K. BETTS

Richard K. Betts is Professor of Political Science and member of the Institute of War and Peace Studies at Columbia University. Born in 1947, he received his B.A., and Ph.D. in Government from Harvard University. He was a Senior Fellow at the Brookings Institution (1976–90) and adjunct Lecturer at the Johns Hopkins University's Nitze School of Advanced International Studies (1978–85 and 1988–90). He also served on the Harvard faculty as Lecturer (1975–76) and Visiting Professor of Government (1985–88).

Betts' first book, "Soldiers, Statesmen, and Cold War Crises" (first edition, Harvard University Press, 1977; second edition, Columbia University Press, 1991) won the Harold D. Lasswell Award for the best book on civil-military relations. He is also the author of "Surprise Attack" (Brookings Institution, 1982) and "Nuclear Blackmail and Nuclear Balance" (Brookings 1987); coauthor of "The Irony of Vietnam" (Brookings, 1979), which won the Woodrow Wilson Prize for the best book in political science, and "Nonproliferation and U.S. Foreign Policy" (Brookings, 1980); and editor of "Cruise Missiles: Technology, Strategy, Politics" (Brookings, 1991). His next book, to be published by Brookings in 1992, is on military readiness and U.S. strategy.

Betts has also published numerous articles on foreign policy, intelligence operations, conventional forces and strategy, nuclear weapons, arms trade, security issues in Asia, and other subjects in professional journals and edited volumes. He serves on the editorial boards of International Security, Orbis, The Journal of Strategic Studies, and Intelligence and National Security.

A former staff member of the Senate Select Committee on Intelligence, the National Security Council, and the Mondale Presidential Campaign, and consultant to the National Intelligence council and Central Intelligence Agency, Betts has lectured frequently at schools such as the National War College, Foreign Service Institute, and U.S. Military Academy. He is a member of the Council on Foreign Relations, International Institute for Strategic Studies, International Studies Association, and several other professional organizations. He is married to Adela M. Bolet, has two children, and lives in Teaneck, New Jersey.

AUGUST 1991.

STATEMENT OF VIEWS ON S. 1003

(By Richard K. Betts, Professor of Political Science, Columbia University)

(Prepared for Testimony to the U.S. Senate Select Committee on Intelligence, September 11, 1991)

Thank you for the invitation to testify. I favor the provision of S. 1003 that would mandate Senate confirmation of principal officials in the Central Intelligence Agency (CIA), but I do not favor the provision in the current version that would limit appointments for those positions to individuals "with substantial prior experience and demonstrated ability" in intelligence work. My remarks will focus primarily on the issue of confirmation.

Senate confirmation is the norm for high-level positions in executive branch agencies. This reflects the essence of the American Constitution, its emphasis on checks and balances and shared powers between separated branches of government. Unless we are to question this most basic aspect of our political system, therefore, the reasoning in favor of S. 1003 does not need justification as much as do the arguments against confirmation of high CIA officials. The burden of proof should lie on the opposition to this measure.

I will discuss in turn three general arguments that might be cited in opposition to S. 1003:

(1) The special need to maintain secrecy means that intelligence is not one of the functions of government that should be subjected to open scrutiny in the manner that we normally expect; special standards must apply. Especially in regard to the position of CIA's Deputy Director for Operations (DDO), publicity and open discussion of the role itself should be minimized.

(2) Because of the unique sensitivity of intelligence functions, extraordinary measures should be taken to prevent the "politicization" of CIA; normal confirmation proceedings would encourage politicization.

(3) Legislating the requirement of confirmation prejudices current reconsideration of the basic organizational structure of CIA.

SECRECY AND PUBLICITY

The first of these objections, in my view, has been met and settled over the past fifteen years by the development of the institutionalized oversight process. It is possible to argue that we should not have moved in this direction, but most of the water is over the dam. For better or worse, the existence and functions of CIA's Operations Directorate have already been admitted in official government documents. Requiring confirmation of the Deputy Director would add nothing to the problem, if there is one. If we can assume that confirmation hearings would be in executive session, and that transcripts of hearings on the Director of Operations need not be published, the confirmation process itself should not aggravate the long-standing tensions between secrecy and democracy.

POLITICIZATION

The second objection deserves the most careful consideration, and I will devote most of my remarks to it. By the term "politicization" I mean the imposition of partisan or ideological criteria on intelligence work. To argue that a process of confirmation would politicize the positions in question, it seems to me, has the point backwards. Confirmation should do more to prevent politicization than to promote it, for two reasons.

First, the confirmation process can only check, not compel. That is, it can only block

the executive from appointing a given individual, it cannot force the appointment of anyone with a particular viewpoint or loyalty preferred by Congress. And in practice, the legislative check is not used frivolously. While many may get an uncomfortable grilling before committees such as this one, it is extremely unusual for a presidential appointee in the executive branch to be rejected, and then rarely if ever on ideological grounds alone. (The situation may be tougher for judicial appointees, but probably because of the lifetime tenure attached to such positions.)

The second reason is that, under current practice, nothing at all stands in the way of politicization of these offices by the administration. Considering the difference between the power to appoint and the power to review the appointment, politicization comes from the executive more readily than from Congress. If a President or Director of Central Intelligence (DCI) wish to put unqualified political cronies in sensitive CIA positions, they can do so, as of now, without challenge. This has not happened often, but it has happened. The unfortunate case of Max Hugel's brief tenure as DDO in 1981 is the unavoidable example. How much more politicized could we get than to have as the person in charge of covert action a man whose principal qualification was campaign work for the President?

If the confirmation process has any political effect, it is usually to give appointees who rise from career services some protection from being muscled politically by the leaders of the administration. Consider the example of chiefs of staff of the military services. While the confirmation of these Generals and Admirals is usually perfunctory, Senators in the past have sometimes used the occasion to get the service chiefs' agreement that they would testify frankly about their own views if they conflicted with those of the Secretary of Defense. This may not have made Presidents or their civilian lieutenants in the Pentagon happy, but that was because it limited their ability to force a career professional to compromise his professional judgment according to the partisan agenda of the administration. If any of the chiefs do not serve the administration effectively the President can get rid of them, but he cannot use them easily for his own political purposes. The process of confirming members of the Joint Chiefs of Staff and establishing their accountability to Congress, in short, helps safeguard the military against politicization.

In contrast, there are some important positions in the executive branch that are not subject to confirmation, because they are not expected to be accountable to Congress. These, however, are usually the officials most politically identified with the administration's program, such as the White House Chief of Staff and Special Assistants. It is assumed that they are intimate political confidants of the President, involved in advising him on policy goals and political strategy for achieving them, so having them accountable to Congress would compromise their ability to serve the administration. At the same time, since they are essentially personal advisers or assistants, in principle, and are not responsible for administering large agencies or supervising the performance of expensive legislated programs, there is less need to subject them to oversight. The Assistant to the President for National Security Affairs has been exempt from confirmation on such grounds. Other positions which began in that mold, such as the Director of the Bureau of the Budget or the Chairman of the Council of Economic Advisers, later were made subject to confirmation when their roles had evolved beyond personal advice and staff assistance.

The point in short is that the high-level positions exempted from confirmation have usually been exempted so that Congress could not interfere with the President's political control of those appointments, because it was recognized that those positions are and should be politicized, and the President's discretion in dealing with them should not be compromised. Conceivably one could argue in opposition to S. 1003 that high CIA positions should fall in that category, but that would hardly be a persuasive or popular position in the wake of the Iran-Contra scandal. (Moreover, the positions named in S. 1003 are major administrative ones rather than purely advisory.) If the argument against politicization is on grounds that professionalism in intelligence should be safeguarded and loyalty to the law rather than to a political group should be the norm, then confirmation is the solution, not the problem. Which should be the model for the principal positions in CIA—the military service chiefs, or the White House Chief of Staff?

On the other hand, we should also recognize that in reality several of the CIA positions in question are inevitably entangled in policy, whether we prefer the principle of rigid separation of intelligence and policymaking or not. The Directorate of Intelligence produces estimates that are not policy documents, yet cannot help but have implications for policy and cannot help but be criticized politically if their conclusions are unwelcome. The Directorate of Operations, in turn, embodies the most sensitive and controversial instruments of U.S. policy abroad, most notably the capacity to execute missions that are illegal in the countries in which they are carried out, and for which the United States would not wish to admit responsibility in public.

With luck, the supervision of these units will never be contaminated by partisan political manipulation. But as the Founders understood, we would be foolish to trust in luck, and would do better to rely on institutional checks and balances. Past controversies over allegations of improper politicization of DDI analyses or DDO covert action projects did not occur because questioning or pressure from the legislative branch corrupted the objectivity or wisdom of these units' activities. They occurred because there appeared to be insufficient control of these activities by the executive, or too much of the wrong kind of control. Second-guessing by Congress may not always help, but it is more likely to limit political pressure on intelligence agencies than to cause it.

REORGANIZATION

This could be the most practical immediate reason to defer requirements for confirmation, if it is really probable that the positions named in S. 1003 might be abolished and replaced by others. The units in question, however, are the most basic organizational entities in CIA, and most of them have existed for decades. Moreover, the main issue should take precedence—the issue of whether the high-level positions in CIA that are comparable to Under or Assistant secretaries in the State and Defense departments or chiefs of staff in the military services should be subject to confirmation. If that issue is settled by passage of S. 1003, it should not have to be a major legislative matter to approve a reorganization and redesignation of positions requiring confirmation if the reorganization goes so far as to change the identities of the principal directorates. The possibility of reorganization, in fact, is virtually constant in modern American government (indeed, one of the crosses the intelligence community had to bear from the late 1960s to the early '80s was the rash of major reorganizations that kept disrupting the pace of work). If the possibility of reorganization is an excuse for avoiding the issue of legislative confirmation of executive appointments, it could be a permanent excuse.

LIMITATION OF QUALIFICATIONS FOR APPOINTMENT

In its current form, S. 1003 stipulates that the appointments in question "shall be limited to persons with substantial prior experience and demonstrated ability in the field of foreign intelligence. * * *" This is not a good idea. First, it is not necessary in order to prevent abuses of appointment power; second, it would be a step backward by precluding the occasional choice of first-rate candidates who would be the best for the job.

On the first point, the logic of the confirmation process is that it provides a check on executive judgment, not that it threatens to substitute legislative appointment power for the authority of the executive. If appointees are subject to confirmation, then the Senate can assure itself that any nominee has satisfactory professional qualifications. That judgment can and should be made individually. If a majority of senators believe that only career professionals in the intelligence business should fill these positions, they can enforce that view anytime the question comes to a vote. There is no need to chisel the requirement in stone.

There is, on the other hand, a good reason not to chisel it in stone. Once in awhile there may be legitimate grounds for having a well-qualified outsider in one of these positions. The best example I can think of is Robert R. Bowie, who in the late 1970s was Director of the National Foreign Assessment Center (the temporary redesignation of the Deputy Director for Intelligence in that period). Bowie was not an intelligence professional, but he was superbly qualified for the job. He had wide-ranging high-level experience at the policy level during the occupation of Germany, as Director of Policy Planning in Eisenhower's State Department, and as State Department Counselor under Dean Rusk. That background enhanced his ability to understand how the policy level deals with intelligence analyses, and to make policymakers aware of critical analyses that they otherwise often ignore.

In addition Bowie was a law professor and director of the Center for International Affairs at Harvard, academic credentials quite relevant to the problems of marshalling good analysis in the service of government policymaking. (A similar example in a Republican administration would be Henry Rowen, a chairman of the National Intelligence Council under DCI Casey, after a distinguished career in the Defense Department, as President of the Rand Corporation, and at Stanford Business School. Chairman of the NIC, it is true, would not be subject to the provisions of S. 1003, but the principle I am getting at is the same.)

Cases like these would not be common, but in the uncommon instances when such an individual is available, he or she should not be barred by legislation from serving. If the President or DCI makes a bad call in appointing an outsider, let the confirmation process itself reveal the mistake. To sum up, the solution is not to prevent the nomina-

tion of anyone by statute, but to prevent unchecked appointments—to give the Senate a chance to review the nominations of both the Hugels and the Bowies, not to keep the executive from nominating either sort.

I would delete the section in S. 1003 on "Qualifications for Appointment." If it is felt that the presumption in favor of appointing career professionals needs to be reinforced, perhaps a compromise would be to insert the word "normally" or some other such qualifier in the phrase "shall be limited" in section (b). The principle would be underlined, but a loophole would be left for special cases that might warrant it.

The reason to approve S. 1003's provision regarding confirmation and to disapprove the one stipulating professional qualifications is not that we should treat CIA just like any other agency. In important respects, obviously, the delicacy of CIA's missions is extraordinary and requires the greatest care in administration and oversight. Such sensitivity, however, does not mean either that the executive should be given more autonomy or less flexibility in staffing sensitive positions than it has with other bureaucracies. It is precisely because intelligence is an important and sensitive business that the classic rationales for checks and balances should apply. Loopholes can be left for special circumstances (such as appointment of non-professionals) if the legislative branch is guaranteed the chance to review the circumstances; loopholes are dangerous only where the executive could exploit them without the knowledge of Congress. By affirming the checks, it is more reasonable to preserve the flexibility, since the executive flexibility is harder to abuse than it is when the legislative check is absent.

LT. GENERAL WILLIAM E. ODOM, DIRECTOR OF NATIONAL SECURITY STUDIES

Lt. Gen. William E. Odom, USA (Ret.) is Director of National Security Studies for Hudson Institute and an adjunct professor at Yale University. He is stationed in the Washington office of the Indianapolis-based Institute.

As Director of the National Security Agency from 1985 to 1988, General Odom was responsible for the nation's signals intelligence and communications security.

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During the Carter administration, from 1977 to 1981, General Odom was a senior member of the National Security Council Staff and military assistant to the President's Assistant for National Security Affairs, Zbigniew Brzezinski. At the NSC, General Odom worked on strategic planning, Soviet affairs, nuclear strategy, telecommunications policy, terrorism, and Persian Gulf security issues.

General Odom graduated from the U.S. Military Academy in 1954. He received an M.A. in Political Science from Columbia University in 1962, and a Ph.D. in 1970. He also attended the Army Language School and the U.S. Army Russian Institute. His military education includes the Armor Officer's Advanced Course, Airborne School, Ranger School, and the Command and General Staff College.

After troop duty in Germany, General Odom completed the Army's 4-year Russian Area Specialty Program, which included his master's work at Columbia. He served as a member of the U.S. Military Liaison Committee to Soviet Forces in Germany and as Assistant Army Attache in Moscow. General Odom also taught Soviet Studies at the U.S. Military Academy and served as a Senior Research Associate at Columbia University's Research Institute on International Change.

General Odom has written widely on Soviet political and military affairs. His book, "The Soviet Volunteers," was published by the Princeton University Press, and his articles have appeared in such journals as World Politics, Foreign Affairs, The National Interest, Foreign Policy, Problems of Communism, The Washington, Quarterly ORBIS, Military Review, and others.

General Odom is a member of the Council of Foreign Relations, the International Institute for Strategic Studies, The American Political Science Association, and the American Association for the Advancement of Slavic Studies. He holds an honorary degree from Middlebury College.

TESTIMONY FOR THE SENATE SELECT COMMITTEE ON INTELLIGENCE

(By Lt. Gen. (ret.) Wm. E. Odom)

SEPTEMBER 11, 1991

Good afternoon Mr. Chairman and members of the committee. It is always an honor and a challenge to appear before this committee. Today is no exception in your tradition of asking hard questions.

You have asked me to comment on the draft legislation, S. 1003, which would require Senate confirmation of several additional officials of the Central Intelligence Agency. Is it desirable that they be added to the long list of executive branch officials already requiring confirmation? Would it strengthen the committee's oversight of the CIA? Would it help avert irregular behavior by these officials? Would it tend to politicize or professionalize those positions?

My first reaction to the proposed legislation is ambivalent. While I do have enthusiasm for it, I cannot say that it will inevitably be harmful. I can understand the motivation for it in light of the Iran-Contra affair. If it is your judgment that public perceptions make it imperative for confidence in the CIA, I am in no position to challenge that view. Being invited to testify, however, has forced me to think through some of the likely consequences and dynamics if the bill becomes law. I propose to share those thoughts with you, not as a strong advocate either for or against legislation.

On the positive side, the bill does make it appear that the Senate is pursuing oversight of the CIA more aggressively. That in turn, should allow the Senate to defend CIA activities more effective to the public. Perceptions are important. That should be acknowledged.

It can also be argued that confirmation would prevent the appointment of nonprofessional outsiders whose claim to the posts owes more to their political ties than their competence. That has not been a big problem in the past, but in principle it could become one.

Finally, it can be claimed that Senate scrutiny of appointees will identify potential weaknesses in competence and character, making it less likely that the incumbents will violate either policies or laws.

On the negative side, I first see a number of problems. First, Senate confirmation is no assurance against deviant behavior by officials. The committee has occasionally been unhappy with incumbents whom it confirmed.

Second, while Senate confirmation can be used to insure high standards of professional competence in an appointee, confirmation also inherently politicizes a post, making it possible for the President to treat it as justly part of the political spoils that go to the winner of an election. In that event, political loyalty is likely to stand above professional competence as a criterion for appointment. Furthermore, a confirmed official is generally expected to serve only as long as the President, leaving when the President leaves.

I seriously doubt that the committee intends this kind of outcome. The Deputy Directors of Intelligence, Operations, and Science and Technology are positions that would be greatly damaged by that kind of practice. Continuity between administrations, not change, is more appropriate. Moreover, the possibility that political criteria could undermine the professional criteria now attached to these posts would, I am sure, disturb the members of this committee.

As I am sure you have noticed, this argument is precisely opposite to the one I made for favoring the bill; that is, the Senate could insure that the President or the DCI does not undercut professional standards in making these appointments. Here you find the basis for some of my ambivalence. I believe both arguments have merit. Yet they are incompatible arguments. As you force me to think about the problem, I see it as a matter of choosing between two kinds of risks and two kinds of advantages. In making a choice, one ought to be mindful that the Senate now confirms the DCI and the DDCI.

The Senate already has a lot of leverage with those two. Extending the list could be seen as a sign that the confirmation process has not worked well with the DCI and DDCI. You confirm appointees whose judgment in making lower level appointments you do not respect or trust. The remedy would seem to be better standards in their confirmation or resort to impeachment, not the expansion of a procedure that failed to prevent the source of the problem.

I do not, however, believe the arguments against the bill apply to all six of the positions proposed for confirmation. The general counsel seems to me to fall in a different category and involve a different set of competences. In fact, I do not see good arguments against confirmation of that position. The case I am making applies to the other five.

A third argument is that the CIA is not like other agencies, and the personal and professional lives of its officials are necessarily kept out of the public eye to the extent possible. If the confirmation process involved looking back into the behavior of an official while he served in a clandestine post, this could present a security problem, not just in the revelation of activities but also in providing foreign intelligence services with a better idea of the personality and experience of the nominee. That information can be of value to them.

Fourth, I am concerned about the possible adverse incentive structure Senate confirmation could create for CIA officials who aspire to these posts. They must not only perform well in the eyes of their superiors; they are also likely to believe they must cultivate a political constituency among members of the Senate and their staffs. The leadership of an intelligence organization is difficult in its own right. It is different from most other executive branch agencies. Its personnel are required to live out of the public view, even keeping their families uninformed of their professional lives and achievements. Among the more senior officials, who believe they could be candidates for these posts that

would require Senate confirmation, there would be more than the normal incentive to become publicly known. I do not see how this could fail to make the job of the Director of the CIA more difficult.

It can be instructive to realize that a similar kind of problem exists for the military services. Institutional discipline would be undercut if ambitious officers believed their political standing in the Senate were a critical factor in their careers. You now have a way of handling that problem with commissioned officers. There is a formal process for approving promotions for all ranks up to major general. And a similar process is followed for position appointments to three- and four-star posts.

I would find a similar process for CIA personnel far more acceptable than the one proposed in S. 1003. Until the National Security Act of 1947 and the creation of the CIA, of course, the OSS personnel were military, and they fell under the military promotion confirmation system.

A case for re-militarization of the CIA could be made. Intelligence is a kind of combat, a part of warfare. The appropriate discipline and professional standards of personal honor have always appeared to me to be the same as for the military. There is, however, no military-like ethos for such standards among civilian employees of the intelligence community, and there is no formal institutionalization of it with ranks and formal responsibilities. Nor, insofar as I know, are intelligence operatives of the CIA under anything like the Uniformed Code of Military Justice. Lacking both the instruments of the military for positive incentives and the UCMJ for negative incentives, the leaders of civilian intelligence agencies have an especially difficult task. Certainly the Director of the CIA has more special sanctions over personnel matters than the Postmaster General or the Secretary of Agriculture, but the personnel management system there is closer to those departments than it is to the armed services in most ways except for security clearances. The security standards may be very high, but they relate to loyalties to foreign states, not to loyalties to informal groups and values within an intelligence agency that conflict with organizational values. The very essence of the professional military ethos is that an officer subordinate his loyalties to informal small groups to the larger institutional values. The service academies, ROTC programs, and officer candidate schools strive to inculcate the ethos from the day a young person is sworn in. The academies, but they nonetheless seek to recover from those setbacks, and they institutionalize and sustain that ethos. There is no equivalent formalized and institutionalized ethos for the intelligence agencies.

I am not proposing this solution. I am only pointing out that there are alternatives to S.1003 that might promise far greater substantive results for the ends your committee seeks.

Now I would like to step back from the particular case we are discussing and reflect on the larger trend in congressional-executive relations concerning confirmation of senior officials. The numbers, I believe, have grown, and they probably will continue to grow. What are the larger implications of such a trend? It seems to me to have invited a higher degree of politicization of appointments and to have left the President with a weakened ability to implement both the laws the Congress passes and the policies he pursues.

The popular view is often expressed that the executive branch has grown much stronger vis-a-vis the Congress. Admittedly, where one stands on such issues depends on where one sits. As a serving military officer deeply engaged in the interaction between the two branches, I was always impressed by the greater strength of the Congress. Both continuous and periodic monitoring of program development and policy implementation cause a diffusion of power in that process, not only in the administration but also within the Congress, a diffusion that has weakened the Senate and House leadership and the chairman of several of the committees. Where this diffusion is reflected in the growing number of positions requiring Senate confirmation, the impact has not always been the appointment of more effective officials. It has been paralysis on occasions, leaving positions unfilled, or confusion about Presidential policy because the incumbent must satisfy two sources of policy direction, one from the President and one from the Congress, or sometimes several conflicting ones from the Congress.

Perhaps this kind of effect will not result from S. 1003, but I am inclined to believe it could. Let me explain. Last spring I testified before this committee on intelligence community organization. I noted that unlike other intelligence organizations, which are institutionally within the major users of the intelligence product, the CIA is not. That separate status inherently gives it more discretion than any other intelligence agency in responding to users of its products. One of the major consequences of the emergence of the congressional intelligence committees has been to encourage the CIA to use that discretion for serving congressional intelligence interests, sometimes above executive, branch interests. Making additional CIA officials subject to Senate confirmation certainly will not retard that tendency, and it could increase it.

I am not suggesting that the CIA should not provide the Congress with intelligence products it may demand. But I am suggesting that the first purpose of intelligence is in support of executive branch operations. And when those operations are not successful because of apparent intelligence failures, the Congress is among the first to condemn the intelligence community for poor performance. Thus it is clear that Congress sees the priority of the intelligence community's services as first to the executive branch. I do not believe, however, that the intelligence committees in Congress are always aware of the negative impact they sometimes have in the incentives they create for the CIA to shift those priorities. This is not to blame the CIA for the shift. It is to identify the incentive structure that almost insures it no matter who the incumbents are at the CIA. Their lot in this regard is not enviable. They face strong cross-pressures.

Let me offer another line of thinking about the wisdom of adding positions at the CIA to the list for Senate confirmation. I have long been puzzled by the legal concept of oversight. In principle I strongly support checks that make irregular behavior in all parts of the intelligence community difficult and sure to be discovered if they occur. I deeply share James Madison's view of human nature and the necessity for checks and balances. In principle, congressional oversight of the intelligence community should provide that kind of balance.

In practice, however, it seems to me to have failed at times and also to have generated a lot of activity that has little to do with achieving the real intent of oversight. To elaborate, is oversight really presight or aftersight? It has moved strongly toward presight. Yet aftersight within a reasonable period of a few week or months is certainly adequate to prevent any intelligence agency from subverting the constitution in an irreparable way.

When it is presight, it can easily become sharing in and approving executive branch decisions and directions. Not only does such a practice seem to violate the spirit of the separation of powers, but it also makes the Congress politically responsible if a directive it has approved goes awry and produces an untoward outcome. One can, of course, cite the Legislative Reorganization Act of 1946 which tells the standing committees to "exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject of which is within the jurisdiction of such committee." That guidance essentially calls for fairly close involvement in policy formulation and implementation.

In the domestic agencies, I see little argument against this kind of a competitive process. In national security, particularly military and intelligence affairs, it seems to me to need limits. Intelligence is a type of military operation. I do not believe that anyone wanted congressional presight of General Schwarzkopf's war plans or second guessing in his operations center as he conducted the war. Nor would anyone want Senate confirmation of his J-3, that is, his chief of operations, if he decided to change the incumbent. There is a point, therefore, beyond which congressional participation is quite different from domestic policymaking and implementation, even different from many aspects of foreign policymaking. In these operations, it makes better sense to take our chances while they are in progress. We can resort to political and professional accounting after we are sure of the outcomes.

In observing members of the intelligence committees over time, it has been apparent to me that some of them soon realize the dangers of encumbering themselves with presight and the political responsibility that inherently goes with it. They become comfortable with aftersight especially because its discovery of irregularities and bad outcomes puts them in a strong position to criticize the executive branch. At the same time, some members have been adamant that they share in the executive decisionmaking process. In a few instances, they have indeed had to take some of the public blame for poor executive branch decisions.

A former high-level legal counsel in the government, upon hearing me make this point, said that the Justice Department had looked at the legal origins and status of the concept of oversight. It is not explicitly in the Constitution. There one finds the power of purse for the Congress and the power to impeach. Oversight is a term of fairly recent use and ambiguous legal status in congressional-executive relations. Now this is only one legal opinion, but I believe it is useful in making us reflect. Moreover, a student of the Congress, writing about oversight in 1976, notes that scholars ". . . assess oversight differently at times because they are not talking about the same thing." He also observes that "the Joint Committee on Organization of the Congress worried at some length about appropriate terminology to describe the oversight function. . . . Their choice of 'review' to replace 'oversight' clarified very little."[1]

[1] Morris S. Ogul, Congress Oversees the Bureaucracy (Pittsburgh: The University of Pittsburgh Press, 1976), pp. 5-7.

Oversight, whatever its origins and definitions, is here to stay. I do not see how we could go ahead without it because it seems to inhere in our constitutional structure. The question I raise is how best to define it and make it effective for the intelligence community. If it only amounts to increasing congressional infringement on executive prerogatives and an accumulation of small laws and practices created incrementally without reflection on their overall direction and consequences, it has fewer prospects of being effective. I do not pretend to have the answers from a reflection on the overall direction it has taken, but I do want to suggest that "aftersight" deserves your consideration in such a reflection.

This committee's oversight of the intelligence community is not unlike the relation of a corporate board to a business's management personnel or a university board to its president and administration. Its major tasks are to raise money and change the management when it fails to produce the desired outcomes. When boards drift into micromanagement of institutions, involving themselves in the day-to-day business of decisions, siding with different factions within the management, they soon find themselves with two unhappy circumstances. First, they are part of the management problem that disturbs them. Second, they lack the independence to impeach the management. Boards, to be sure, cannot sit back and simply wait to see what happens. They must stay informed and involved in selected ways. They must find a proper balance between the extremes of excessive passivity and excessive involvement.

Against this larger picture of the Congress's relations with the executive branch in general and the intelligence community in particular, I believe you can see why I have a mixed reaction to S. 1003 except where it concerns the general counsel at the CIA. At the same time, I admit that it is not easy to apply.

The great virtue I see in the proposed legislation is not in its details or in whether or not it becomes law. Rather it is in the set of critical questions it forces one to think about and to struggle to answer. The bill's author, Senator Glenn, has performed a great public service in causing us to address them. Perhaps others who are wiser can find unambiguous answers. I cannot. The questions keep forcing me to see the difficult search for balance between power and possibility, between political trust and professional integrity, and between institutional exigencies and the public good.

Thank you for the honor of appearing before you in such important deliberations, and I have the highest confidence that you will bring them to a sound conclusion.

ALLAN E. GOODMAN, WASHINGTON, DC

Allan E. Goodman is Associate Dean of the School of Foreign Service at Georgetown University, Director of the Master of Science in Foreign Service Program and Professor of International Affairs. He teaches courses on the theory and practice of international negotiation and the future of the international system. In addition, he conducts specialized research on intelligence problems and systems and their influence on U.S. foreign relations and policy development.

Since assuming the position of Director of the Master of Science in Foreign Service Program at Georgetown in 1980, Dr. Goodman has built the course into one of the premier institutions for professional, graduate-level training in diplomacy and international relations. He also founded the "Women in Foreign Service Program" designed to enhance the operational effectiveness of women in international service careers, and the Georgetown Leadership Seminar which annually brings to the School of Foreign Service key younger leaders from the public and private sectors to discuss the forces and trends likely to shape the international system in the 21st century. To date, some 260 leaders, representing 74 countries have participated in the seminar. Dr. Goodman is also a guest lecturer at the Foreign Service Institute of the Department of State and is Co-Chair of the IBM International Personnel Institute and the IBM Educational Symposium, hosted by Georgetown University.

Prior to joining the Georgetown faculty in 1980, Dr. Goodman served as Presidential Briefing Coordinator for the Director of Central Intelligence and as Special Assistant to the Director of the National Foreign Assessment Center. Dr. Goodman was Chairman of the Department of Government and International Relations at Clark University (1971–74) and a National Fellow at Stanford University's Hoover Institution (1974–75). He received his Ph.D. in Government from Harvard University in 1971, and is the author of ten books and over fifty articles on international affairs. He was awarded a Doctor of Laws Degree, honoris causa, from Mount Ida College in May of 1991.

From 1972–74 Dr. Goodman was also a guest columnist for the Christian Science Monitor, a consultant to the Department of State, and a witness on WGBH-TV's "The Advocates." He has also served as an advisor to the U.S. Information Agency, to the WGBH-TV Vietnam History Project, and as commentator on NBC Radio. He is a frequent guest on the Voice of America's "Encounter" program which is broadcast to 120 million listeners worldwide, and contributes columns on intelligence and foreign policy problems to the Los Angeles Times and its syndicate.

Dr. Goodman's publications include: The Lost Peace: America's Search for A Negotiated Settlement of the Vietnam War (called by Stanley Karnow in his Vietnam: A History, "an excellent correction to [Henry] Kissinger's own account of the Vietnam Negotiations" and cited as major "Book of Reference" in The Statesman's Yearbook) and Negotiating While Fighting: The Diary of Admiral C. Turner Joy at the Korean Armistice Conference. He is co-author of Strategic Intelligence and American National Security, published by the Princeton University Press in January 1989, (now in its third printing), and co-editor of the recently declassified The Central Intelligence Agency: An Instrument of Government, to 1950, by Arthur B. Darling, and General Walter Bedell Smith as Director of Central Intelligence, October 1950–February 1953, by Ludwell Lee Montague.

JUNE 1991.

[Statement Before the Select Committee on Intelligence, U.S. Senate, September 11, 1991]

THE CASE FOR S. 1003

(By Dr. Allan E. Goodman, Associate Dean, School of Foreign Service, Georgetown University)

Mr. Chairman, I greatly appreciate the chance to testify in support of S. 1003. I know this legislation is opposed by the top management of the intelligence community and that some members of this committee have doubts about enacting it until a major review can be completed of how U.S. intelligence should be funded and organized in the wake of Iran/Contra, and until more is known about the significance of the end of the Cold War and the breakup of the Soviet system and empire. But this bill is one immediate step to take that would substantially improve and benefit the management of the intelligence community, however such a review comes out.

As the attached will substantiate, I have been in favor of Senate confirmation of the top managers at the CIA since 1981. The reasons I advanced at that time are no less valid today. It is an anomaly that the DDO, DDI, and DD S and T, particularly, are not subject to Senate confirmation. They have far more power over and impact on American foreign policy, and expenditure of government resources, and relationships with other countries and their leaders than most of the Assistant Secretaries at the Departments of State and Defense and virtually every serving ambassador. Few outsiders appreciate the extent of the relationships that the top intelligence officers maintain with key officials in other countries, the degree to which such officials view our intelligence leaders as representatives of the highest echelons of the U.S. government, or the impact that their actions can have on the foreign policy and national security of the United States. Appointment to positions requiring the advice and consent of the Senate means that the executive will take those extra and careful steps to ascertain that the nominee—regardless of his or her politics—is fully qualified for the job and can withstand independent scrutiny. Furthermore, the privilege of appearing before a Committee of this body to assure the members that the appointment is proper and appropriate reinforces in the nominee a recognition of the constitutional role of Congress as an integral part of the U.S. governmental process. The top leaders of the CIA—unlike those at DIA and NSA who, as serving military general officers are at least theoretically subject to Senate review—need to come in from the cold and fully embrace our democratic process. S. 1003 in my view is, thus, long overdue.

What I want to focus on today is why intelligence professionals—the most likely pool of candidates from which such appointments will be made—should actually want to be confirmed.

Congress is rapidly becoming a major consumer of the intelligence product. It makes good sense to know these customers and to start out by winning their confidence. Numerous laws now require that Congress be kept informed of all anticipated intelligence activities in a timely fashion. This creates a clear requirement for the top management of the CIA to be candid with this committee. Nothing helps more to reinforce this notion than starting in the job with an appearance before Congress and assuring them that the appointed individual will consider it a part of his or her personal responsibility to make sure that such communication will take place and that the truth will be told. Congress funds the CIA. The ups and downs of the intelligence budget reflect both the real needs that the intelligence community has for resources and also the confidence that Congress has in the Agency's agenda. And that confidence can best be fostered by the relationships that are developed between the oversight committees and top Agency officials. Too often, in the past, these relationships have been adversarial, and far too often the top echelon of the Agency's management have felt that they owed their jobs and loyalties exclusively to officials in the executive branch.

I feel quite strongly that we should not have DDOs and DDIs who enter office with these presuppositions. But the present system creates the impression that the CIA should be exempted from the process of checks and balances by which our nation is governed.

I can foresee no downside to S. 1003. The legislation will not result in politicizing the corps of professionals who collect and produce the intelligence product. Most intelligence officers today realize that the thrust of this Committee's studies and those conducted by the HPSCI is to alert policy makers to and caution them against any practice that would breach the line between intelligence and partisan policy advocacy. So, the argument that S. 1003 would suddenly reverse this trend—or cause the executive to appoint only persons who were known to hold particular political views on national security questions—is unconvincing to me.

Equally unconvincing is the argument that enacting this legislation should be postponed until such time as the intelligence community has completed its own review of how it should be organized in a post Cold War environment. Short of disestablishing the CIA, the collection and analysis of information will remain at the core of CIA functions. There will always be a head of operations and of intelligence analysis, no matter how greatly the scope or nature of such work varies.

Finally, S. 1003 makes sense because it proposes a safeguard against the abuse of the resources and power of the intelligence community. Such safeguards are always timely. There have been far too many abuses of intelligence in recent years to assume that even the aftermath of and penalties associated with a scandal as egregious as the Iran/Contra Affair will prevent others from happening. At the core of most of these scandals have been individuals who have thought they were at liberty to set themselves above laws made by Congress. In part, I think this happened because they were not required to come before this committee in order to get their job in the first place. I hesitate to speculate whether the passage S. 1003 would have prevented Iran/Contra. But I am certain that without S. 1003 we invite future trouble that the nation, and especially the CIA, can ill afford.

[From the Baltimore Sun, August 26, 1981]

M IS NOT FOR MAX

(By Allan E. Goodman)

WASHINGTON.—Americans probably know more about "M," Ian Fleming's fictional British spymaster, than they do about any man who has served in that capacity in the United States. As he appears in the James Bond movies, "M" is a man whose business practices and language are above reproach. In the Fleming novels, "M" is portrayed as a senior civil servant with a strong political base in Parliament and close relations to key Cabinet ministers.

America has not had a spymaster with such political influence since Benjamin Franklin! In 1775, Franklin masterminded a plan to steal gunpowder from the British arsenal in Bermuda and was the chief U.S. operative in Europe in 1776 (under orders of the Committee of Secret Correspondence). Lincoln, in contrast, hired the Pinkertons to conduct his intelligence operations, preferring to keep clandestine operations at arm's length from his government.

General William Donovan, head of the wartime Office of Strategic Services, appointed close personal associates from both his law practice and his service at the Justice Department to lead the first U.S. efforts at intelligence operations on the eve of World War II. All had political connections and influence with key European leaders that served General Donovan and the OSS well. But since the creation of the Central Intelligence Agency in 1947, the clandestine service has been headed by professionals brought up through the ranks.

The emphasis on professionalism in the choice of DDO (Deputy Director for Operations) has produced uneven results. The Bay of Pigs fiasco was hatched under the leadership of the DDO. Some DDOs have also been quite public and controversial. For example, Thomas Karamessines figured prominently in Church Committee revelations of CIA involvement in planning the coup against the government of President Salvador Allende in Chile and of the agency's failure to destroy snake venom poisons despite presidential orders. Two DDOs have graduated to become director of central intelligence, or head of the CIA: Richard Helms and William Colby. Both were more controversial after their tenure than during it. Mr. Helms were severely criticized by congressional investigations for keeping too many secrets; Mr. Colby by his associates for keeping too few.

Judged by any standard, Max Hugel, a New England businessman, was singularly miscast as head of operations. He lacked relevant or recent experience in a very complex and sophisticated craft. He apparently was not a discreet person to do business with, as the published excerpts of his telephone calls and corrspondence suggest. If Mr. Hugel had a close personal relationship with CIA Director William Casey, it proved insufficient to win his initial acceptance by the rank and file in the agency or, later, to shield him from essentially the same type of "investigation" that Richard Allen, the president's national security adviser, survived in 1980 during the campaign. Mr. Hugel resigned.

What should the president and the public now learn from the Hugel Affair?

The most fundamental lesson is that head of operations at CIA is too sensitive an appointment to be left entirely to the discretion of either the head of the CIA or the professionals in operations. The person in this position has far more of an impact on national security and the conduct of foreign relations than most assistant secretaries (who require Senate confirmation) at the State or Defense departments. The deputy director for operations should, therefore, also be subject to Senate confirmation.

Why hasn't this been considered before? With the end of World War II, the Congress (and President Truman) couldn't wait to get out of the wartime spy business and the ranks of the OSS were severely pruned as a new "Central Intelligence Group" was formed. When the CIA was created in 1947, the clandestine operations section was a relatively small unit, and Congress was much more concerned with such issues as whether the director of central intelligence would be a military man or a civilian, and how he would relate to the departmental intelligence units that served the secretaries of State and Defense. My review of the congressional hearings surrounding the establishment of the CIA, moreover, suggests that in 1946 and 1947 Congress had little conception of how large the operations part of the agency would become or what impact its activities could have on the conduct of foreign relations. For almost three decades thereafter, Congress regarded the head of operations as a preserve for careerists rather than as a political appointment.

But the Hugel Affair suggests that Congress cannot count on this always being the case. In addition, the Congress and the public, too, require more accountability than ever before from the leaders of the intelligence community, among whom the spymaster is a key figure.

The experience of the past several years of congressional oversight suggests that such accountability can be had without jeopardizing national secrets. The Senate Select Committee on Intelligence—the committee which would logically hold hearings on a prospective DDO appointment—has effective and well respected security procedures. By going into executive session when appropriate, this committee could keep secret the things that need to be kept secret (e.g., the nominee's past involvement in missions and projects, the details of which are still classified).

Congressional scrutiny over such a key appointment would also help to assure that the person who occupied the post was known by the president and had his confidence. In Mr. Hugel's case, the confirmation process would have had a greater chance of uncovering the questionable activities that led to his resignation.

The Hugel Affair also raises questions about the thoroughness of the CIA background investigation and security clearance process. These are significant questions because of the serious damage that could be done to U.S. security if the CIA were penetrated by the KGB (or any other intelligence service, for that matter). It would be a mistake, however, to put too much emphasis on this particular episode. There was precious little time for professionals to conduct their investigations. There is a saying at CIA headquarters in Langley that "If the boss wants it real bad, he will get it real bad." This, apparently, was what happened in Mr. Hugel's case.

The Hugel Affair, in sum, gives the president a further chance to shape directly the development of U.S. intelligence services. Part of his interest is already evident in drafts of a new executive order governing intelligence activities and in the soon-to-be reconstituted President's Foreign Intelligence Advisory Board. President Reagan should now take a long overdue look at not only how the nation's clandestine services are run, but who is running them.

[From the Washington Post, Sept. 7, 1991]

EX-CIA COVERT CHIEF INDICTED

(By George Lardner Jr. and Walter Pincus)

Clair E. George, former chief of the CIA's covert operations directorate, was indicted yesterday on 10 felony counts accusing him of lying and obstructing congressional as well as grand jury investigations of the Iran-contra scandal.

A federal grand jury returned the indictment after a closed session with prosecutors from Independent Counsel Lawrence E. Walsh's office that lasted almost six hours. The charges were leveled little more than a month before a five-year statute of limitations would have started to come into play, barring prosecution of most of them. Each of the counts carries a maximum penalty of five years in prison and fines of $250,000.

George, 60, is the highest-ranking CIA veteran to be indicted in Walsh's re-energized investigation into the involvement of agency officials in efforts to cover up the Iran-contra scandal.

In a statement issued by his lawyer, George, now a security consultant after 32 years at the CIA, vowed to contest the

charges vigorously. Later, he appeared on the front lawn of his Bethesda house and called himself "a pawn in a continuous drama of political exploitation."

A major portion of the indictment rests on the testimony of Alan D. Fiers, former chief of the CIA's Central American task force and a one-time top deputy of George. In July, Fiers surprised prosecutors when he agreed to plead guilty to two counts of illegally withholding information from Congress and pledged to cooperate fully in winding up Walsh's 4½ year investigation.

Prosecutors had hoped, in turn, to be able to get George's cooperation in moving against higher-ups who might have been involved in illegally covering up the Reagan administration's worst scandal. According to informed sources, George notified Walsh's office Thursday that he would not cooperate.

George's lawyer, Richard Hibey, said yesterday, "this prosecution should never have been brought" and went on to describe George's past contributions to the nation's security. Hinting at the kind of defense he plans to make. Hibey said George has "risked his life" and "has not profited one iota" from his service with the CIA. Echoing a theme that has been raised before on behalf of other Iran-contra defendants, the lawyer asserted that George was a victim of "complex and tortuous policy differences between Congress and the Executive Branch."

Eight of the 10 charges against George stem from allegedly false testimony he gave to three congressional committees that were investigating early elements of what turned out to be the Iran-contra scandal. The last two counts charge that George lied again in an appearance last April before the federal grand jury and thus attempted to obstruct justice.

As deputy director for operations, George was one of the agency's top four officials and had charge of the CIA's worldwide activities in covert action, intelligence collection and counterintelligence. A favorite of the late CIA director William J. Casey, he held the post from 1984 until December 1987 when he was allowed to resign following criticism of his Iran-contra role by House and Senate investigating committees.

The first three counts against George involve a Senate Foreign Relations Committee hearing on Oct. 10, 1986, which inquired about the CIA's knowledge of the shootdown five days earlier of an aircraft carrying military supplies for contra rebels operating in Nicaragua.

According to the indictment, George ordered Fiers the day before that hearing to make changes in a draft of George's opening statement in order to prevent disclosure of the role that then-White House aide Oliver L. North was playing in the contra resupply effort.

The grand jury also accused George of lying about his knowledge of other Americans involved in the resupply effort, including retired Air Force Maj. Gen. Richard V. Secord, who played a role in both the resupply effort and the covert sale of U.S. arms to Iran.

Asked about U.S. citizens who were supporting the resupply flights for the contras, George told senators at the closed hearing that "we were not aware of their identities." But according to yesterday's indictment, George had met Secord in a high-level staff meeting in the White House Situation Room on Jan. 20, 1986, and knew that Secord was involved with North "in efforts on behalf of the contras."

The next three counts deal with George's appearance on Oct. 14, 1986, before the House intelligence committee which was also investigating the Oct. 5 shootdown. The indictment accused George again of obstructing a congressional inquiry and making two false statements about his knowledge of individuals involved in the resupply effort.

The third congressional hearing cited in the indictment was held Dec. 3, 1986, by the Senate intelligence committee. There, George was questioned specifically about Secord and said he could not tell the committee what role the general played in the resupply operation.

But the indictment said George had complained about Secord's involvement in the "Iran initiative" to both Casey and to then-White House national security adviser John M. Poindexter shortly after the Jan. 20 meeting with the general.

George is also charged with impeding the investigation by not disclosing that he knew of the diversion of Iranian arms sales profits to the contra cause before the diversion was publicly disclosed on Nov. 25, 1986. Fiers, in pleading guilty last July, said that he told George of the diversion in the late summer of 1986 after being told about it by North.

Another two counts against George involve his repeating to the grand jury some of the alleged false statements he first made at the Oct. 10, 1986, Senate hearing.

[From the Washington Post, Oct. 10, 1990]

CIA DEPUTY DIRECTOR LINKED TO IRAN ARMS, TESTIMONY SHOWS

(By Walter Pincus)

Thomas A. Twetton, recently named as the Central Intelligence Agency's deputy director for operations, was deeply involved in the secret arms-for-hostages dealing with Iran, according to testimony before the congressional Iran-contra committees and former CIA officials.

Twetton, who in 1985 and 1986 was deputy and then chief of covert activities for the CIA's Near East division, dealt regularly with former White House aide Oliver L. North as the agency "case officer," handling the logistics and funds for the initial transfer of U.S. arms to Iran.

Twetton's 1987 testimony before congressional Iran-contra investigators was released to the public in 1988, but his name was deleted from the published version because he held a covert operations position. He was identified only by the abbreviation "C/NE," representing his job at the time as chief of the Near East division.

In his testimony Twetton outlined how he:

Worked to try to prevent then-CIA director William J. Casey from getting involved in an arms-for-hostages scheme using Iranian middleman Manucher Ghorbanifar in the summer of 1985.

Informed North in September 1985 of Ghorbanifar's questionable record in CIA's files.

At North's direction, set up with the Pentagon in January 1986 the first shipments of U.S. TOW antitank missiles that were to gain release of U.S. hostages held in Beirut.

Carried North's message to the Defense Department that the price for each weapon should come down from $6,000 to $3,000 apiece.

Was with North and others when they met with Iranian middlemen in February 1986 in Frankfurt, March 1986 in Paris and April 1986 in Washington.

Briefed former White House national security adviser Robert C. McFarlane prior to McFarlane's secret trip to Tehran in May 1986.

Knew of the overlap that North created by using retired Maj. Gen. Richard V. Secord and businessman Albert Hakim in both the Iran arms sales and aid to the Nicaraguan rebels in Central America.

Twetton testified that although he was aware that excess money was being generated by the arms sales, "it never occurred to me . . . that North was raking it off [for the contras]. That was beyond the pale."

Twetton's promotion, announced last month and effective Jan. 1, is not subject to Senate approval.

Robert M. Gates, who was Casey's deputy at the CIA for most of the Iran-contra affair, failed to get Senate approval to the Casey's successor, but was named by Bush as deputy national security adviser in the White House.

A handful of other CIA officials, linked to questioned contra activities, took early retirement or were penalized with reprimands or forced retirement when William H. Webster took over as CIA director.

Twetton's Iran-contra committee testimony includes several instances where he could not recall events that are still subject to dispute.

He could not, for example, remember a memo written by a CIA colleague in March 1986 that described how Ghorbanifar told North that the Iranian arms sales could be used in Central America for the Nicaraguan rebels.

"Well," Twetton said upon being shown the memo. "I don't know whether I saw that or not. If I had, I assure you that I would have regarded it like everything else that Ghorbanifar said."

Twetton also testified that he never tried to find out what caused the wide difference in the price charged the Iranians, about $20.5 million for weapons that had cost the CIA $6.5 million.

In the CIA announcement of Twetton's appointment, Webster said he was "very pleased that Tom has accepted this appointment. He has a very distinguished record of service, and I'm fully confident that he will do an outstanding job in leading the operations directorate."

[From the Washington Post, Jan. 8, 1987]

CIA SOUGHT RETROACTIVE APPROVAL

(By Dan Morgan and Bob Woodward)

In late November 1985, CIA Director William J. Casey and his general counsel, Stanley Sporkin, proposed to the White House an intelligence authorization that would retroactively legalize any "prior actions taken by government officials" in the secret sale of weapons to Iran, according to two sources who have read the document.

When asked by the Senate Select Committee on Intelligence in a recent closed hearing about the legal reasoning behind the Central Intelligence Agency's proposal, Sporkin testified that the president has constitutional powers to grant pardons and therefore could declare an action legal after the fact.

Sporkin, now a U.S. District Court judge here, confirmed last night in a telephone interview that he had written such a draft intelligence order. "I was given fragmentary information at the time which led me to the conclusion that we needed a presidential finding to authorize the agency's activity, and ratify all action that had been carried out," he said.

Sources said Sporkin testified before the Senate intelligence committee that it was not unusual in the corporate world for someone in authority to bless an activity retroactively. The alternative, Sporkin told the committee, would be to back date documents, which Sporkin said he would consider improper.

The proposed "finding," as a presidential authorization for an intelligence action is officially known, was sent by Casey to Vice Adm. John M. Poindexter, who was then deputy national security adviser.

President Reagan never signed this draft; a revised version dated Jan. 17, 1986, was signed by the president, secretly authorizing the sale of U.S. weapons to Iran and ordering the CIA not to disclose the operation to Congress, which didn't learn of it until last November.

Retroactive approval was not included in the Jan. 17 finding that Reagan signed, sources said.

Sporkin's draft finding regarding Iranian arms transactions was a one-page order dated Nov. 25, 1985, which said that "prior actions taken by government officials are hereby ratified." The document was drafted after then-CIA Deputy Director John N. McMahon discovered that the agency had provided assistance to Lt. Col. Oliver L. North, then a staff aide of the National Security Council, in shipping missile parts to Iran as part of an attempt to free American hostages held in Lebanon.

U.S.-made missiles had first been shipped to Iran by Israel with secret White House approval in September 1985. Subsequent shipments of more than 2,000 TOW antitank missiles were made in 1986 until the operation was publicly disclosed last November.

The draft order written by Sporkin—which is documented in a lengthy but still unreleased report of the Senate intelligence committee—was indicative of what one former CIA official yesterday described as "bad legal advice" provided to Casey by Sporkin and the CIA general counsel's office during the early months of the Iran operation.

Sporkin testified that he wanted to ensure that the CIA was properly protected legally because he understood that the assistance provided North had been authorized by the White House and conformed with Reagan's wishes, according to informed sources. It is unclear whether Casey, who is recuperating from recent brain tumor surgery, was questioned about the document when he appeared before the Senate committee.

It was also learned yesterday that CIA officials at the operational level had "clues" earlier than has been publicly acknowledged that money generated from U.S. arms sales to Iran was moving into nonagency accounts abroad.

A former CIA official who has seen the stacks of documents and testimony provided to the Senate committee, said, however, that there was no indication in this record that the CIA was involved in the diversion of the funds or that intelligence officials knew that the money was being diverted to aid the contra rebels fighting the government of Nicaragua, as Attorney General Edwin Meese III said in November.

"Every so often there would be a glimpse of money moving into accounts other than CIA accounts," the former agency official said. "They knew that outside the government, money was going somewhere."

Information available up to now has suggested that the CIA's first knowledge that funds were being diverted abroad through the arms sales to Iran came early last October. Casey said last month that his first tip about this occurred at that time, when a Canadian business acquaintance, Roy Furmark, told him some of the profits earned by middlemen involved in the arms sales may have been diverted to aid the contras.

The CIA's role in the secret shipment of U.S. arms to Iran in 1985 and 1986 is detailed in the Senate committee's declassified report. On Monday, the report was caught up in partisan wrangling in the Senate, when Republicans on the intelligence committee were unable to muster enough votes to force its release, despite a plea from the White House.

Overall, according to the source, the report depicts the CIA, as too passive in not maintaining control of U.S. covert operations and relinquishing some of that responsibility to the National Security Council staff. Once Casey gave his backing to the Iranian initiative, the agency began to play an active supporting role.

The Senate report portrays the agency as providing logistical backup, such as setting up bank accounts into which money to reimburse the U.S. government could be paid, but apparently not raising serious questions about the NSC's covert program until at least the middle of 1986.

The agency's role in the covert Iranian program will be a prime focus of the coming House and Senate special inquiries into the Iran arms sales-contra aid affair. Under the 1989 law that gives Congress oversight of covert actions, the CIA is supposed to provide timely notification of all such clandestine operations; there has been bipartisan criticism of the administration in this episode for at least 10 minutes.

Accordingly to one source familiar with the Senate committee's report, the panel did not determine what happened to the funds raised privately on behalf of the contras. One reason was that the CIA was cut out of this knowledge under the system of middlemen through which the NSC carried out the arms sales to Iran.

[From the Washington Post, June 25, 1987]

THE TAKEOVER OF STANLEY SPORKIN

(By Mary McGrory)

Fans of Stanley Sporkin during his time as the Securities and Exchange Commission's chief enforcer often wondered what happened to him after he followed William J. Casey over the river to Langley and became general counsel for the CIA.

Now, thanks to the Iran-contra hearings, they know more. Among other things in his days with the spooks, he took orders from Ollie North. Sporkin didn't blink an eye when in January 1986 North called him up and told him to stitch up an "expanded finding" on the arms sales to Iran.

Sporkin, a voluble and assertive man, whose name struck terror into malefactors in Wall Street, was cordially hated as a meddler, a stickler and a menace. His tenacity and zest for hounding people who jiggled their accounts and bribed their customers made him an ogre in the takeover set.

But Sporkin, who left the Central Intelligence Agency last year to become a federal judge, seems to have loosened up considerably at Langley. When he was leaving the SEC, there was much speculation that a man who had spent 20 years training bright lights on dark corners of American business would be out of sync with an agency that operates in secrecy.

Known as a liberal Democrat with a strict Republican view of law and order, Sporkin once said that "morality was going the way of detente."

But he fitted in with the spooks better than anyone could have thought.

When, for instance, he was told on Nov. 25, 1985, that the Reagan administration was covertly selling arms to the ayatollah—and, in fact, had sent two batches—the only thing he thought of was that "this kind of activity . . . should have a finding by the president."

A finding, he explained to the committees, "is a determination by the president of the U.S. that a certain activity in a foreign country, which is undisclosed, is necessary in the interest of national security."

Not everyone in his then-new circle felt that a finding was necessary. There was no argument, of course, on not notifying Congress.

"It was stiff legal advice, believe me," said Sporkin. He added with some complacency, "It's not the everyday legal advice I gave."

It certainly wasn't the kind of advice he gave when he was reading the riot act to greedy brokers. But by Langley standards, apparently, it was tough stuff, and Sporkin saw himself at the barricades. "Some people think I might have pulled the trigger too soon."

The committee lawyer who questioned him, Tim Woodcock, pointed out that the Hughes-Ryan law, which even spies are supposed to observe, calls for presidential approval of a covert action before it actually occurs.

Sporkin, who spoke in the loudest voice yet heard in the hearing room, obviously thought that the counsel was being picky and just a little bit unrealistic: "Well, I think it is important, obviously, in the perfect world. . . . to have the president authorize it, everything, in writing beforehand."

But he didn't "flyspeck" it, and he retroactively authorized the third shipment, which had occurred within hours of his decision on the finding.

Sen. William S. Cohen (R-Maine) said that he had backdated the ratification of something that occurred without a presidential finding.

Said Sporkin, showing the cavalier spirit that informed the North-Casey orbit: "You can't straitjacket the president. . . . Someone can go out and do it, and later on you can do the paperwork." Strains of Fawn Hall's seminal declaration that "sometimes you have to go above the written law."

Sporkin gave the committee its second glimpse of backdating in 48 hours. The day before, another ex-official of the CIA had been on the stand telling how he had backdated two bills for North's security system.

The bill had already been paid by sorcerer North's apprentice, Richard V. Secord, but Glenn A. Robinette, a veteran of 20 years' service at Langley, didn't quibble. Without hesitating, he sent out two bills dated at appropriate intervals and got in return two fanciful missives from North, one typed on a machine that had its letters filed down to show the passing of time.

Robinette, who has an aureole of white hair and watery blue eyes, is the antithesis of Sporkin, being small, meek in manner and almost inaudible.

In the end, though, they sounded much the same. There was the same rueful, limited, situational contrition.

Asked if he did the right thing, Robinette said, "In sending the bills to Col. North? No, I wouldn't be sitting here. . . ." His voice trailed off.

Invited to voice second thoughts, Sporkin replied with a nervous laugh, "If this is what it has caused, obviously that is an easy decision."

There must be something in the air at Langley.

[From the New York Times, July 19, 1981]

A DEPARTURE LEAVES FEW REGRETS AT THE C.I.A.

(By Philip Taubman)

WASHINGTON.—At the end of June, expressing confidence that his stewardship of the

Central Intelligence Agency was progressing smoothly, Director William J. Casey sent a memorandum to all employees, notifying them that the agency was lowering its public profile. "The difficulties of the past decade are behind us," Mr. Casey said.

He had spoken too soon. In a sudden upheaval last week, the director of clandestine operations, Max C. Hugel, was forced to resign amid charges that he had participated in fraudulent securities transactions when he managed an electronics business in the 1970's. Mr. Hugel called the allegations "unfounded, unproven and untrue."

To many, the sudden departure of Mr. Hugel was a relief of sorts. By most accounts, he had disrupted the agency since arriving there in January as a special assistant to Mr. Casey. For some C.I.A. officials, Mr. Hugel's appointment, after his stint as a lieutenant in Mr. Regan's election campaign, raised questions about political directions the agency might be taking. Mr. Casey, before being named Director of Central Intelligence, managed Mr. Reagan's presidential campaign.

Even before his resignation, Mr. Hugel had been blamed for damaging the agency's relations with Congress and with foreign intelligence services. "Max Hugel was the wrong man for the job," said one member of the Senate Intelligence Committee. "Every time he came up here for executive sessions, he seemed to lack a grasp of his business." Consequently, Mr. Hugel won't be missed by many within the agency and on Capitol Hill.

The securities fraud charges, made by two former business associates of Mr. Hugel, did not involve any wrongdoing while he was at the intelligence agency. But there was some concern about the combination of the Hugel affair and disclosures last week that a Federal judge, ruling on an old lawsuit, had found that Mr. Casey had once knowingly misled investors in a business that went bankrupt in 1981. "If Casey's effectiveness is hurt," said one official, "and he loses influence at the White House and on the Hill, then it's clearly a serious setback to the rebuilding of the agency."

THE CRISIS WITH A SILVER LINING

With the exception of Watergate-related abuses, including President Nixon's use of the C.I.A. to thwart Federal investigations of the original burglary at Democratic National Committee headquarters, the agency has remained relatively aloof from domestic politics. When Mr. Casey named Mr. Hugel Deputy Director for Operations, making him responsible for managing clandestine and covert operations, it appeared to some officials that the political contamination had spread to the agency's uppermost sanctum.

The timing could not have been worse. After taking over the C.I.A., Mr. Casey made the rebuilding of its clandestine services his highest priority. All the collection of intelligence by human agents, including American "moles" inside enemy governments, and covert actions by American agents, fall within the purview of the operations division.

The division has been drawn down over the years by budget cuts and has been plagued by a continual crisis of confidence that began in the mid-1970's with Congressional investigations that disclosed the use of violent and bizarre operations, including the assassination of foreign leaders.

Mr. Casey apparently thought that Mr. Hugel, a brash, hard-driving dealmaker, possessed the right qualities to inject efficiency and imagination into the clandestine services. Moreover, Mr. Hugel was unswervingly loyal to Mr. Casey. Colleagues described their relationship as much like that between a father and son.

Privately and publicly, Mr. Casey was an enthusiastic supporter of Mr. Hugel, repeatedly praising his deputy's abilities. "Bill thought Max would be great at developing and running covert operations," said an intelligence official. "He forgot that half of Max's duties would involve dealing with Congress and foreign services. In the latter, his personal style couldn't have been less helpful."

Mr. Hugel's tenure coupled with the manner of his departure, probably set back the operations division, officials at the agency said. Morale may be bucked up, however, by the rapid appointment last week of John H. Stein, a well-regarded agency veteran, as Mr. Hugel's replacement.

Liaison with foreign services has also suffered. Long distrustful of the C.I.A. because of uneven leadership and seemingly constant leaks of information, foreign intelligence agencies were apparently appalled at Mr. Hugel's lack of experience and finesse. Several Israeli officials were so shaken by their first encounter with Mr. Hugel, officials said, that they refused to provide him with the identities of colleagues in Israeli intelligence.

For some members of Congress, the Hugel affair has reawakened concerns about the management of the C.I.A. and prompted discussion about reasserting Congressional oversight. In recent years, the Senate Intelligence Committee has backed away from the kind of intense oversight favored in the period following the disclosure of C.I.A. abuses.

The departure of Mr. Hugel, once the controversy subsides, could ultimately work in Mr. Casey's favor. Assuming he survives the fallout, and recovers any influence lost at the White House and Congress, Mr. Casey may be better able to advance the agency's interests without the distraction and irritation generated by Mr. Hugel.

For example, Mr. Casey and Admiral Bobby R. Inman, the Deputy Director of Central Intelligence, have struggled for several months to gain agreement from other agencies and the White House on a new executive order to govern the activities of United States intelligence services. The issue, officials said, has often pitted C.I.A. leadership against the White House's National Security Council staff, with the C.I.A. generally favoring continuation of prohibitions against domestic spying, according to White House aides.

Mr. Casey has also attempted to improve the quality of intelligence analysis after discovering that many of his agency's analysts neither know the languages of the countries they watch nor have traveled to those countries.

For the moment, however, the main concern for officials at the agency's headquarters in Langley, Va., is to get the Hugel affair behind them. "Everybody, especially Bill Casey, is a little dazed," said one official.

[From the New York Times, July 15, 1981]

EX-C.I.A. DEPUTY IS VIEWED AS LACKING PROFESSIONALISM

(By Robert Pear)

WASHINGTON, July 14.—Before his resignation today, Max C. Hugel was in charge of the largest directorate in the Central Intelligence Agency, the branch responsible for covert action and clandestine counterintelligence overseas.

Mr. Hugel did not fit the mold for that job in two respects: He had not had a career in professional intelligence work; instead, he had been a businessman in New Hampshire and worked on the Reagan campaign staff in last year's Presidential election. And, unlike most of his predecessors, he did not come from an Ivy league-style "gentleman's club" background.

Mr. Hugel's title was Deputy Director for Operations. Before March 1973, the job bore the title of Deputy Director for plans. William E. Colby, who held the position in 1973 before he became Director of Central Intelligence, said in an interview today that he had asked James R. Schlessinger, then Director of Central Intelligence, to change the name because "plans" was a euphemism for what that part of the agency really did.

Besides Mr. Colby, two other men who had previously been in charge of the directorate for plans, or operations, were promoted from within the agency to Directors of Central Intelligence. They were Allen W. Dulles and Richard Helms. Mr. Dulles and Mr. Colby were graduates of Princeton, and Mr. Helms was a graduate of Williams College, an old liberal arts college in northwestern Massachusetts.

THE HEART OF THE AGENCY

"It would be very unusual to have a nonprofessional, a businessman, an ordinary civilian running the directorate for operations," said Thomas Powers, author of a recent biography of Mr. Helms. "That's certainly never happened before. That's one position where you want a professional. That's where the heart of the agency always was, and that's the office in which Presidents were always most interested."

Presidents took an interest in the office because its covert agents could, at the President's behest, foment unrest in foreign countries. In addition, the Deputy Director for Operations supervised the recruitment of spies overseas, collecting minutely detailed information about low-level clerks in Soviet embassies abroad.

The Deputy Director also had authority over counterintelligence operations designed to learn about Soviet activities in general, and supervised all forms of psychological warfare conducted and information disseminated by the agency overseas.

Officials in the Reagan Administration said that William J. Casey, the Director of Central Intelligence, had recruited Mr. Hugel because Mr. Casey thought his rough-and-tumble style was exactly what was needed to rebuild the clandestine service. Some agency officials had become extremely cautious about conducting covert operations after years of Congressional investigations exposing unsuccessful and aborted projects, including plans to assassinate foreign leaders.

ADEPT AT COMMERCIAL COVERS

In addition, Mr. Casey was said by agency officials to have believed that Mr. Hugel would be adept at helping develop commercial covers for American intelligence agents operating overseas.

Mr. Hugel, according to a biography distributed by the intelligence agency, specialized in Japanese economics at the University of Michigan, from which he was graduated in 1953. Earlier, he established a company, Brother International, to sell Japanese-made sewing machines in the United States.

Former intelligence agencies have criticized Mr. Hugel's appointment, saying he was an amateur in a job held in the past by seasoned professionals. Their animosity was so strong that a White House official suggested today that former intelligence officials might have encouraged disclosure of

the information about Mr Hugel's stock dealings, which forced him to resign.

All of Mr. Hugel's predecessors had experience in intelligence work before they took charge of clandestine operations. Those who have held the position since Mr. Dulles are Frank G. Wiener, from 1952 to 1958; Richard M. Biseal Jr., 1958 to 1962; Mr. Helms, 1962 to 1965; Desmond FitzGerald, 1965 to 1967; Thomas Karameesines, 1967 to 1973; Mr. Colby, 1973; William E. Nelson, 1973 to 1976; William Wells, 1976 to 1977, and John McMann, 1977 to 1980.

[From the New York Times, May 22, 1981]

THE COMPANY MR. CASEY KEEPS

A certain skepticism is in order when the intelligence brotherhood complains that amateurs are taking over the Central Intelligence Agency. The Bay of Pigs wasn't exactly an amateur production, save in its humiliating outcome. Nor were the abortive attempts to assassinate Fidel Castro in the 1960's. But in the matter of Max Hugel, a New Hampshire businessman now turned spymaster, the consternation among old C.I.A. hands is surely understandable.

Mr. Hugel's most visible qualification is has long-time friendship with the C.I.A.'s Director, William Casey. According to his official biography, Mr. Hugel served as a junior Army intelligence officer during World War II. He has had three months' experience as a middle-echelon administrator at the agency's Langley headquarters, a.k.a. The Company. With only this background, he has now been promoted to head the agency's directorate of operations, which controls covert actions and clandestine intelligence overseas.

Plainly, Mr. Casey wants a loyal associate in this peculiarly sensitive post, which has been described as the most difficult and dangerous in the Government after that of the President. And Mr. Hugel earned that confidence when he resigned as an electronics company executive to help win the crucial New Hampshire primary victory just as Mr. Casey assumed command of the Reagan campaign. Mr. Hugel's political skills impressed old hands in that state, though they otherwise know little about him.

Still, winning votes in New Hampshire is one thing. Knowing the national security byways of Washington is quite another. And presiding over spy networks requires even more sophisticated knowledge and experience. Mr. Hugel's appointment is not subject to Senate confirmation, unlike the positions of C.I.A. Director and Deputy Director. So as a matter of law, Mr. Casey has every right to appoint a chum as spymaster. As a matter of policy, the appointment is questionable.

The C.I.A. is unlike any other agency in the degree of trust it demands from Congress and the public. That trust was grievously abused in a period not long ended. Who can be surprised if there are fears of a replay in an Administration that talks loosely about "unleashing" the C.I.A.? These fears are fanned when an outsider with tenuous credentials is given command of The Company's most free-wheeling division.

For security reasons, the Senate Intelligence Subcommittee has been reluctant to delve too deeply into the agency's secret operations. But the command structure is a different matter. Mr. Casey—even the President—have an obligation to explain what prompted the Hugel appointment, and to spell out the constraints on covert operations. That much light won't compromise the agency and would allay justifiable fears. In a double sense, The Company that Mr. Casey keeps is the public's business.

[From the Washington Post, July 15, 1991]

THE HUGEL FILE

The Max Hugel file, it turned out, was a little thicker than the CIA realized when it signed up the erstwhile New Hampshire businessman and Reagan campaign aide as deputy director of operations in May. The check that the agency ran on Mr. Hugel failed to pick up the tangled skein of certain of his business affairs that this newspaper brought to light yesterday morning. In the story, two former associates, tapes in hand, accused the nation's chief spymaster of engaging in improper or illegal "insider" stock market practices. Mr. Hugel denied all charges and, within hours, resigned.

The episode is a pie in the face of the CIA and its director, William J. Casey, who had rocked the agency's old-boy network, and raised eyebrows elsewhere, by choosing as his aide for covert operations and clandestine intelligence-gathering someone with no previous experience in those fields. The CIA is not the first organization to hire a bit hastily. Still, it has better reason and resources than most to proceed carefully. It is not hard to imagine scenarios—several novelists are probably at it already—with far graver endings than the resignation of an official whose difficulties lay entirely in his business past. That these difficulties were of a sort unquestionably familiar to Mr. Casey, a former chairman of the Securities and Exchange Commission, sharpens the question of how Mr. Hugel passed through the CIA screen.

In some quarters, Mr. Hugel's departure is being taken, and even celebrated, as vindication of the folly of bringing in an outsider to run the country's agents and spies. But, the tinge of social snobbism aside, this is a narrow view. His trouble came not in intelligence, in which he was an outsider, but in business, in which he was an insider. It has to be put down as a moot question whether the street-smart, free-wheeling Mr. Hugel would have done better or worse as a spymaster than those intelligence insiders whose shortcomings had made it seem sensible enough to install an outsider in the first place.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, I listened closely to the statement of my friend, Senator GLENN. I am sorry to say I must rise in opposition to the pending amendment which requires the Senate to confirm an additional three officials to the Central Intelligence Agency, those three described as the Deputy Director for Operations, the Deputy Director for Intelligence, and the general counsel.

As has been noted, currently the Senate only confirms the Director, Deputy Director, and inspector general. I think the points raised by my colleague from Ohio are good ones. He clearly is interested in good, efficient government. We all have that in mind. And when he argues that the Senate confirmation process will ensure that high officials in the Agency will not be swayed by political consideration in doing their job, I know he has that intent. And it is certainly a noble goal and objective. But I seriously question whether the amendment itself is going to achieve that goal.

I think the amendment very well may inject political considerations in the process. It would, in the opinion of the Senator from Alaska, vice chairman of the Intelligence Committee, force three more persons to go through a political process when they are nominated by the President, and I think we l ave to recognize the process of nominating and confirming takes two steps.

The first is for the nominee to pass muster downtown at the White House. At times this involves, frankly, political considerations. I do not think there is any secret about it and every Member of this body would be naive to think otherwise.

The second step of the process involves the Senate confirming the nominee. Rarely do nominees fail to gain Senate confirmation. Sometimes, as noted yesterday, votes are quite close.

However, Mr. President, if the process starts with a political consideration at the White House, which it certainly does, these considerations will not necessarily be eliminated merely because the nominee comes before the Senate Intelligence Committee for confirmation.

What this means in reality is that career CIA employees, some of whom deal in the Nation's most sensitive intelligence collection activities in the Directorate of Operations, will have to be sensitive to political matters in attaining the highest position in the Central Intelligence Agency.

In other words, we are going to have to see they are elevated or they are going to have to be elevated or they are going to consciously be elevated to that political sensitivity. Otherwise, they are simply not going to be able to have, if you will, the visibility to be included in the selection process. They will have to understand that their career goals in reaching the top position in the Agency will not be realized unless, somehow, they get themselves enough attention so there is some political connection with the White House.

I fear for that. I think that in itself is the very issue here and the very concern we have.

So I do not simply understand how the argument of my friend from Ohio eliminates the political consideration from this appointment process.

Some would argue that confirming these three people will make them more accountable. Clearly, we all want accountability. It is so frustrating to see in the Agency the lack of accountability. One only has to look at the Soviet Moscow Embassy fiasco to wonder where the accountability went. Where did it go to the point where we allowed pouring of concrete forms offsite so the foundation could basically be bugged? You go in today and neither the Agency nor the State Department can address the issue of responsibility.

So, clearly, the question of accountability is important. But the problem is that there will be accountability to the White House and not necessarily to the oversight committee, because the White House is nominating the individual. I fail to see what we are attempting to fix here.

Senator GLENN has argued, strongly and very well, that one prior appointment in the early days of the Reagan administration was unfortunate. We would acknowledge that. While others may agree with the assessment, I have not discovered that there is any pattern of similar appointments made in the Central Intelligence Agency, and I think that was one of the arguments used yesterday on the floor in the Thomas matter—Was there a pattern?

To get back to the point, I see a pattern in this case of high-quality appointments in the Central Intelligence Agency in the top positions. For example, if we look at the current cadre of personnel, the current general counsel, Elizabeth Rindskopf, an outstanding civil servant who has provided enormous assistance to our committee on some of the most difficult legal questions that we face.

Tom Twetten, the present Director of Operations is a career professional who literally rose from the ranks of the most secret of all our services. It is no offense to Tom Twetten to wonder whether the personnel office in the White House, including those who are concerned with the issue, and that is politics, would even recognize his name let alone his accomplishments as an operations officer overseas.

I think we are unlikely to get people who have had a depth of training in senior positions to simply come in and take those positions as a consequence of the appointment process. It is more likely that the special nature of this type of intelligence gathering addresses the theory of coming from within the Agency; knowing the Agency; understanding its uniqueness, and, as a consequence, moving up.

Finally, Mr. President, the issue of micromanaging bothers me a great deal.

So, overall, I do not understand the problem we are trying to solve here. By and large, the quality of the deputies at the CIA has been, I think, very, very high. They appear to me at least to be professionals in their fields of endeavor. Persons who head the various directorates at the Agency should not be wondering whether they are pleasing somebody down at the White House who helped them get their jobs. And I think that is an important point to recognize. They should not have to have allegiance, otherwise they lose some of their objectivity.

There is another reason to oppose the measure. It weakens the DCI's ability, the Director of Central Intelligence, to manage the Agency itself. Under this proposal the Director of Central Intelligence would not be able to select or remove his subordinates.

I, having spent a lifetime in senior management, cannot imagine working under conditions of that nature. Those he wanted to promote would have to pass muster through the White House Personnel Office and the political process. In addition, this proposal would restrict his or her ability to remove those who are not doing their jobs.

I grant you the provision is in other agencies. But, let us face it, our Agency is different. It is structured to be different. Its budget is different. It is handled here on the floor in a different manner, and it warrants, I think, a different type of structure within. We only have to go back to the Agency's organizational chart to recognize that there are appropriate actions that have been taken relative to the confirmation process, by adding the inspector general, which was done a short time ago.

The appropriateness of that was questioned by some of my colleagues. But, clearly, if you are going to have an inspector general, you better have him independent of the DCI. That is a good argument. It is an argument that I accepted. But you just simply cannot accept the same application of principle in the case pending before us on the amendment.

So, as a consequence, at this time, the Intelligence Committee is trying to develop proposals to strengthen the authority of the Director of the Central Intelligence Agency to enable him to better manage the community.

I think the proposal before us, in contrast, would weaken the authority of the Director of Central Intelligence. It would not allow him or her to select the most important deputies of the agency. This seems to fly in the face of what our committee is trying to accomplish in our reorganization initiatives.

However, Mr. President, our committee, as many of my colleagues know, is in the midst of trying to determine the best structure and the best organization for the Central Intelligence Agency and the community in general to meet the challenges of the 1990's and beyond. We have not completed that process. As far as I am concerned, we are not far enough along in that process, but it is fair to say we have initiated collectively the determination to begin.

But the reason we have not is primarily because we have been involved in confirmation hearings. The chairman and I intend to redirect our energies after we vote on the Gates nomination and move to the reorganization initiative priority. But it seems to me that we should certainly include the proposal of my colleague from Ohio, the Glenn proposal, as one of several matters to consider in terms of the management structure at the CIA. However, I think it is inappropriate to adopt it now, at a time when we are talking about a new head of the organization. Adopting it in piecemeal fashion I think will defeat the objective of our committee to take a comprehensive look at all aspects of the intelligence community and to make sure that whatever changes we propose will make sense in the overall structure.

Mr. President, the chairman and I have been in discussion with our counterparts in the House and with Senator NUNN, Senator WARNER, and others on the reorganization initiatives. Our goals on many of the proposals are the same. But the means of attaining these goals is where I think we sometimes differ, and I think we do today. It is for this reason we tentatively agreed to delay the implementation of the reorganization initiatives until next year. This will provide us time with our hearings to think through in an orderly fashion those proposals that will have long-term impacts on the intelligence communities.

In addition, Mr. President, I am anxious to have the next Director of the Central Intelligence Agency confirmed and to then confer with him to get his views on reorganization initiatives. After all, Mr. President, we are going to hold him responsible and he should certainly have the opportunity to comment on the proposed reorganization initiative.

Finally, Mr. President, I believe that the Senate has to act to defeat this measure now and not wait to see the change that the Glenn proposal would provide. Simply put, Mr. President, the House of Representatives has no stake in the question of confirmation. Confirmation is our responsibility. I believe the Senate must act now to defeat the proposal.

Mr. President, I ask unanimous consent that the position of the President by letter dated October 16, which I intend to read in the RECORD, be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, DC, October 16, 1991.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: The Intelligence Authorization Act (S. 1539) will shortly be considered by the Senate. I understand that an amendment will be offered that would require Presidential appointment and Senate confirmation of six senior positions at CIA. Before the Senate takes action on the legislation, you should be aware of my strong opposition to this proposal.

The proposed amendment is unnecessary and would create the opportunity for the politicization of the intelligence process. Politicization of intelligence is unacceptable, and I am pleased that the intelligence provided by CIA to me and my predecessors has been straight and objective. CIA has been able to provide objective intelligence by

being insulated from political pressure. The Director's ability to appoint his immediate subordinates has been critical in insulating CIA from political pressure. As a former DCI, I know how critical it is that these positions be filled with qualified individuals irrespective of their political associations or beliefs. My concern is that the confirmation process itself will inevitably create pressure on qualified candidates—either real or imagined—to conform their views to correspond to those that are perceived to be necessary to win confirmation.

My objectives to this amendment are shared on a bipartisan basis. I agree with Senators Hollings and Chafee that it is "premature to enact such legislation at a time when the Senate Intelligence Committee has just begun a comprehensive review of the structure and organization of the U.S. Intelligence Community." At the very minimum, the Senate Intelligence Committee should closely examine the need for this proposal and its possible unintended adverse consequences before action is taken by Congress.

I hope that I can count on your support to defeat this amendment when the Intelligence Authorization Act comes to the floor.

Sincerely,

GEORGE BUSH.

Mr. MURKOWSKI. Mr. President, this is a letter to the Senate majority leader dated October 16:

DEAR SENATOR MITCHELL: The Intelligence Authorization Act (S. 1539) will shortly be considered by the Senate. I understand that an amendment will be offered that would require Presidential appointment and Senate confirmation of six senior positions at CIA.

I will reference here that this is three as proposed in the Glenn amendment.

I continue the letter:

Before the Senate takes action on the legislation, you should be aware of my strong opposition to this proposal.

The proposed amendment is unnecessary and would create the opportunity for the politicization—

Or close to it—

of the intelligence process. Politicization of intelligence is unacceptable, and I am pleased that the intelligence provided by CIA to me and my predecessors has been straight and objective. CIA has been able to provide objective intelligence by being insulated from political pressure. The Director's ability to appoint his immediate subordinates has been critical in insulating CIA from political pressure. As a former DCI, I know how critical it is that these positions be filled with qualified individuals irrespective of their political associations or beliefs. My concern is that the confirmation process itself will inevitably create pressure on qualified candidates—either real or imagined—to conform their views to correspond to those that are perceived to be necessary to win confirmation.

My objections to this amendment are shared on a bipartisan basis. I agree with Senators Hollings and Chafee that it is "premature to enact such legislation at a time when the Senate Intelligence Committee has just begun a comprehensive review of the structure and organization of the U.S. Intelligence Community." At the very minimum, the Senate Intelligence Committee should closely examine the need for this proposal and its possible unintended adverse consequences before action is taken by Congress.

I hope that I can count on your support to defeat this amendment when the Intelligence Authorization Act comes to the floor.

Sincerely,

George Bush, President of the United States, with copies to the Honorable DAVID BOREN and the Honorable FRANK MURKOWSKI.

So, in conclusion, Mr. President, I think our obligation is to have a management structure for the Director of the Central Intelligence that provides for accountability, not one to micromanage the agency within the dictates of this body.

I see a number of Senators on the floor. It is my understanding that Senator DANFORTH would like to address the pending amendment.

I ask how much time remains on both sides Mr. President? It is my understanding we had 4 hours equally divided. Can you give us some idea of where we are?

The PRESIDING OFFICER. The time in opposition is 103 minutes. The time in favor is 85 minutes.

Mr. MURKOWSKI. I thank the Chair. I ask my colleague about how much time he might require.

Mr. DANFORTH. Maybe 10 minutes.

Mr. MURKOWSKI. I yield to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri [Mr. DANFORTH].

Mr. DANFORTH. Mr. President, it is one of those rare ironies in the Senate that less than 24 hours after voting on the Thomas nomination, we are now debating whether to add three more positions in the Federal Government where the Senate is going to be involved in confirming the people who have been appointed to those offices.

We have just concluded yesterday a very tense debate in the U.S. Senate. Two strongly held views were expressed, but one thing that was held in common on both sides of the aisle is that something has gone very wrong with our confirmation process. I think all of us, Republicans and Democrats, believe that something was seriously wrong with the Thomas confirmation process and, as we reflect on what it was that was wrong, it included the participation of interest groups who were scouring the country for information, the use of confidential information by Senate staff, and the releasing of that information to members of the press.

Unfortunately, what happened with the Thomas confirmation was not unique in the recent history of the U.S. Senate. It has become something of an art form. If you want to accomplish your political objective, you leak confidential material, get it out to the press, and the press is very good at protecting confidential sources. That is what a free press does, and I understand that.

The fact of the matter is the method works. It brings results. To leak information to the press and to build a public uproar as a result changes votes in the U.S. Senate. It is a tried-and-true method of accomplishing political results. It has happened as recently as within the past 2 weeks. At the same time that the Judiciary Committee was considering the Thomas nomination, the Intelligence Committee was considering the Gates nomination. As part of that consideration, a closed meeting was held one night in the Intelligence Committee's room in the Hart Building, and it is my understanding from talking to the chairman of the Intelligence Committee that no sooner did we have that meeting, a confidential, closed meeting of the Intelligence Committee, than the contents of that meeting were leaked to the press. Where confirmations are concerned, the Senate leaks like a sieve.

A year or two ago, we had the confirmation of Mr. Ryan to be the Chairman of the Resolution Trust Corporation, and during the process of that confirmation the contents of his FBI report were leaked to the press at great embarrassment to Mr. Ryan and to his family. It was a violation of Senate rules, but Senate rules mean nothing, apparently, in protecting confidentiality. A complaint is made to the Ethics Committee. The Ethics Committee does its best, does not find out what happened, and that is the end of it.

I do not know; maybe there is some time in the Senate history when the leaking of confidential information has caused some sanction to occur, but it has not been in my time.

So we now have a situation where the method of operation among some of our people, either staff or Members—who knows who they are—is to get confidential information out in the public, get it in the public domain in order to accomplish the destruction of a nominee. And it has happened several times.

How ironic it is that less than 24 hours after voting on the Thomas nomination, we now have a matter on the floor of the Senate which would add three new positions for confirmation. I thought that what we were saying yesterday, Republicans and Democrats alike, was something has gone terribly wrong with our confirmation process. I thought that what we were saying was that we had to clean up our act in the Senate.

And now without cleaning up anything at all, without even getting out a dustpan, we have a proposition on the floor of the Senate to add three more people to the list of those who are to be confirmed, as though we are saying the present situation is not only just fine but it does not go far enough; we need more people to confirm.

Mr. President, these are not just any old souls who would be confirmed by the Senate. We are not talking about some Commission or some Assistant

Secretary of Labor, for example. We are talking about the Central Intelligence Agency and three of the most sensitive positions that there are in the Federal Government.

As a matter of fact, the Director of Operations is the most sensitive person in the Federal Government. The Director of Operations is a person who almost certainly has spent his or her entire career in the operations half of the CIA. This is a person who has spent an entire career not in the public eye but avoiding the public eye, as a matter of fact. And now we are supposed to have confirmation hearings on the Director of Operations.

I suppose someone would say, well, they do not have to be public hearings.

I must say, Mr. President, that in the real world of the Senate, the difference between public hearings and closed hearings has begun to escape all of us. The object is, apparently, to leave a closed hearing and blurt it out to the press. If you have gone to a closed hearing, it increases the value of the information you are going to leak. It is the law of supply and demand. The supply of information is limited, the demand is infinite, and the value of what you are spilling increases.

Mr. President, I hope before we start adding to the list of confirmable positions, and particularly before we add these three very sensitive positions to the list of those that are confirmable, we will in fact cleanup our own act. I think the time has come for a very close look at how we conduct our own business in the Senate. I think the time has come for a very careful analysis of how we conduct the confirmation process.

I believe that we, not only we in the Senate but the country at large, should focus on the process of confirmation. I believe that we should ask ourselves whether in the confirmation process anything goes, whether in the confirmation process there should be any limit at all on what we are willing to do to destroy a nominee. I believe we should focus on how we conduct ourselves here in the Senate before we exacerbate the problem and add to the list of positions in which we muck around.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS and Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. HOLLINGS. Mr. President, will the Senator yield 15 minutes?

Mr. MURKOWSKI. I will be happy to yield 15 minutes. Might I ask how much time remains on the opposing side?

The PRESIDING OFFICER. The Senator has 92 minutes remaining.

Mr. MURKOWSKI. I thank the Chair. I yield to my friend from South Carolina.

Mr. HOLLINGS. I thank the distinguished ranking member of our Intelligence Committee. Let me add in the same breath, under his leadership, under the leadership of our chairman, Senator BOREN, and the former ranking member, Senator COHEN of Maine, as the ranking member on the Intelligence Committee, we have had a very tight, operative ship.

And when I had been on the committee before their particular leadership, when there were some leaks, I deplored them. I tried to insist, but unsuccessfully, that we would take lie detector tests. There has been a lot of discussion about lie detector tests. They do not tell us necessarily whether you tell the truth or not. But it gives an indication from the responses whether a further probing is required and desired, and we use it with respect to the CIA, the FBI, the National Security Agency, and the Secret Service.

You cannot get that job right out there at the door, on the Capitol Police force, if you do not take a polygraph. I went down and took one myself. I do not want, ever, to ask the troops to do something I do not do. I flunked, I say to the Senator from Rhode Island. The very first question I started to answer, "In my humble opinion," and the needle just went right off the chart.

But in all candor and seriousness, I have been in this field 35 or more years as a member of the Hoover Commission task force. Can you imagine me appointed by a Republican President?—President Herbert Hoover. Gen. Mark Clark was the chairman of the commission; Capt. Eddie Rickenbacker, and others also served. We worked together in the McCarthy days. We got McCarthy's papers in 1954 and 1955. We had Richard Helms, Sherman Kemp, Bob Avery, Allen Dulles, and others in it at that time.

Now, I look advisedly at that era and at security today, and say, yes, we are doing well. But there is a point to be made that the Senator from Missouri has pointed out. That is, when these things become partisan, the leaks start. I have an outstanding staffer, and it is invariably a foot race, if I have missed an Intelligence Committee session, when I have had to be at another committee event—to see if he briefs me or if I brief him—because I have read the New York Times. Just 3 weeks ago we had such an occurrence. I quote from the New York Times of September 26, 1991: The headline reads, "Ex-CIA Official Is Said To Testify***Gates Cut Dissent." The very first paragraph reads.

> A former Central Intelligence Agency official asserted in Senate hearings today that Robert M. Gates actively suppressed dissent, slanted intelligence conclusions, and intimidated analysts who disagreed with his views in his years as a senior intelligence official, according to people familiar with testimony he presented before a closed session of the Senate Select Committee on Intelligence.

We are getting leaks like this all over now. It is just unfortunate. When we have nonpartisan private matters, we have not had that particular problem. But I note it now has surfaced with respect to the partisanship of the Thomas hearings before the Judiciary Committee, and the partisanship in the Gates hearings before our Intelligence Committee, which we will vote on in the committee on Friday.

I am shocked in the sense that, heavens above, do we never learn? I am like the Senator from Missouri. I believe that public hearings, confirmation hearings for the three top officials, under the Director of Central Intelligence, should be totally unheard of. This is not a policy body, the Central Intelligence Agency. As its title denotes, "intelligence" and factual findings are its mission, never, never, policy. That is one of the faults we find at this particular time—in the Robert Gates confirmation process—because there is no question in anybody's mind around here, 100 Members, that Bill Casey fashioned his intelligence to the policy, to the preconceived policy. That is counter to intelligence work. It never should happen, it never should be allowed. It violates the professional ethics of intelligence work.

What happens if we have confirmation proceedings for these officials? Try it on for size, Mr. President. Here I am, I come into clandestine service, and I operate there 10, 20 years, working my way up to the top, doing a good job, wherever they send me. I can be selected by a Director without the politicization, without the public hearings, and know I will not be barred. But if we had confirmation proceedings on these officals, I can tell you categorically that a top man in the clandestine service could not be appointed under this particular amendment. I happen to know the present top man in that service. He is outstanding, with years in this particular work. But I doubt if he could pass political muster because he has too much clandestine knowledge. He is bound to be examined.

Do not tell me about handling these confirmations in closed hearings because I just read a news story from the closed hearings. The closed hearings are sieves, as the Senator from Missouri said. Information goes out like gangbusters. You have to race your staffer and brief him for the New York Times and the Washington Post before he can brief you.

It is ludicrous to bring forth such a proposal for intelligence work. It is not as if the President would appoint a Secretary of Agriculture for farm policy or Secretary of Commerce or Deputy Secretary of Commerce for business policy. This particular agency is for naught policy, nonpolicy, no policy. Politicization of intelligence is our problem right at the moment. Why did we flunk in Afghanistan, Iran, Angola,

Ethiopia, Iraq, Kuwait, the fall of the wall, the Soviet Union? Why do you think we have that sorry track record? Because of Casey. He was adamant in his view of the Soviets, and you had to play his game at the expense of your ethics.

Suppose I want to come along as a career man. I am aware that the Presidential appointment has to have senatorial confirmation. Why, I must start watching my P's and Q's politically because we have seen what can happen with a particular nominee here on national TV all over the weekend. So there is an old political adage: When in doubt, do nothing, and stay in doubt all the time. As a result you have, as a nominee one of these brilliant fools that smile, condescend, and obsequiously go along. You get nothing out of them. You certainly get nothing meaningful out of them. I think in essence that is what Schwarzkopf was saying to us from the gulf. He could not depend on the CIA intelligence. If he had waited for CIA to give the word, he would never have gone forward. They took the sharp edges of factual intelligence, shaved here smoothed here, and produced, in his words, "mush."

Now you want to institutionalize mush with this amendment.

Mr. President, there are letters here. The Senator from Rhode Island, Senator CHAFEE, yielded to me, because I have to get back in this conference on appropriations. But he has letters from the President, and the former Directors and others, that are very, very significant on this score.

But let us not, for Heaven's sake, go along with an amendment of this kind and really politicize the Central Intelligence Agency. It is bound to happen if we pass this amendment. We are not going to be able to really clean it up at CIA as we proposed to do.

I can be categorical in this sense because I publicly said I am worried about my friend, Bob Gates, because I do not think he is the proper man at this time. Too many, not just in the Soviet section, but in many analytical sections, say that he, to put it crudely, "cooked the books", adopted the intelligence, pressured that intelligence to conform to the Casey policy. So to go in there, he would have a tough time for 2 or 3 years to get things straightened out.

But I will bet this: I bet he will get a majority vote of our committee on Friday. I will bet also this, that he will probably get a majority vote in this Senate.

So I do my job conscientiously. I am not the mother superior around here on the mistakes we make. But I will back Bob Gates to the hilt on appointing his team. I do not want to be brought up here next year at this time and say, "Bob, what about so and so?" And he said, "Well, you know, you gave me some political appointments for Deputy Director for Intelligence, Deputy Director for Operations, and general counsel. I had to take them and put them through those hearings, and I am having a problem."

I want him to have a strong directorship. I can tell you, if you really want to weaken him, go along with this amendment. It is totally out of order and never should be brought up, particularly at this time with the track record of the confirmation process over the weekend.

I thank the distinguished Senator from Alaska. I yield the floor.

Mr. MURKOWSKI. I thank my friend from South Carolina and the Senator from Rhode Island.

I yield as much time as I think the Senator from Rhode Island might need.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. If I could be reminded at 20 minutes, I would appreciate it.

Mr. President, I have the greatest respect for the intelligence, integrity, and judgment of the distinguished Senator from Ohio. When he comes up with an amendment like this, Mr. President, I just say to myself, what can he be thinking of?

If I have ever seen an amendment that was the wrong amendment at the wrong time, this is it. Mr. President, I am not just talking about the wrong time being what Senator DANFORTH was referring to earlier—the bitter experiences we have been through in this Chamber and in this body, the whole U.S. Senate, over the Thomas confirmation. But it is the wrong time for a series of other reasons.

I want to point out to my colleagues in the Senate that right now in the Intelligence Committee we are contemplating a total reorganization of the intelligence community. Already we have held three hearings on this issue, and many more are expected this year. You might say: Oh, three hearings, what is that? You folks cannot be very serious. After all, why can't you finish by the end of this year?

Well, I want to point out that the most comprehensive and intelligent review of the reorganization of the Defense Department was the so-called Goldwater-Nichols Act. That took 3 years, 25 hearings, 10 markup sessions, and when it was done, it was done right. It is one of the finest things we have done in the Senate and the Congress for the benefit of the Defense Department.

So to say at this time that we are going to step in, we are going to have three more positions over there, setup in law, appointed by the President, sent up to the Senate for confirmation—the general counsel, the Deputy Director of Intelligence, and the Deputy Director of Operations—at the time while we are reviewing the whole agency, in my judgment makes no sense.

On another point, when you put somebody in charge, you want them in charge, and you want to hold them responsible. It is what we call "accountability." So we have, over there in the intelligence community, the Director of Central Intelligence. We confirm him. He is appointed by the President, subject to confirmation, and he is held responsible for what takes place.

Now we are saying: Oh, by the way, the President is going to appoint not only a general counsel, the person you have to turn to for advice on legal matters, but also two of the most important deputy directors you have, namely those for operations and intelligence. These are going to be political appointments.

You might say, well, we really do not intend them to be political appointments. Of course, they are going to be political appointments. What is the White House all about? They are going to send up political appointees for these positions. If I am correct, there have been some revisions. I would like the sponsor to tell me if I am correct—has the Senator altered his bill as originally presented? Am I correct that the individual appointed pursuant to this section shall serve at the pleasure of the President, and may be removed from office only by the President; is that the language still present?

Mr. GLENN. That is correct.

Mr. CHAFEE. I thank the Senator very much. So, furthermore, we end up with a situation where not only can the director not appoint his subordinates, he cannot even get rid of them. They serve at the pleasure of the President. Only the President can get rid of them. This includes the person the OCI is relying on for legal advice and counsel, and there is plenty of that which comes up in that agency. What is legal? How do I observe the Boland amendment? How do I not? What does it provide. When do I have to have a finding? When do I not need a finding? All of these are very important. He gets somebody in there whom he did not want to begin with and, once more, he cannot get rid of him.

Mr. President, we are in the process of selecting a new Director of that Agency. If all goes well, Mr. Gates will be confirmed very shortly. Or, if he is not, another name will come up and, presumably, that individual will be confirmed before too long. I certainly think we ought to let that individual get into the department, into the Agency, give us his views, come up with his thoughts, and let us hear them.

Now we are in a peculiar situation. For some reason, the CIA is singled out for these additional confirmations. There are no such confirmations in the National Security Agency, or in the FBI, or in the Defense Intelligence Agency. I do not know why in the Central Intelligence Agency we have

this, without the others. There is only one thing we can assume: That hard on the heels of the approval of these three additional politically appointed positions we will start doing the same thing with the other agencies—the FBI, NSA, and the DIA.

One of the arguments that was made by the distinguished Senator from Ohio—and I will say this: Any time he is supporting an amendment on the floor, there is something to be heeded. He is a Senator who has been here a good deal of time, and who has given this some thought, so his views carry weight. He has just pointed out that in all the other departments, the Department of State, the Department of Defense, the Department of Treasury, the Department of Transportation, the Department of Housing and Urban Affairs, you name it, they are appointed positions.

So what is the matter with doing the same thing in the CIA?

Well, there is a world of difference. I served as a political appointee of the President in the Department of Defense. I was the Secretary of the Navy for 3½ years. Why was I appointed to that position? I was appointed to that position by the President in order that the President's policies could be carried out in the Navy Department. I got my orders from my boss, the Secretary of Defense—the Deputy Secretary of Defense, David Packard, and Secretary of Defense, Melvin Laird. They got their orders from the President of the United States.

Those orders came to me, and we would meet every Monday morning at 8:30 in the office of the Secretary of Defense. There we got our marching orders for the week. "You are going to reduce the size of the Navy." That is what I was told. "We have to get rid of a lot of those old ships. We have to cut the budget, and you ought to do it." I was carrying this out. I was a policymaker. Those were my instructions. I was a political appointee carrying out the orders of the elected official of the United States of America, the President.

That is exactly what we do not want in the CIA. We do not want somebody who is carrying out Presidential policy in the CIA, in the director of operations and in the director of intelligence. What is the director of intelligence? That is a fancy name. That means somebody who is head of all the analysts.

And the analysts are given a chore: Analyze what is going to happen in the Soviet Union, or do you see a breakup of the Soviet Union coming? Or, let us look into the future. Analyze what is going to happen in these Republics. Are they going to fly off by themselves and remain independent? Will they come back together in a confederation? Are they going to have problems with minorities within the various Republics? Are they liable to go to war with each other?

That is an order that is issued to the analysts, and they are to come up with a dispassionate, objective appraisal of what is going to happen.

They are not meant to be carrying the water for the administration and say that the President has come out very strongly that these Republics are going to be off on there own as independent entities, he has said that in a speech, and so forth, therefore you should come up with a justification for that speech. That is not what we want from those serving in the intelligence directorate. That is what we call politicization.

Mr. President, we have been through stormy hearings on the confirmation of Bob Gates, and what have been the charges? The charges have been Mr. Gates has politicized, the term is "cooked the books." There is no way in the world if this amendment is enacted, that a political appointment down in the next echelon below would not be liable to be charged, and probably accurately, of politicizing what came up.

Worse than that, Mr. President, if we have this confirmation process and the political appointment of those top jobs, anybody who wants to get ahead in the CIA in the lower echelon is going to know how to get ahead, and the way you get ahead is make points with the administration, tell them what they want to hear. They do not want to hear bad news, nobody wants to hear bad news. Tell them good news. Tell them what they want to hear, and they will think you are pretty good.

By golly, if you keep that handle on the front door polished up, pretty soon you will be appointed to one of these positions by the President. That is the danger of this amendment.

Mr. President, I feel very strongly, as you can gather, that what we would be doing if we adopt this amendment is fostering politicization within the very agency where we do not want it. There is a world of difference between the CIA, where you are seeking objective analysis, and policy making organizations. Indeed, Mr. President, I would point out that for many years the Director of CIA, that is the head of the CIA, was not a position that changed with administrations. Dick Helms stayed there. So did McCone. So did Bedel Smith. So did Alan Dulles. The whole purpose of the agency was not to have turmoil when a new administration came in.

The reason you have turmoil in the other departments is because you want policy carried out. If a new President comes in he does not want somebody that he is not acquainted with heading the Treasury Department, or heading the Defense Department, or the State Department. He wants his policy carried out.

But the CIA is an entirely different agency. I think it is more akin to the Federal Reserve. There you want the Federal Reserve to be an objective agency, not one that is jumping and leaping to the whims of the President, whoever the President might be, or change when the head of the party in power changes.

Now, for some reason the distinguished Senator from Ohio cut back his original bill. Originally he had six positions confirmed, and now he has cut it back to three. I do not know why three. If you are going to do it, do it. If you are going to have political appointees, have them right through. There are in effect six Deputy Director positions, and for some reason he cut it back to three. Why he cut the others I do not know.

Maybe he felt it would be a little more palatable, take it in small bites. But the principle is the same.

Mr. President, these are just my thoughts.

Yes, I am serving in my second term in the Intelligence Committee. I served 8 years before, and I have served about a year now.

I have here, Mr. President, letters of opposition to this proposal of the distinguished Senator from Ohio from three former Directors, Admiral Turner, Bill Colby, and the President of the United States, George Bush, who was a Director, as we know.

I also have letters of opposition from the current acting Director Richard Kerr, who was Deputy Director, and two other former Deputy Directors, who stand in tremendous esteem not only before this Senate but especially before the Intelligence Committee. I am referring to Adm. Bobby Inman and to John McMahon.

Mr. President, I would just briefly like to read to you from several of these letters.

Admiral Stansfield Turner, October 14, 1991:

DEAR SENATOR CHAFEE:—

And I will put this letter in the RECORD. I shall point out several things.

With this bill, the DCI would feel inhibited in changing subordinates. He might even be pressured by the White House or the committee to appoint particular people. And, he will be prohibited from appointing someone who had no prior experience in intelligence.

I believe that that provision has been changed by the distinguished Senator from Ohio.

Two of the deputy directors I appointed would have been excluded by that rule.

Now, Mr. President, I next read from a letter dated October 8, 1991, from William Colby.

You very kindly solicited my opinion. * * * In brief, I oppose it.

Referring to the Glenn amendment.

These positions traditionally have been the pinnacles of the career services of the Agency, operations, analysis, technology, and ad-

ministration. While I understand that the amendment would require the nominees have some intelligence experience, I think both familiarity with the duties and the morale of the services would be adversely affected by such a requirement, since the practice would probably grow filling these posts with a number of individuals who have not served in the services involved.

If congressional committees disapproved of an individual assuming such a post—or continuing in it—there are a variety of channels—

Meaning if you do not like who is in there, if the director has appointed someone you do not approve of, you do not need the Presidential appointment system, the confirmation system.

there are a variety of channels through which they—

Meaning the Senate or the committees—

could indicate their opinion, and even enforce it.

Mr. Colby disapproved.

A letter from the White House, the President of the United States: Most of this letter has been read by our distinguished vice chairman of the committee, in which he concludes:

I hope I can count on your support to defeat this amendment when the Intelligence Authorization Act comes to the floor.

I read now from Adm. Bobby Inman. All of us who served in that committee and many who have not know Admiral Inman. He served as the Deputy Director of Central Intelligence.

I do not believe it would be wise to enact such proposed legislation.

This is dated today.

A. The temptation to politicize the process would be high.

And then he deals with the experience factor.

Am I correct, I would like to ask the distinguished Senator from Ohio, that he has eliminated the experience section that the Senator had in there—the requirement for experience?

Mr. GLENN. Yes, we did, because there was some objection. It was thought that it might eliminate experienced outsiders who would be of value to the Agency. And rather than trying to defend a claim that we were doing that, we eliminated that particular provision.

And in response to the comment made a few moments ago by my distinguished colleague, the reason we cut back on the numbers of positions affected by this bill was because these three positions were the most sensitive and important, and so we thought it was better to tailor it down to just those three.

Mr. CHAFFEE. So, Mr. President, Admiral Inman. He concludes:

If I had more time I would write a better memo. In summary I accept that legislation has been proposed with the best of intentions, but I believe it would prove counterproductive over time.

Mr. President, the next letter is from John McMahon, dated October 15, 1991. This is what John McMahon says.

I fear enactment would create the very condition the Senate is trying to avoid, namely the politicization of intelligence.

Bear in mind that it would be the White House that would be making the nominations—thus giving the White House the opportunity to infiltrate the Agency at several levels across the spectrum of Agency activities.

It further runs the risk that the change of administrations would sweep the top leadership out thus denying the Agency the top professionals presently on board.

Carrying this thought forward, the amendment provides the framework for not only politicizing intelligence—

That is what I was talking about with regard to analysis, but Mr. McMahon refers to the operations side as well.

it also establishes the threat of a short-term outlook, namely the duration of the administration not what is in the best interest of the Agency in the long run. Would the Agency really be in position to make long-term trade-offs? Beyond administrations?

The Agency, under the amendment, would run the risk of becoming just another policy organization, stripped of its independence, objectivity and "tell it like it is."

In sum, the downside far outweighs what might be gained. Political appointees make policy along administration desires.

This is a very, very important point that John McMahon makes. "Political appointees make policy along administration desires." Of course they do. That is why they are there.

They are not there to go against the administration. They are not appointed to get in there and throw a monkey wrench into the gears of the administration. They are there to carry out the administration's desires.

Do you think I would have lasted long as Secretary of the Navy when my orders were to cut the size and number of ships in the Navy if I said no and went out and gave a speech saying no we are not going to cut it, we are going to increase it? I would not have had time to clean out my desk; I would have been gone.

Political appointees make policy according to Administration desires and party platforms. You don't want intelligence so constrained or so directed.

Finally, a letter from the Acting Director, Mr. Kerr. This is what Mr. Kerr says in a letter of which I have a copy directed to the chairman of our committee dated October 10.

And they keep getting back to this point which we cannot avoid.

First and foremost, I am concerned that Senate confirmation of the CIA Deputy Directors and General Counsel would increase the risk of politicization of the intelligence process. CIA is not a policymaking agency.

And then he touches again on the experience factor which the distinguished Senator has removed. And then he touches on a final point.

My final concern is that the Presidential appointment and Senate confirmation of our senior managers could have adverse consequences on foreign intelligence liaison relationships. If a perception develops that our managers are beholden to political interests, foreign intelligence liaison services could be less willing to share information with us. Public hearings in which details about individual Directorates are disclosed would also be inconsistent with secret intelligence service, and would have negative effects on our ability to persuade other nations that we can keep their information confidential.

So, Mr. President, I find very, very strong arguments against proceeding with the amendment proposed by the distinguished Senator from Ohio. I hope very much for a whole variety of reasons, one of which we never even had any hearings on this. Now I am not blaming the Senator for that. He attempted to have hearings. Due to the Gates hearings, it was not possible. But the fact is that we have had no hearings on this particular measure.

So for all the reasons I have listed—the politicization, the fact that this is unlike what we have in any of our other intelligence agencies, be it the FBI, be it the Defense Intelligence Agency, be it in the National Security Agency—this would be absolutely unique. We are not trying to carry out policy there. And, furthermore, the fact is that we are in the midst of a study and I believe a well-motivated and thorough study and it will take us time to decide where we are going with the intelligence community.

For all those reasons, I think it is inappropriate to act on this amendment at the present time, and I do most sincerely hope that it will be defeated.

Mr. President, I ask unanimous consent that the letters to which I referred be printed in the RECORD.

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

OCTOBER 14, 1991.

Hon. JOHN CHAFEE,
U.S. Senate,
Washington, DC.

DEAR SENATOR CHAFEE: I have recently studied the draft bill before your Select committee on Intelligence which requires Senate confirmation of an additional six officials of the CIA. I would like to offer some comments.

In the wake of exposures of the CIA's role in Iran-Contra, the Fiers' case and the recent allegations before your committee of politicization of the CIA's analysis, I can readily understand why the committee wants to establish more firm oversight of the CIA. Too tight a control could discourage risk taking in both the collection and the analysis of intelligence, however. I suggest that you will want to be quite careful that any additional controls are likely to enhance oversight sufficiently to be worth it.

You already have a good check on the appointment of DCIs (I would not have been DCI had your committee not balked at President Carter's first nominee for the position.) That, I believe, must be your principal control over the CIA's personnel. If a DCI is going to ensure that the CIA is administered legally and within ethical bounds, he must have personal confidence and the loyalty of his immediate subordinates. Because of the secrecy involved, there is more weight on the DCI's shoulders as to the performance of his subordinates than in almost any other agen-

cy of our government. He should be able to appoint or dismiss them on the basis of his instincts as to their ethical standards and their respect for law. It would be unfair for your committee to hold his feet to the fire, as it should, for the ethics and legality of the CIA if he must place trust in people he does not quite trust.

With this bill, the DCI would feel inhibited in changing subordinates. He might even be pressured by the White House or the committee to appoint particular people. And, he would be prohibited from appointing someone who had no prior experience in intelligence. Two of the deputy directors I appointed would have been excluded by that rule and both did excellent jobs. There are times, in my opinion, when it is highly desirable to bring in outside blood with new, open viewpoints. Three of the deputy directors operate in areas where their required skills are interchangeable with people from outside: Research and Development, Analysis, and Administration.

As a case in point, I did not support much of what Mr. Casey did, but I did publicly back his appointment of Max Hugel. It was an appropriate time for an outsider to be the DDO. It just turned out that Casey's judgment of character was poor; not his decision to reach outside the agency.

The issue here is one face of how the congressional committees go about the process of oversight. I believe the practices of select committees on intelligence need to differ from those of standing committees more than they presently do, as in this instance. I hope we can discuss the broader issue also some day.

With warmest regards.

Yours,

ADM. STANSFIELD TURNER,
U.S. Navy (retired).

LAW OFFICES OF DONOVAN LEISURE,
ROGOVIN, HUGE & SCHILLER,
Washington, DC, October 8, 1991.

Hon. JOHN H. CHAFEE
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: You very kindly solicited my opinion on the amendment suggested by Senator John Glenn, for whom I have the greatest respect, which would require that the Deputy Directors for Operations, Intelligence, Science and Technology, Administration and Planning of the Central Intelligence Agency be confirmed by the Senate.

In brief, I oppose it. These positions traditionally have been the pinnacles of the career services of the Agency, operations, analysis, technology, and administration (I am not informed on the make up of the Planning Directorate). While I understand that the amendment would require that nominees have some intelligence experience, I think both familiarity with the duties and the morale of the services would be adversely affected by such a requirement, since the practice would probably grow of filling these posts with a number of individuals who have not served in the services involved (as I think can be seen in the Department of State, where many Assistant Secretaries—and Ambassadors—come from outside the Foreign Service). There was one experiment along this line under Director William Casey, and I understand the results were not positive. Certainly if the Congressional Committees disapproved of an individual assuming such a post—or continuing in it—there are a variety of channels through which they could indicate their opinion, and even enforce it, without a confirmation process.

Thank you for the opportunity to express my views.

Respectfully,

WILLIAM E. COLBY.

THE WHITE HOUSE,
Washington DC, October 16, 1991.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: The Intelligence Authorization Act (S. 1539) will shortly be considered by the Senate. I understand that an amendment will be offered that would require Presidential appointment and Senate confirmation of six senior positions at CIA. Before the Senate takes action on the legislation, you should be aware of my strong opposition to this proposal.

The proposed amendment is unnecessary and would create the opportunity for the politicization of the intelligence process. Politicization of intelligence is unacceptable, and I am pleased that the intelligence provided by CIA to me and my predecessors has been straight and objective. CIA has been able to provide objective intelligence by being insulated from political pressure. The Director's ability to appoint his immediate subordinates has been critical in insulating CIA from political pressure. As a former DCI, I know how critical it is that these positions be filled with qualified individuals irrespective of their political associations or beliefs. My concern is that the confirmation process itself will inevitably create pressure on qualified candidates—either real or imagined—to conform their views to correspond to those that are perceived to be necessary to win confirmation.

My objections to this amendment are shared on a bipartisan basis. I agree with Senators Hollings and Chafee that it is "premature to enact such legislation at a time when the Senate Intelligence Committee has just begun a comprehensive review of the structure and organization of the U.S. Intelligence Community." At the very minimum, the Senate Intelligence Committee should closely examine the need for this proposal and its possible unintended adverse consequences before action is taken by Congress.

I hope that I can count on your support to defeat this amendment when the Intelligence Authorization Act comes to the floor.

Sincerely,

GEORGE BUSH.

OCTOBER 16, 1991.

For: Senator John Chafee.
From: Admiral B.R. Inman, USN (Ret).
Subject: Proposal to require Senate confirmation of six CIA officials.

1. On reflection of your notification of a proposal to require Senate confirmation of CIA DDO, DDS&T, DDI, DDA, DDP&C, AND GC, I have concluded that I do not believe it would be wise to enact such proposed legislation. My quick reaction is based on the following thoughts:

A. The temptation to politicize the process would be high. I can remember clearly the 1980 transition process when members of the transition team for CIA wanted to replace most if not all of the individuals in those jobs with persons considered "politically reliable." Some of their candidates had long experience in intelligence, but they had moved beyond the spirit of the Hatch Act. I was able to head off this effort with the threat to publicly charge politicization. If the billets had been expected to change and had been part of the confirmation process, I doubt that I would have prevailed.

B. The DCI and DDCI have responsibilities that extend beyond CIA, and their being subject to confirmation is entirely appropriate. It is my view that CIA should not be considered to rank above DIA and NSA, but should be seen as coequal. Requiring six CIA officials to be confirmed will be used inside the community to assert congressionally mandated superior status. Either plan to confirm like billets at DIA and NSA, or don't do it at CIA.

C. The level of experience varies with the experience level of the DCI and DDCI, and of the immediate requirements of the job. Several of those assigned as General Counsel have come with little past experience and have done a superb job—Dan Silver immediately comes to mind. Similarly, depth of knowledge in science and technology is more important than past time in the intelligence community for DDS&T. The other four need very competent individuals with substantial experience in the intelligence community, and the DDO should always be a career DDO officer. But for reasons of cover I would not want a public confirmation process when I think about getting the best talent in place as DDO.

2. If I had more time I would write a better memo. In summary I accept that legislation has been proposed with the best of intentions, but I believe it would prove counterproductive over time.

B.R. INMAN.

OCTOBER 15, 1991.

My comments on Senator Glenn's amendment—

I fear enactment would create the very condition the Senate is trying to avoid, namely the politicization of intelligence.

Bear in mind that it would be the White House that would be making the nominations—thus giving the White House the opportunity to infiltrate the Agency at several levels across the spectrum of Agency activities.

It further runs the risk that change of Administrations would sweep the top leadership out thus denying the Agency the top professionals presently on board.

It also runs the risk of not only politicizing the intelligence product but also Agency operations; to wit, Agency DDO division chiefs interact with Asst Secretaries in State, DOD, and the NSC staff. Any Division Chief aspiring to be the DOD might be torn in running operations along pure professional lines versus slanting them to carry political support from the other political appointees.

Carrying this thought forward, the amendment provides the framework for not only politicizing intelligence but OPS as well.

It also establishes the threat of a short term outlook, namely the duration of the Administration and not what is in the best interest of the Agency in the long run. Would the Agency really be in the position to make long term trade-offs? Beyond Administration?

The Agency, under the amendment, would run the risk of becoming just another policy organization, stripped of its independence, objectively, and "tell it like it is."

In sum, the downside far outweighs what might be gained. Political appointees make policy along Administration desires and party platforms. You don't want intelligence so constrained or so directed.

JOHN MCMAHON.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, October 10, 1991.

The Hon. DAVID L. BOREN,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Senate will take up the Fiscal Year 1992 Intelligence Authorization Act in the near future. I understand Senator Glenn intends to offer as an amendment to that Act his Bill, S. 1003, that would require Senate confirmation of officials appointed to six senior positions at CIA. I had hoped that I would be able to provide my views directly to the Committee in a hearing that was scheduled on this Bill. However, because of the press of other business, the Committee was not able to conduct such a hearing. I am, therefore, providing my views directly to you and other members of the Intelligence Committee.

I have the highest regard for Senator Glenn and for the goals that he seeks to further—the accountability of CIA and the nonpoliticization of those appointed to guide it. It saddens me to say that I do not believe enactment of S. 1003 would contribute to the realization of these goals. I am convinced that this legislation would lead to unintended negative consequences that would far outweigh any benefits it might otherwise achieve. By far, the most damaging is the increased risk of politicization of the intelligence process. I am also concerned that the proposal would diminish the DCI's authority to manage CIA, and have an adverse impact on our foreign intelligence liaison relationships. Below I have described each of these concerns in more detail.

POLITICIZATION OF INTELLIGENCE

First and foremost, I am concerned that Senate confirmation of the CIA Deputy Directors and General Counsel would increase the risk of politicization of the intelligence process. CIA is not a policymaking agency. We support the policymakers by providing them intelligence that is as accurate and objective as possible. Right or wrong, we call them as we see them. As you know well, this wins us some praise and some criticism from all sides. To ensure that our intelligence remains objective, we have been insulated from institutionalized political pressure.

One way we have minimized political pressure is by giving the DCI direct authority to appoint his immediate subordinates. Fourteen DCI's have had the freedom of appointing their senior managers of operations, analysis, technical collection and administration. These officers have been chosen, with practically no exceptions, irrespective of their political associations or beliefs. I do not believe a future DCI would be as free to choose a Deputy Director without consideration of his political association or beliefs, or his position on international issues, if this proposal is enacted.

I know that the proposed attempts to limit this problem by requiring that "appointments shall be made without regard to political affiliation and shall be limited to persons with substantial prior experience and demonstrated ability in the field of foreign intelligence or counterintelligence." Despite this provision, it is my view that the confirmation process itself, no matter how well handled, creates an opportunity for politicization that does not now exist. I fear that qualified candidates will perceive themselves to be under pressure—either real or imagined—to conform their views to correspond to those that are perceived to be necessary to win confirmation. The potential for politicization of intelligence thus increases enormously, an no requirement regarding appointment qualifications can alleviate this risk. Among similarly qualified potential nominees, politically acceptable views could take on overriding importance if this proposal becomes law.

LIMITATION ON DCI ABILITY TO MANAGE CIA

I am also concerned that the proposal limits the flexibility and authority of the DCI in managing the CIA. When CIA was created over 40 years ago, the Director was given authority to pick the senior leadership of CIA because it was presumed that the Director would be in the best position to know the qualities needed for senior Agency positions. I know of no reason why this judgment should be altered today.

I am also worried that the bill could impede the Director's authority to create or alter senior positions within CIA. For example, if this proposal had been enacted into law several years ago, some may have argued that the Director would have had to seek legislation before establishing the position of Deputy Director for Planning and Coordination. During a period where we are facing unprecedented changes in the world situation, I do not think it wise to limit the DCI's flexibility to change our organizational structure. We will need to adapt to a radically changed world, and the process has already begun through studies underway to reorganize the Intelligence Community. Now is not the time to limit the DCI's flexibility to make necessary changes that might be called for in the near future.

The proposal also could have a significant adverse effect on the continuity of CIA management. If the proposal is enacted, it is possible—and I believe would come to be expected—that our senior managers would be asked to step down with the coming of a new Administration. The resulting loss of experience and knowledge from such a wholesale change of our top leadership would be profound. Changing CIA management with a new Administration would also contribute to the danger of politicizing the intelligence process. Certainly the perception of politics would be there.

Finally, I object to the proposal's requirement that appointments as Deputy Director or General Counsel "shall be made without regard to political affiliation and shall be limited to persons with substantial prior experience and demonstrated ability in the field of foreign intelligence or counterintelligence." I understand that this requirement is of dubious constitutionality; under the Appointments Clause, the only qualifications that the Congress may require of persons appointed with the advice and consent of the Senate are those that the Senate considers appropriate in the context of considering individual nominations. Congress may not be law require the President to nominate only those persons with congressionally-specified qualifications.

Further, this requirement may have the effect of making it more difficult to assemble the most qualified management team for CIA because there may be instances in which the requirement purports to prevent the appointment of highly qualified individuals from the outside. While in most instances individuals selected to fill the position of a Deputy Director or General Counsel will have substantial prior experience in the field of intelligence or counterintelligence, or related area of law, there have been instances where highly capable and talented individuals who have not had such experience have been selected for these positions and served with distinction.

FOREIGN INTELLIGENCE LIAISON RELATIONSHIPS

My final concern is that Presidential appointment and Senate confirmation of our senior managers could have adverse consequences on foreign intelligence liaison relationships. If a perception develops that our managers are beholden to political interests, foreign intelligence liaison services could be less willing to share information with us. Public hearings in which details about the individual Directorates are disclosed would also be inconsistent with a secret intelligence service, and would have negative effects on our ability to persuade other nations that we can keep their information confidential.

THE NEED FOR LEGISLATION

Given the potential for harm posed by this proposal, it should not be adopted unless compelling reasons are established to show that it is actually needed. I am not convinced that such a need has been demonstrated.

It has been argued that Senate confirmation is necessary to ensure accountability of senior CIA officials to the American people. The need for accountability is indisputable. It is essential to our health as an American institution, and our success as an intelligence agency. But the provision under consideration is neither the only way, nor the best way, to achieve this objective. One effective means of ensuring accountability exists through the exercise of vigorous oversight by the Intelligence Committees. If members of the Committee believe that there needs to be further communication with the CIA Deputy Directors on the role and functions of their respective positions, they can use the existing oversight mechanism to obtain this information rather than requiring Senate confirmation for these positions.

It has also been suggested that the confirmation process will help ensure that only the most qualified individuals will be selected to fill senior positions at CIA. To the contrary, I believe that requiring CIA senior managers to be confirmed will have at best a marginal impact on their overall quality, and in fact, has the potential to backfire if politicization fears are borne out. To be sure, any candidate totally unqualified for CIA management positions would be identified and, hopefully, eliminated through the process of confirmation. But this is not an Agency problem requiring a solution. The record demonstrates that during the last 40 years, the vast majority of individuals appointed to senior management positions have had extensive intelligence experience and were well qualified to assume their duties. There exist by any standard only isolated examples of individuals so lacking in qualification that they might have been excluded through confirmation. In short, the problem addressed by the proposal appears far less serious than the problems created by the proposed solution.

Finally, it is argued by analogy that CIA Deputy Directors should be confirmed because comparable positions in DoD and State require confirmation. This comparison misses the mark. The Departments of State and Defense are policy-making Departments, central to the political process. In contrast, CIA operates outside the policy realm. Indeed, as I stated earlier, it is critical to the intelligence function of CIA that it be outside the policy arena and free from political "taint". A more appropriate comparison, in this regard, would be to agencies like NSA or FBI. This bill would treat CIA as a policy agency.

In summary, I do not believe the proposal is necessary and I am very concerned about the unintended consequences that could result from its enactment. At the very least, I would hope that the Senate would not approve this proposal without the Committee first conducting a careful examination of the need for the legislation and the effect of the legislation on CIA.

Sincerely,

RICHARD J. KERR,
Acting Director of Central Intelligence.

Mr. CHAFEE. I thank the Chair and thank the floor manager on this side.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There are 57 minutes.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may reserve the remainder of our time.

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

Mr. GLENN. Mr. President, I yield myself such time as I may need.

Mr. President, when I listened to some of the things being charged against this very simple and straightforward amendment, I must say I have trouble recognizing my own amendment.

What we are trying to do really is increase accountability. Bill Casey's name was brought into this debate by the distinguished Senator from South Carolina, and I think very properly so. He was worried about what would happen under Bill Casey at the CIA. And I too was worried about that.

In retrospect, I wonder if we did not come closer to a disaster in the intelligence community during his tenure perhaps than we realized. And we saw the impact of Iran-Contra on the CIA's credibility with Congress and the American people who were not being told what was being done. This was done because one person, the DCI, made political appointments to some extent at the CIA. That was not the cause of Iran-Contra. I do not mean to imply that. But there were political appointments made at that time that were disturbing.

We are trying to protect against that happening. We are trying to make sure that qualified people are out there.

We are also trying to make certain that there is not any politicization to tailor things just to suit a preconceived administration policy. In every other department of Government and most agencies, we require confirmation.

Let me point out one thing to my colleagues who are so unhappy with the confirmation process. And I join them in being unhappy with the confirmation process. But how do you carry out one balance of powers responsibility? Our President is not omnipotent; nor is the single head of the CIA an omnipotent person whose judgment we trust in all matters. The President of the United States is not a prime minister, I would point out. And that galls a lot of Presidents of the United States.

But we operate in this country with a separation of powers, and a balance in which the Congress has some of that balance of power and part of that is the confirmation process. Is it perfect? No. And of all times for this to come up, adding people to confirmation, there probably could not have been a worse time in the history of the Nation than bringing it up today after the Thomas vote.

Is the confirmation process very popular at the moment? I would say it is about as unpopular as anything I can think of at the moment because of all the trauma and drama of this past weekend.

But we have a balance of powers in this country. We have a separation of powers in this country. We try our level best, imperfect though it is, to go through this confirmation process and to make certain that neither a President nor a head of CIA has the authority to do irreparable damage to this country and making solely political appointments.

Bill Casey's name was brought up by another Senator here this afternoon. He made a political appointment out there to the DOD, something that was remedied in a short period of time.

But was it right that that could happen? Could we have been able to prevent that had we had the confirmation process? I think it would have been far less likely to happen had we had this confirmation process. It was pointed out by my distinguished colleague, the floor manager of the bill on the other side, that they say there was some difficulties with one case in the last administration, and he sort of dismisses it. I believe that example shows what can happen. This is what we are trying to protect against. This is anything but politicizing the CIA. It is exactly the opposite.

Now, considerable comment was made about the ability of the DCI to manage. Well, why does that not apply then to every other agency in the Government?

Every other agency of Government that has anywhere from 15 to 100 positions seems to be able to be managed by the person on top.

It is true, as my distinguished colleague from Rhode Island says, that maybe all of those persons are in there to carry out political functions, and that is their purpose. And he met at the Pentagon every Monday morning, he said, at 8:30, and they got their marching orders politically during that time.

I was a little surprised at that, but let us accept that and say that is the way things work at DOD. But here we have CIA that is not subordinated to another agency of Government. That is the reason why it is unique. Yet at the same time we have the responsibility here to perform an oversight function of that most unique agency.

NSA and DIA report to the Department of Defense. FBI reports to the Department of Justice. So there are people there who are responsible to the Congress and whom we confirm in their nomination and approval process.

It is different at CIA. They have no one overlooking them. Their oversight does not flow through any other organization to us. We do not appoint. We do not confirm the head of NSC that they report to.

What we are saying here is there should be a process by which we exercise our advice and consent role.

Let me run through some of these issues very briefly. Would this proposal undermine the management role? No more so than it does for any other branch of Government, as I see it.

Would this politicize the CIA? Absolutely not. What we are trying to do is exactly the opposite.

Could it adversely affect DCI control and CIA relationships abroad? I would not be surprised, if you polled some of these foreign intelligence agencies or their governments or their Departments of State, that they already think that all these positions are already confirmed, having observed our Nation for many years.

Another charge being made: This measure does not allow the DCI to bring in highly qualified individuals from outside. This is just not true. The DCI could bring in whomever he or she wanted from outside. But we hope they would be qualified people.

But at least in these areas where we have had, in the Gates nomination process and in the hearings, so much concern about intelligence being politically slanted out there—and the jury is still out on that as far as I am concerned—but when we have that as one of the main concerns, certainly we should be concerned about it to conduct our oversight function. We must make sure that the CIA has qualified people for the job.

Another charge made against us: the bill effectively legislates the organization of the agency. It does this no more than it does to any other agency of Government. Certainly no one is proposing to change the general counsel role or doing away with the general counsel at the agency. Nor is anyone proposing that we do away with the directorate of operations or of intelligence. Those have been in existence for many years and those are the only ones we are addressing with this provision.

Another criticism was that this is premature action in light of the Senate Select Committee on Intelligence reorganization effort. I would say with regard to that, if we wait all those years,

we will not get much action. We have had two hearings in the last year or so. It is going to be a long, long time before we get around to an overhaul of the whole intelligence community.

I can understand the concern of my distinguished colleague from Missouri, Senator DANFORTH, about the confirmation process. This is not a Thomas-type situation that we are talking about. And much was made of leaks by my distinguished colleagues, Senator DANFORTH and Senator HOLLINGS. I do not see what that really has to do with leaks.

I do not think anyone, including those who oppose this amendment, would say that the alternative should be no oversight whatsoever of the CIA, and no advice and consent role. I do not think anyone would say that. So I just do not see that those arguments about leaks are relevant in this case.

I am just as concerned about leaks out of the Intelligence Committee and out of the classified sessions we have just as much as anyone here. I have spent a good part of my life in the military. I have a very great appreciation of what happens when you have leaks like this. I am for investigating these leaks as aggressively as possible, just as the majority leader stated on the floor yesterday afternoon before our vote. And I will support whatever investigation he wants to make into where these leaks come from and how they occurred.

But this amendment was also talked about as institutionalizing mush. That is ridiculous. It will simply mean that we will be performing our oversight role, our role in making sure there are qualified people, and there are people there who are fully qualified to carry out their duties, and that they are going to do that without fear or favor to what the administration's views may be.

This would not result in checking in every morning to get political marching orders.

My distinguished colleague from Rhode Island also said, as far as putting one person in charge, that we could not effectively operate unless a person in charge had full authority—or I believe there were words to that effect. Yet, the President of the United States does not have that kind of complete authority. The President does not operate solely as a prime minister does in a parliamentary system where the Prime Minister operates with pretty much complete authority, and is tossed out of office if his party or the people do not like what he or she has done.

We, have a system of separation of powers, advice and consent. That is our end of the avenue. The President makes his nominations. It is up to us to see that we feel that we have the right person at the right time for a particular job. And I do not believe anybody would propose that we change that balance. That is a continual tug and haul, back and forth on Pennsylvania Avenue as to who has the most power in Government. Does the legislative branch or the executive branch have the most power at any particular given moment? And I am not proposing that we upset that.

But I think the arguments made on the other side of how we have to have one person in charge, and we cannot exercise any review of the people that might be put in under that person, just does not fit in with how all the rest of the Government operates.

I would say there is not a single department head in Government who does not hate the confirmation process, because it limits what he or she can do. But it is the Congress, exercising its role of advice and consent in the confirmation process. This is as it should be.

I do not think most people realize how much we do in the confirmation process. Do they realize that there are 1,065 positions that we confirm in our monitoring of appointments that are going to run Government? That does not prevent them from being good people. It does not mean we tell the President who goes into a certain job. Quite the opposite. We never do that.

There has never been a person voted on here, and proposed that the President then should nominate that particular person. The President has full choice of making his nominations.

But the Senate, under the Constitution of the United States, has a role to play in this process. And in one of the most critical agencies of Government, the CIA, I see no reason why we should not have this confirmation process. We have 1,065 confirmed positions. The CIA has only three of those. The Department of Agriculture—16; U.S. Trade Representative—4; Office of Science and Technology Policy—3; OMB—4; Department of Commerce—30 positions that have to come before us for confirmation. Are we proposing we do away with all those positions? At the Department of Defense—53; Department of Education—32 positions come before us for confirmation; the Department of Energy—20; Health and Human Services—17; Department of Housing and Urban Development—13; and the Department of Justice—159.

I think that it is necessary that we carry out our role under this separation of powers. All we are trying to do is make certain that we not politicize the CIA. I think it came closer than maybe many of us realized in the recent past. I do not want to take that chance again. The CIA is too important.

We have gone through a long series of hearings on the Senate Select Committee on Intelligence to determine in our own minds—and each person has to make up his own mind on that committee—as to whether there was politicization going on out there, tailoring views at the top echelons of the CIA to reflect what they knew the President wanted to hear.

I do not know how the confirmation process would tend to make this a more leaky Government. We have hearings on the very most sensitive pieces of information in this Government. We have them in committee, and I think the committee has done a pretty good job of keeping secrets secret.

The distinguished Senator from South Carolina mentioned there had been leaks back some time ago. There had, indeed. But there are occasionally leaks out of the Pentagon, leaks out of one place and the other, and I think this committee, by and large, has been very responsible in keeping secrets.

Mr. President, those are a few comments with regard to statements made regarding this amendment. I urge my colleagues to vote for this amendment. I think it is the right thing to do, in spite of coming the day after we went through such unpleasantries with regard to the Thomas nomination.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield the distinguished Senator from Maine such time as he desires.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I find myself in a somewhat unique position. I have the pleasure of serving with the Senator from Ohio on the Armed Services Committee and the Governmental Affairs Committee. When I was a member of the Intelligence Oversight Committee, I had the privilege of serving with him on that as well. I usually find myself in agreement with him. I regret to say that today I do not.

First, I would suggest to the Senator from Ohio he is absolutely right. This is not about leaks. There is, in my judgment, no suggestion or substantiation of the fact that any confirmation proceedings for any of the deputies that have been designated in this amendment would lead to leaks coming out of the Intelligence Committee.

Senator BOREN—Chairman BOREN—myself, Senator MURKOWSKI, and others have worked during recent years to adopt procedures which I believe have stemmed the possibility of leaks coming out of that committee. We have done a very good job, so this is not a matter of whether we would enhance the possibility of leaks coming out of the Intelligence Committee.

It does have to do with the question of balance of power. I do not think there is any question about that. Mr. President, when I first came to Congress, we talked a great deal at that time about balance of power, checks and balances.

We have a Government of checks and balances. We have the House that

checks the Senate; we have the Senate that checks the House; we have the Congress that checks the President; we have the President who checks the Congress with his veto power; and we have the U.S. Supreme Court that checks all of us.

The problem has become for me that everyone is in check, but no one is in charge. And that is one of the reasons today why the wheel of Government seems to be cracked, why the axle is broken. The wheel of Government is not turning very smoothly any longer. We seem to be bogged down, almost paralyzed, incapable of dealing with the great issues of the day. And the American people sit back in wonderment as to what has happened to this great institution; why is it we are not dealing with issues; why is it we are squabbling; why is it there is so much conflict?

It seems to me that something happened back when I first came to Congress, just before the Watergate incident. There used to be a time when the chairman of the various committees could hold their hearings, conduct their deliberations, listen to all of the evidence, make a judgment in the committee, and then come to the House or Senate floor and have that legislation considered rather expeditiously.

Today, that no longer applies. Today, the Senate Armed Services Committee, under the leadership of Senator NUNN, a recognized expert in the field of defense matters with, I think, quite a competent committee, can deliberate for days and weeks and months and come to the floor, and the minute the bill hits the floor, we have 200 amendments pending. Everybody has become an expert. Everyone knows as much as any member of any other committee. As a result, it now takes not hours or days to debate a bill, but weeks, and possible even longer. That is true not only of the Armed Services Committee, but virtually every other committee in the Senate, and indeed in the House of Representatives. Every Member now has become an expert. Every Member has his or her own little fiefdom. And so, as a result, we no longer delegate any responsibility to our superiors, those who serve as chair men and women. They no longer can control the vote; they are simply another member of the committee.

It seems to me that this is taking place more and more, and what we are seeing is that the leaders can no longer lead because they do not have any followers.

That is what I am referring to in terms of the balance of power. Here we have a situation where it is almost glasnost run amok. We have shown this in the confirmation of more and more CIA personnel.

I remember reading one time a statement about a river, the definition of a river. A river has to have banks. A river without a bank is not a river; it is a flood. What we are witnessing is a floodtide of authority resulting in a diffusion of accountability.

When I run for office, the people of Maine elect me, and they expect me to set up my office in a way that will make me responsive to their particular needs, hopefully to reflect what I think will be the prevailing philosophy, if one can do so with the people of Maine. I do not want them, I do not want BOB DOLE, I do not want President Bush, I do not want the Republican National Committee to tell me who my legislative assistants should be or who my administrative assistant should be. I want to determine that.

I think I am capable of deciding who the top policy people within my office are going to be, what their qualifications are, what their philosophies might be, and, indeed, whether or not I have the right to hire or fire them or whether they serve at the pleasure of the people of my State. I want that responsibility. I want that accountability.

If I hire good people, if I hire bright, intelligent, hardworking people who are accountable to me, and if they do a good job, I will do a good job and the people of my State will be satisfied with my performance. And if I do not, they will know that, and they will seek to remove me from office at my next election cycle.

Maybe that is not entirely applicable here. There are some obvious distinctions, but it does come back to a question: Are we diffusing accountability in our system by insisting on more and more—and I hate to use this word because it is thrown so often in my face—micromanagement? Every time we start to look at an executive branch department or organizational setup, we are accused of micromanaging executive affairs.

Sometimes we have done good things. The Senator from Rhode Island pointed out something that is very important. We went through an extensive examination of the reorganization of the Department of Defense. It took 3 years, as the Senator from Rhode Island pointed out. There were many, many hearings.

Even prior to that time, and to me equally as important, was the fact that we had a study group that was set up well in advance of this. Senator TOWER, who was then the chairman of the committee, recommended the staff conduct an analysis of a reorganizational scheme for the Department of Defense, reorganizing the Joint Chiefs of Staff.

And concomitant with that particular study we had an outside group, the CSIS group, that consisted of a number of Members of the Senate and the House. Senator NUNN was on it, I was on it; Congressman Les ASPIN was on it. We were members of the Center for Strategic Studies at the time. But, more important, former members of the Joint Chiefs of Staff, former chairmen were also on the committee, and a year prior to that we started our analysis of what needed to be done.

What was interesting about that particular study is the expertise of those people who had been in the executive branch, who had been in the Department of Defense, who had been members of the Joint Chiefs, who had been chairmen of the Joint Chiefs of Staff, and that is quite different than what we are saying here.

Here we are attempting in a fashion to intervene in this reorganization process at a time when it has not really been undertaken, when every former Member that we have respect for has voiced his opinion in opposition to this—unlike the reorganization of DOD where the significant expertise that was brought to us said, yes, we need change. We have seen the flaws. We need change. And this is what has to be done. We have to give the chairman of the Joint Chiefs of Staff more power. We have to get more accountability out into the field. And they strongly supported these changes.

Just the contrary has taken place here where those former experts, those who have served in the field, who have no vested interest in this legislation or in the Agency as such have said it is a bad idea, it is an absolutely bad idea. Whether it is Colby or Helms or Turner, McMahon, or Bobby Inman, to a person, they say do not do this.

The question about experience was raised earlier today. That has been dropped apparently from the legislation because initially it was thought we should have some criteria that would at least include experience. Well, it has been dropped, and I think it was good it was dropped because some people think that if Bob Gates is not the man to be confirmed as the Director of the CIA, we need some kind of outside executive, some top CEO, someone who has managed a large corporation—bring him in or bring her in and take an outside look at this particular Agency. That may or may not be a good idea.

I happen to think Bob Gates will bring the experience necessary to that position, but there is some division, obviously, within the Senate about that. How about philosophy? Should we look at the nominee's philosophy? Should they be Republicans, Democrats? Should we try to get a balance? Should we be concerned about what their political philosophy is? Are they hawkish? Are they dovish? Are they agnostic pigeons? What exactly is the lens through which they look at the world? Do they see a Soviet Union in the advanced stages of disintegration or of rebirth? Exactly what is their world view? Do we want to strike a balance among those who have a much harsher view perhaps, less benign view of the Soviet Union or China or all of

those other countries on the world scene, or someone who has a moderate view? Indeed, balance, is that something we want to look at during this confirmation process?

What I suggest, Mr. President, is there something inherently pernicious involved in this legislation in the sense that if the DCI cannot remove his top aides, his top subordinates, his DDI, his DDO, then it seems to me we are inviting the emasculation of the DCI himself. If he is not in a position to say to his director of intelligence or director of operations, "You are fired, I disagree with what you are doing," because that person serves only at the pleasure of the President, then what we have set in motion is some sort of a division of power within the directorate itself. He no longer can make the decisions about the quality of the work, the quality of the intelligence, the integrity of the intelligence, the integrity of the operations. That individual can then perhaps even go around the DCI, make a little visit not only to Capitol Hill to talk with the oversight committee but to talk to the National Security Adviser, saying, "Mr. National Security Adviser, I don't think the President is getting the information straight. I think there might be a little shading here on the intelligence. I think he is not fully aware of what is going on in the operation field. I think we have to get around the DCI, let this be known to the security adviser and maybe the President and let him know what is really going on in the operation of the agency."

That, to me, is one of the most potentially destructive situations that I can imagine, where the DCI, in effect, does not have control over his top subordinates. In this amendment they are relegated to a position which, if not coequal, nonetheless insulates them against the type of direction he may want to give them.

The accountability belongs to the President of the United States. His direct subordinate is the DCI. That direct subordinate also is accountable to us in a very real sense, and that is the person we should exercise oversight upon.

I rise in strong opposition to the legislation that will be offered by my friend from Ohio because I believe that we have not achieved more accountability. In fact, this amendment would undermine the accountability of the top intelligence official within the executive branch, and that is the DCI. For that reason I urge my colleagues to vote against the amendment.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. Who yields time to the Senator?

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

The PRESIDING OFFICER. The Senator has 66 minutes and 3 seconds.

Mr. GLENN. I yield such time as the Senator from Pennsylvania might require.

Mr. SPECTER. I thank my distinguished colleague from Ohio.

Mr. President, I support this legislation, and in fact am an original cosponsor of it, because I believe that the additional oversight which would be provided by confirmation would be desirable.

I could not be present for much of the debate today because we have a conference on the Labor, Health and Human Services, Education appropriations bill. I have just heard the comments by the distinguished Senator from Maine, and I must say that I am impressed by the quality of his argument, but I ultimately disagree on drawing a judgment as to what oversight is desirable and what independence is desirable.

I support this legislation because I am not satisfied with the oversight which the Congress has on the intelligence operations in this country. Since the Iran-Contra affair had come to light, it seemed to this Senator that more by way of oversight was necessary.

While the Senator from Maine is still on the floor, I would recollect his strenuous efforts, joined in by many of us on the Intelligence Committee at that time, to try to provide a statutory requirement for notice of covert activities. The Senator from Maine had introduced legislation calling for 48 hours' notice. This Senator had introduced legislation calling for 24 hours' notice. Neither legislation was never enacted. One bill did come out on the inspector general, which this Senator introduced after some very fine staff work by my liaison, Charles Battaglia. After considerable deliberation by the Intelligence Committee and considerable analysis at the White House, we do have confirmed by the Senate an inspector general at CIA who can provide some independent oversight. That is a step forward but only a small step forward. I think more is necessary.

The arguments which have been advanced here against the legislation do have some merit, and earlier today when I talked to the distinguished Senator from Rhode Island [Mr. CHAFEE], who raised the issue of concern about politicizing the appointees since they would be Presidential appointees, it seems to me that they could still be selected as they are now, as the Director of Central Intelligence may choose, with the significant change being that they would be confirmed by the Senate.

When the Senator from Maine raises the concern that the Director of Central Intelligence cannot fire them because they would have to be fired by the President, I respond that as a practical matter they can be fired by the Director because he runs the operation much like the Secretary of Defense. If he is dissatisfied with one of his subordinates who has been appointed by the President, confirmed by the Senate, he can in fact have that official fired.

So the situation, I suggest, would be about the same as it is now with the one additional factor that there would be confirmation.

This is a bad day to talk about the confirmation process. I think my colleague from Ohio could have picked a better day to bring this to the floor than the day after the proceedings on Judge Thomas were concluded, given the last weekend that we all went through, or at least those of us on the Judiciary Committee went through. This is not the best of all days to urge expansion of the confirmation process. But we have the confirmation process, and I think it ought to be extended here.

I add, Mr. President, that I believe that a comprehensive analysis of the intelligence community is necessary, and toward that end, again with the assistance of my liaison in the Intelligence Committee, Charles Battaglia, I introduced Senate bill 175 in the 101st Congress, now Senate bill 421 in this, the 102d Congress, which would provide for a separation of authority between the Director of the CIA and a new director of national intelligence.

Right now the Director of CIA also functions as the Director of Central Intelligence. And, as Director of Central Intelligence he directs all the other intelligence agencies of the Government. It is a responsibility that is too vast for any one man. In addition, this dual-matter position has led to the problems of cooking the intelligence which we have heard so much about during the nomination proceedings of Mr. Robert Gates.

I shall not discuss that issue at any length today except to note that former Secretary of State Shultz testified very emphatically on the point. The Secretary of State was very much involved in the use of intelligence information and was concerned that the intelligence gatherers were also the policymakers; there was an inclination to have the intelligence correspond to the policy which they wanted.

I have written to the chairman and the ranking member of the Intelligence Committee asking that we have a hearing on S. 421. We had a date earlier this year which had to be postponed, I do think that kind of an analysis of the DCI responsibilities is very, very important.

As for today, I commend the Senator from Ohio for this legislation. I think it is an important step forward, and therefore I support it.

Mr. President, I am an original cosponsor of S. 1003, a bill which would require Presidential appointment and Senate confirmation of three senior po-

sitions in the Central Intelligence Agency. Currently, the total number of Presidential appointments, by and with the advice of the Senate is 1,065. Three of these appointments are for positions in the CIA. They are the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the inspector general.

If the hearings on the nomination of Mr. Robert Gates to be the Director of Central Intelligence have demonstrated anything, they have shown the need for an extension of intelligence oversight through the advise-and-consent process of confirmation. Therefore, in S. 1003, we are seeking confirmation of the following additional senior CIA positions: Deputy Director for Operations, Deputy Director for Intelligence, and general counsel.

The Iran-Contra hearings and both Gates confirmation hearings have done much to elucidate and educate the American public and the Congress on the capabilities, contributions, limitations, and deficiencies of intelligence and our intelligence agencies. They have also served as a reminder that we still have a great deal more to learn about these institutions if we are to assure the American public that their tax dollars are being spent wisely and that the intelligence arm of Government is functioning within the parameters of American law and regulation.

When the Senate established the Senate Select Committee on Intelligence it did so because of a public outcry of abuses of authority, of illegalities and violations of basic civil liberties by intelligence agencies. In 1975, not only the public but also the Congress of the United States knew very little about the world of intelligence, especially the Central Intelligence Agency. Over the past 15 years, we have increased our institutional knowledge and we are still learning. The Iran-Contra and Gates confirmation hearings have borne out this learning process. But equally, confirmation hearings have served two important roles. First, they help ensure that individuals nominated are qualified. Second, they serve as a means of transmitting a very important public message. The message is that their failure to conform to laws and regulations will jeopardize not only the effectiveness of their position, but also will raise a cloud of doubt over the credibility of their institution. In short, they will be harming national security. In my view, this is the principal message emanating from the confirmation hearings of CIA officials including those of Robert Gates.

The senior managers of the CIA constitute a common denominator in that they represent the strengths and weaknesses of that institution. In confirming them, we oversee intelligence law, regulations, policy, budget, and programs of clandestine intelligence collection, covert actions, and analyses. In confirming them, we are able to assess in advance their qualifications, their understanding of laws and regulations governing intelligence activity, and their commitment to intelligence oversight. While the confirmation process cannot guarantee the truth of their responses, it does serve as a very important baseline upon which to assess future performance. This has certainly been the case with Directors of Central Intelligence.

Now, however, Senate confirmation of the senior management positions at the CIA is especially needed. The CIA is a large, independent organization. Unlike other intelligence agencies, there is little external oversight. For example, the General Accounting Office cannot inspect or investigate the CIA. The intelligence oversight committees are not large enough nor do they have sufficient resources to do other than selected inspections and investigations. I am hopeful that the new inspector general position at the CIA will help fill this void.

As the agency responsible for a policy implementing arm of national security; namely, covert action, such oversight is especially important. But there is another reason.

Fifteen years of congressional oversight have confirmed the view that the CIA consists of four semiautonomous directorates—for operations, for analysis, for science and technology, and for administration. The fifth directorate for planning and coordination is relatively new and not large. Each directorate is headed by a Deputy Director of the Central Intelligence Agency who, by tradition, functions somewhat independently. On this basis alone, it is surprising that Senate confirmation of these positions was not instituted long ago.

Second, hearings before the Senate Select Committee on Intelligence have indicated that senior CIA intelligence officials are not as well versed in intelligence law and regulations as they should. The failure of senior officials in the CIA's Directorate of Operations to recognize that it should have first sought a Presidential finding before providing propriety aircraft assistance to Lieutenant Colonel North to ship arms to Iran is a case in point. Therefore, it would seem to me to be in the best interest of the CIA if the Congress were assured that future appointees to these senior CIA positions had a clear understanding of the laws and regulations governing their activity.

The American public and the Congress are often caught up in the necessary secretiveness and wonderment of spying and as a result, we raise the art to the near occult and supernatural. Spying is the stuff made glamorous by novelists. But, analysis, I would submit, is a world without glamor. Nonetheless, it is the essence or substance of intelligence; it is what intelligence is really about. The primary purpose of analyzed intelligence is to provide the President and his policymakers and military leaders clear and objective information upon which to base policy and planning. If the process of spying or the very information collected is faulty, analysis may be inaccurate.

However, if the basis of intelligence analysis rests in the preconceived judgments or perceptions and fears of a senior official or an analyst, no amount of information will matter and objectivity will be lost. As Senator BOREN indicated during the recent Gates confirmation hearings, if such is the case, the intelligence community will have wasted billions of taxpayer dollars over the years in collection systems.

A third problem has long existed. It lies in getting the finished analysis to policymakers in a timely manner and in a useful form.

There is a fourth problem. In essence, it is akin to taking a horse to water. If the horse is not going to drink, there isn't much you can do. The same holds true in getting policymakers to read and respond to intelligence reports. But, if the horse believes the water is foul, he may have good reason for not wanting to drink.

During the Iran-Contra hearings, former Secretary of State George Shultz testified about foul intelligence, in his distrust of some of the analytical reporting he was receiving from the CIA on Iran because of the CIA's involvement with the policy affecting that analysis.

The Gates confirmation hearings have raised many questions on the objectivity of analysis and the responsibility for such objectivenness. One question raised in my mind is why we have not subjected the position of authority which, by design, shapes national security and foreign policy, to confirmation?

Similar arguments can be made for the other CIA directorate positions.

In regard to confirmation of the position of the general counsel, I would remind my colleagues that this recommendation is not new. In its final report of April 26, 1976, the select committee to study operations with respect to intelligence activities recommended that the general counsel of each intelligence agency be nominated by the President and confirmed by the Senate. That committee cited the extraordinary responsibility of that position, the fact that senatorial confirmation would increase the stature of the office and protect the independence of its judgment.

Today, we have solid reasons for wanting to increase the stature and independence of that office. During the Iran-Contra affair, CIA's general counsel provided a highly dubious legal rationale for the administration's ill-conceived arms-for-hostages policy in drafting a retroactive finding.

Senate confirmation is a fundamental element in the oversight process of ensuring public and congressional confidence in the CIA. Indeed, during his recent confirmation hearings, Mr. Gates stated that—

It is hard for me in principle to quarrel with the idea of senior officials of a government agency not being subject to the confirmation process.

In addition, I would argue that total responsibility and accountability to the American public for the effectiveness and credibility of the CIA cannot rest solely with the CIA if the Congress neglects to review each senior official through the nomination and confirmation process.

Congress shares a constitutional responsibility for national security; it reviews the CIA budget in advance. It reviews CIA programs in advance. It should assess in advance prospective CIA officials who will be responsible for these budgets and programs.

Some will charge that to require Senate confirmation of the senior CIA officials outlined in S. 1003 is to politicize intelligence. If that is the case, then we should consider not subjecting CIA Directors and Deputy Directors to confirmation. Are there a majority of Senators prepared to recommend this? The confirmation process will do more to prevent the politicization of intelligence than to promote it. Further, as we all know, the confirmation process can only block the President from appointing a given individual; it cannot force the appointment of an individual with a particular viewpoint or loyalty preferred by the Congress.

The criticism is that the legislation, if enacted, would preempt the DCI from reorganizing to meet the future structural changes. S. 1003 does not establish new positions nor does it prevent the DCI from reorganizing and creating new positions. Today, over 40 positions at the Defense Department and 30 positions at the State Department require Senate confirmation. Their ability to reorganize has not been barred by the confirmation process.

As Senator GLENN and I have stated in our "Dear Colleague" of October 2, 1991, intelligence activities are consistent with democratic principles only when they are conducted in accordance with the law and in an accountable manner to the American people through congressional oversight. We are convinced that the confirmation process is a constructive means of demanding accountability and enhancing public confidence in the senior leadership of the CIA.

In closing, I wish to give public thanks to Senator GLENN for the yeoman work he has conducted on this legislation. He has worked hard and tenaciously to bring it to the fore.

I urge support for its passage.

I thank the Chair. I yield the floor.

Mr. CHAFEE. Mr. President, I note that the distinguished floor leader on this side is absent and I would suggest a brief quorum call perhaps to be equally divided, and we will try to move this right along shortly. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll, and without objection, it will be charged equally to both sides.

The legislative clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. I think the Senator from Rhode Island would like 2 minutes on the subject. How much time remains on our side?

The PRESIDING OFFICER. The Senator has 41 minutes, 29 seconds.

The Senator from Rhode Island is recognized for 2 minutes.

Mr. CHAFEE. Mr. President, I think this is a very, very serious amendment. I think those who have listened have gotten an indication of the concern with which I view this amendment.

The principal problem I have with this amendment, Mr. President, is that I am absolutely convinced it will lead to politicization of the agency. It will mean that those who wish to get ahead within the agency—I am talking down in the lower levels, and let us particularly concentrate on what we call the intelligence section; namely, the analysts—those individuals who seek to get ahead are going to make certain that they trim their sails to the views of those who subsequently will have the political power to make the appointments; because to get ahead in the agency, it is going to require that an individual ingratiate himself with the powers that be on the political side, with the security advisers to the President, or with the President himself, or with those individuals in the White House who are going to control appointments.

To me this is a very, very dangerous proposition.

So, Mr. President, I believe the basic question before us this evening is what kind of an agency do we want? Do we want an agency that is subordinate to the wishes of the administration and will carry out the policies of the political leaders?

If that is what we want, then vote yes on the amendment.

But, Mr. President, if we want an intelligence agency that is independent and objective, that is going to give us the hard facts, tell it as it is, if we want an agency that is indeed faithful to its motto, "Ye shall seek the truth," then, Mr. President, we should vote against this amendment.

Then, Mr. President, we should vote against this amendment. To me, it is that simple. For the amendment encourages politicization. To oppose the amendment is to encourage independence, objectivity, and the ability to tell it as it is. To me, it is that simple.

I thank the Chair.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I yield myself such time as I may require.

Mr. President, I was interested in the remarks of Senator COHEN, who talked about our system of government, the way people view it from all over this country as being sort of bogged down, that we need people with authority, and we have a situation where leaders cannot lead. I am sure that Senator COHEN would not propose doing away with the advise-and-consent role that the Constitution gives to the Congress.

This is not like Goldwater-Nichols that he mentioned. This is not a reorganization of the CIA. It is very simple. What we have seen during the hearings with the Gates nomination are charges that perhaps there was "cooking of the books," the worst sin in all of the intelligence community. That has been the charge.

Yet, we have a case where in the recent past, where a head of the CIA may have appointed people that were not qualified for either personal reasons, the friendship reasons, for political reasons, or whatever. That is all this is supposed to prevent. It is to make sure that under our separation of powers, our balance of powers, we have a role in this, as the Constitution provides.

Much was made out of the fact that every former Director of the CIA, or a number of the former Directors of the CIA, said they would not like this. They did not want to see this go in.

I repeat what I said a little while ago on the floor: Have you ever seen a manager, or the head of any department, that wanted any oversight over that person's authority and ability to do something? Yet, if that person is misguided, if that person has his own agenda, of his own ideological bent that he is trying to carry out, then great and grievous damage can be done to the United States of America.

All this does is try and say that we have our role to play in this, and the DO, DI, and the general counsel are extremely important positions, far more important than many that are in the confirmation process in other agencies or departments of Government.

It was mentioned that this might politicize people. We have such notables as Mr. McMahon and Bobby Inman, who have done such a superb job out there at the Agency. They went through the confirmation process and did not find themselves politicized. They did not find themselves being forced to carry out some preconceived administration position. Nor do I believe this amendment would force anyone to do that either.

I want to say one other word before we wind down here and go to our vote

today. I have been cast in a light here today as perhaps someone who could be construed as being anti-CIA. Nothing could be further from the truth. I wanted to make that very clear before I yield the floor and yield back the time before the distinguished chairman of the committee has time to make his remarks.

I have been one of those on the committee who, when proposals were made to cut back on the CIA budget, was the one that was fighting to keep the budget up there, because I believe we need the strongest intelligence community in the world, and we need it more now even than before. Before the demise of the Soviet Union, before we had the Persian Gulf situation, and before we started a pulldown of our military strength. We are reducing, over the next 4 years—we already started the process—494,000 people out of a 1.2 million person military. That is the regulars. I do not have any doubt that, in years hence, the Congress will require more pull down than that.

I submit that that is the time you need better intelligence, not less. I have fought in the committee to keep that intelligence budget up there, and I might have to admit that I lost, also. I wanted the budget this year to be higher than it is.

History is replete with examples of where we have pulled down the military and had to rebuild them again, and I pray along with everybody else that is not the case this time out; but if that is the case, and we have to rebuild, we had better do it from the best intelligence base and the best information we can have on what is going on around the world. We better do it with the most advanced warning system, which means good intelligence of who is developing what weapons, whether chemical, biological, nuclear, missiles, who is doing what around the world that we may not know, unless we have a strong intelligence community.

So I wanted to make sure that was on the record and stated very clearly, because I favor a stronger CIA, particularly when we are pulling down much of our military strength.

I believe this amendment strengthens the CIA, because it helps the Congress and the people to have a confidence that we do not have a rogue Director of the CIA, or a rogue top group out there. There are people that we will have had through the confirmation process that gives us more confidence in our ability to work with them. I did not want someone out there who is off running as a single entity, directing the Agency to that person's own ideology, nor do I want someone that is overly subordinate and supportive of the President, which has been the charge in the Gates hearings, that there was too much slanting of the intelligence information to support an administration's preconceived view.

What I am talking about is accountability for these three very important positions. That is the issue here. Our confirmation process says, as we follow it under the advise and consent of the Constitution, we follow it under all the separation of powers, that the confirmation process is about accountability. It is that simple.

That is the reason for this amendment. It is nothing else. It is not to weaken the CIA. It is to strengthen the CIA, in my view, because the CIA, with something like this in place, will have more believeability in their objectivity than would otherwise be the case. That is what this is all about.

I know the distinguished chairman desires some time to speak on this, and I am glad to yield.

Mr. BOREN. Mr. President, I thank my colleague from Ohio, and I apologize for being absent from the floor during some of the debate.

When the Senator from Ohio first described his amendment to me, I must confess that I was not totally enthusiastic about it. My first reaction to it was that we do not want to get into the micromanagement of the Agency. We do not want to confirm too many people that we will deprive the Director of the Agency of the authority and the responsibility for picking good subordinates to carry out the key positions, the work of the key positions of the Agency, in a way that he will not be able to run it, since the Director ultimately is held accountable for the quality of the product.

Certainly, the experience that we have been through in other confirmation processes has not always been a happy one, as we have seen this past week. No one has been more outraged than I by what we have viewed in terms of the lack of responsibility of those who are part of the system. We do not yet know their identities, but whether it was a staff member, or a Senator, or whether it was someone associated with this institution who leaked information in the recent confirmation process of Judge Thomas, it must be determined.

We will not have met our responsibility to the American people until the identity of those parties is determined and until those people are held accountable, and to my way of thinking, if they are employees of this institution until their employment with this institution is terminated.

I am one of those who feels very strongly that the integrity of the confirmation process is so important that even if it takes outside help in terms of conducting an investigation to determine the parties responsible, it should be done. We felt very strongly about that in our committee. We adopted strong committee rules and made it clear we would dismiss staff members or ask members of the committee to step down if they were found responsible for leaking sensitive information without authorization of our committee.

So I understand that in some ways this perhaps is not the best moment of timing for the Senator from Ohio to present this amendment since all of us have just been through a process that did not work very well because at least in part of the irresponsibility apparently of someone associated with this institution that we all love and cherish and this institution which belongs to the American people. It would be easy, I suppose, having come through this experience, atypical as it is, to then take the point of view that we should start reducing rather than increasing the numbers of positions subject to Senate confirmation.

I think that would be a mistaken lesson from this process. This lesson is that the Senate should not have a part in advice and consenting to the nomination of people nominated for important posts—like membership on the Supreme Court of the United States, a lifetime appointment, or appointment to the directorship of the Central Intelligence Agency, sensitive as it is, operating very often in secret beyond the knowledge of most people in this country, subject only to scrutiny of a small number of people, primarily members of the two Intelligence Committees.

The lesson to be drawn from what we have been through is that not that we should do away with the advice-and-consent role set forth in the Constitution for the Senate of the United States. The lesson we should learn is we should do it much more effectively, much more carefully, and much more responsibly. Another lesson we should perhaps learn is that we need to take a look at reform of Congress as a whole as an institution.

And I think when we have committees with over 100 employees and staff members, that probably much of the work of committees, even offices, sometimes in an individual office, is turned over to those who have not been elected by the people and not directly accountable to them, that it is the mistake.

We need to look at the whole process. Whether or not we should have a good confirmation is not the issue here. Whether or not we wanted to give the Director of Central Intelligence Agency enough authority to run his agency or her agency as the case may be is not the issue here. The question is whether or not the positions that are described in the Glenn amendment are sensitive enough and important enough to merit the requirement that confirmation should be required.

When I first became chairman of the Senate Intelligence Committee, I would have answered that question probably in the negative. It is enough for the Intelligence Committee to be involved and the Senate to be involved

in the process of confirming the Director and the Deputy Director.

Over the years, because of problems that arose during the Iran-Contra affair, we all learned from our experience. We came to understand the importance of oversight, in terms of preventing the politicization of the intelligence community, in terms of even making certain that laws were not violated and that is why this body wisely decided to pass a statute which the President signed which set up an independent inspector general for the Central Intelligence Agency.

We decided that for that particular position to be assured of independence and objectivity it was important that the Senate act to confirm the person named as inspector general.

Over the last few months, and perhaps even more importantly, over the last few weeks, as we have dealt with the confirmation process as it relates to the nomination of Robert Gates to be Director of Central Intelligence, we have become even more sensitive to the fact that other positions within the agency are extremely important. If we spent billions and billions of dollars in the area of providing the equipment and personnel and other tools for the intelligence community only to have the intelligence product politicized or skewed to tell the policymakers what they want to hear, the integrity of the whole process is undermined. It does not take an expenditure of billions of dollars to simply write down on a sheet of paper what the policymakers already want to hear. We could certainly have saved a lot of money in the budget if that is all that was to that.

So the person who holds the position of Deputy Director for Intelligence holds the post of tremendous importance and sensitivity in terms of ensuring the integrity of the intelligence product.

Likewise, the Deputy Director for Operations, often called the spy master in the popular press, is also a position of immense responsibility.

When you look at the history of the Central Intelligence Agency and look at those moments that have been most embarrassing to the agency, most damaging to the United States, and our national security interests in terms of mistakes that have been made, most of them had to do with operations.

Whether we are talking about the mining of harbors in Nicaragua or other instances that have occurred in terms of mistakes being made in the past that have embarrassed this country, most of them related to operations.

There have also been a tremendous number of successes, and that always has been my frustration as chairman of the Intelligence Committee that by their very nature successes never become public and there are probably a hundred successes for every failure we know about that eventually finds its way into the media.

So I cite the failures not to show the importance of this position but I also could cite the successes as well to show the importance of the position of Director of Operations. It is absolutely essential that we have a good person in that position.

In 1981, that position was not a confirmable position, and we all remember that Mr. Casey at that time appointed a man Max Hugel at that position who was clearly disqualified for it and to his credit the then Deputy, one step below the Director of Operations, at that time Mr. Dick Stolz, decided to retire from the agency rather than continue to work in those circumstance. To the credit of Judge William Webster when he became the Director he asked Stolz to come out of retirement, a man who demonstrated tremendous personal integrity, a man later recognized to receive the National Intelligence Medal from the hand of the President of the United States agreed to come out of retirement and become Director of Operations again.

I can tell you that as chairman of the Senate Intelligence Committee, knowing that a man of the character and ability of Mr. Stolz was the Director of Operations for the agency made me sleep a lot better at night and made me much more certain that I could look to the American people and tell them I thought all was well in that particular highly sensitive, very important division of the Central Intelligence Agency.

If the Director had been a different kind of person than Judge Webster and the President had been a different kind of man, if we had another situation where there was an attempt made to appoint someone like Mr. Casey's choice of Mr. Hugel there is simply no legal remedy to prevent such an appointment in the future short of confirmation by the Senate of the United States and scrutiny by the Intelligence Committees of the Congress.

Therefore, I have come to the conclusion, just as one individual—the other members of our committee who feel quite strongly to the contrary, and this is certainly not a matter that ought to be politicized. It is not a matter on which I would attempt to sway the vote of any other Senator. Senator CHAFEE has spoken on this issue. Senator COHEN who served as vice chairman for 4 years of our committee has spoken on this issue as have other members of the committee, people for whose judgment I have immense respect.

This is a very close question. There are very strong arguments on both sides and my only hope is that Members would think about it before they vote and will carefully weigh the arguments before they vote, and I think again it is not the kind of thing that I can say with great force and vehemence that I am sure that it is absolutely right and essential that this amendment be adopted.

But having thought about it, having lived with the experience of being chairman of the Senate Intelligence Committee, and having been responsible for the effectiveness of the oversight process, and having realized how sensitive these positions are and what abuse can occur and what damage can be done to the interests of the United States if the wrong person occupies the position of being Deputy Director for Operation or Deputy Director for Intelligence of the CIA or general counsel because the general counsel often gives advice to the leaders of the agency about what the law is in terms of what is legal and illegal for the CIA to do, oftentimes out of public view, another very important position, I simply believe I would be more comfortable in the long run knowing that the committee and the Senate had an opportunity to at least make a judgment about the quality of the persons appointed to these three positions. It ought to be done with great care. The confirmation process should never be a circus. It should not be politicized.

Most Members of the Senate will not even recall that we had a public hearing on the confirmation of the inspector general or the current Deputy Director of the Central Intelligence Agency, and that is the way most confirmation processes go on. There are over 60 key positions in the defense establishment that are confirmed by the Armed Services Committee, and when you consider the size of the intelligence operations in this country and you consider the budget of this operation, and the sensitivity of it, I do not believe it would be out of line to say that we should have six positions in the Central Intelligence Agency subject to Senate confirmation.

As I say, Mr. President, this is a matter upon which honest men and women may differ in their opinions. It is certainly a matter of which there is a difference of opinion between people I respect, people who have every bit as much experience in this field as I have. They come down on the other side.

But I intend to vote for the Glenn amendment because I think it is an important protection for the American people in an agency that has to operate out of the public view. And I think if we are to error on one side or the other of strengthening the oversight process, strengthening a check and balance system, since we are dealing with an agency whose budget is not out in the open, whose operations are not out in the open, who mainly act in secret, even with the kind of hearing we have had on the confirmation of Robert Gates, extraordinary hearings that have done more to educate the American public about the intelligence community than

any other set of public hearings probably in the history of this country, still even with that kind of process and that kind of determination to have effective oversight that is shared in a very bipartisan way by the members of our committee, most of what the CIA does is still secret and will probably continue to be. And that is why if we are to error on one side or the other, let us error on the side of accountability, let us error on the side of making sure that we have enough checks in the system as opposed to too few.

I think that the Glenn amendment, as it has been modified to include only three positions, strikes that balance. I intend to vote for it myself. I do not intend to try to twist arms or influence the outcome of the vote on this amendment. It is something each Member should weigh very carefully. I just urge my colleagues to think about it in a very serious way—it is a substantial issue of importance—before they cast their votes.

I thank my colleague from Ohio for yielding to me and giving me the opportunity to share these brief thoughts about the amendment which he has put forward.

Mr. GLENN. Mr. President, I yield myself such time as I may require.

I thank the distinguished chairman of the committee for his remarks and for his support for this amendment. I concur wholeheartedly with the remarks he made and the rationale behind them. I think they were very good.

Mr. D'AMATO. Mr. President, I rise today in strong opposition to the amendment by my distinguished colleague from Ohio to make additional Central Intelligence Agency positions subject to Presidential nomination and Senate confirmation. I share my colleague's concerns about the operation of the CIA, but I believe that his amendment will cause more trouble than it will cure.

I understand that the committee has received a communication from the White House indicating that the President will be advised to veto S. 1539 if this amendment should become a part of this bill. In addition, the Acting Director of Central Intelligence, Mr. Richard J. Kerr, has written a letter to the chairman dated October 10, 1991, opposing this amendment.

As we are about to finish the committee's action on the nomination of Mr. Robert M. Gates to be Director of Central Intelligence, we have fresh in our minds the problems associated with the confirmation process. This amendment would add the CIA's general counsel, Deputy Director for Operations, and Deputy Director for Intelligence to the three positions which are already subject to the confirmation process—the DCI, DDCI, and inspector general.

Having just completed a most thorough and painful review of internal Directorate of Intelligence disputes in the course of the Gates hearings, it is clear that the people of the United States, the U.S. Government as a whole, and the CIA would have little or nothing to gain from this amendment. In fact, this amendment would invite initiation of more internal disputes throughout the Agency, and would provide aid, comfort, and encouragement to the inception and growth of factions within the Agency.

Rather than curing the problems we found, I believe extending the confirmation process further will increase the risk of politicization of the organization and increase the chances that CIA analysis will be regarded as untrustworthy by policymakers. I want to make clear, in this regard, that politicization does not always come from the top. Sometimes, it grows from within when a particular faction resists, for whatever reason, legitimate management direction of its activities.

If a new DDI comes before the committee for confirmation, we will likely be faced with officers coming forward to attack the nominee. Extending the confirmation process to the DDI will just encourage the growth and entrenchment of factions in the CIA's analytic community in particular. If that happens, the effect on the CIA's written intelligence product will be strikingly negative.

Publicly airing the Directorate of Intelligence's internal disputes was troubling. The proposal to subject the Deputy Director of Operations to confirmation is simply impossible. It is impossible because of our responsibilities to conduct a fair and open confirmation process.

I believe we have an obligation to conduct as much of our government in public as possible. Accordingly, we should hold as much of our confirmation hearings in public as possible. I do not know how we do that with the DDO.

Mr. President, let me remind my colleagues that the Deputy Director of Operations at the CIA is in charge of the most sensitive U.S. intelligence activities. Human lives literally hang in the balance on many decisions he has to make. Our most sensitive intelligence sources and methods are directly involved in the activities for which he is responsible.

I do not think we can meet our constitutional obligations to the people of the United States if too much of the confirmation process must be held behind closed doors. I want to remind my colleagues and the citizens who may be watching this floor debate on C-SPAN that the vast majority of the Gates hearings were held in public. I think that is very important.

I do not believe we could hold public hearings on the DDO, at least not in any meaningful way. Any serious, substantive questions would have to be asked and answered behind closed doors. Otherwise, the CIA would not be able to conduct its legal, authorized, and necessary activities.

Mr. President, let me turn for a moment to institutional considerations. Because of the necessarily secret nature of intelligence, the Senate Select Committee on Intelligence and our counterpart, the House Permanent Select Committee on Intelligence, have a more significant role in oversight of activities under their jurisdiction than have other committees of matters within their respective jurisdictions. Let me explain why.

In matters that are not secret, interested parties, the media, and citizens at large are able, if they choose to spend the time and effort to do so, to become very well informed on the facts and circumstances surrounding any public policy issue. They are then free to form conclusions and to advocate specific policy directions and choices. This large community of interested and informed people is a key element of successful oversight by other committees of activities under their respective jurisdictions.

This community of informed people is necessarily largely absent in secret intelligence matters. The two committees and their staffs must do what other committees do, but they must do it better. They must find out in detail what is going on and they must be able to form sound judgments on the information they gather, without much aid from public policy debates in the public arena that form the environment in which other oversight committees operate.

This situation has very strong implications for the way we do our business. It is essential that we sustain the trust and confidence of the people in the intelligence community in our oversight process.

If we extend the confirmation process to the DDO, the DDI, and the general counsel, we risk having partisan confirmation battles on an annual basis. Then, the President may choose to nominate people more on the basis of how their nominations will play with the committee and the Senate than on the basis of how well they will perform in the positions to which they have been nominated.

I believe that passage of this amendment would so seriously complicate our oversight process as to put it in danger of becoming ineffective. Nominees chosen to suit the confirmation process could alienate and factionalize the various professional communities within the CIA. Repeated partisan confirmation hearings run the clear risk of undermining and even destroying the cooperative nature of the intelligence oversight process on the committee itself. If that happens, we can anticipate even sharper conflicts between the executive and legislative branches over

intelligence policy and operations, with potentially serious negative effects on our national security.

Mr. President, I hope my colleagues will agree with me that now is not the time to enact this amendment. I ask that they join with me in opposing this amendment.

Mr. GLENN. Mr. President, we have no one else on this side waiting to speak. I am prepared to yield back all time and go to a vote on this if the other side is willing to yield back time.

Mr. MURKOWSKI. Mr. President, I concur with my friend from Ohio. We are willing to yield back the remainder of our time.

I would just like to reiterate the opposition that this side has to the Glenn amendment. We have heard the statements by Senator DANFORTH, Senator HOLLINGS, Senator CHAFEE, Senator COHEN. I think I can best, in summary, say, "If it's not broke, don't fix it."

With that, I, too, yield back the remainder of my time.

Mr. GLENN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

Mr. GLENN. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. There is time remaining on the bill under the control of the ranking member, as I understand it.

Mr. BOREN. Mr. President, I know I have no time remaining. I might suggest to my colleague that he could yield back the remainder of his time on the bill, so that, immediately after the vote on the amendment—I do not anticipate that there will be a rollcall on final passage unless someone makes that request.

Mr. CHAFEE. Mr. President, I do not think we should at this time suggest that there will not be a rollcall on final passage. I would prefer to hold back on that if we might.

Mr. BOREN. Perhaps I might ask my colleague to just reserve his time on the bill until after the vote occurs on this amendment. Because if indeed there is a request for a rollcall vote, there might be a need for final debate before the passage of the bill.

Mr. MURKOWSKI. The Senator from Alaska would concur.

The PRESIDING OFFICER. Without objection, the time on the bill will be reserved until after the vote on this amendment.

The question is on agreeing to the amendment of the Senator from Ohio [Mr. GLENN]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. PRYOR], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—38

Adams	Glenn	Moynihan
Akaka	Gore	Nunn
Baucus	Graham	Pell
Biden	Harkin	Riegle
Bingaman	Johnston	Robb
Boren	Kennedy	Rockefeller
Bryan	Kerrey	Sanford
Bumpers	Lautenberg	Sarbanes
Burdick	Leahy	Sasser
Byrd	Levin	Simon
Cranston	Lieberman	Specter
Daschle	Metzenbaum	Wellstone
DeConcini	Mikulski	

NAYS—59

Bentsen	Ford	McConnell
Bond	Fowler	Mitchell
Bradley	Garn	Murkowski
Breaux	Gorton	Nickles
Brown	Gramm	Packwood
Burns	Grassley	Pressler
Chafee	Hatch	Reid
Coats	Hatfield	Roth
Cochran	Heflin	Rudman
Cohen	Helms	Seymour
Conrad	Hollings	Shelby
Craig	Jeffords	Simpson
D'Amato	Kassebaum	Smith
Danforth	Kasten	Stevens
Dixon	Kerry	Symms
Dodd	Kohl	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wirth
Exon	McCain	

NOT VOTING—3

Inouye	Pryor	Wofford

So the amendment (No. 1258) was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I am advised by the managers that no Senator has requested a rollcall vote on final passage. If that is the case, then I am advised by the managers that they can proceed promptly to complete action on the bill by voice vote. Therefore, the vote just having occurred will have been the last roll call vote of the day. I take the current lack of response to mean that no Senator does request a rollcall vote.

Accordingly, Mr. President, unless someone does so at the last moment, the managers can now proceed to complete action on the bill by voice vote, and there will be no further rollcall votes this evening.

Mr. MURKOWSKI. Mr. President, the majority leader is correct. I know of no one asking for a rollcall vote at this time.

The PRESIDING OFFICER. The ranking member of the committee has 15 minutes left on the bill.

Mr. MURKOWSKI. Mr. President, we on this side yield back the remainder of our time.

The PRESIDING OFFICER. All time on the bill has been yielded back. The question is on the engrossment and the third reading of the bill.

The bill (S. 1539) was ordered to be engrossed for a third reading and was read the third time.

Mr. BOREN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be discharged from further consideration of H.R. 2038 and that the Senate proceed to the immediate consideration of H.R. 2038, the companion bill to S. 1539; that all after the enacting clause be stricken, and that the text of S. 1539, as amended, be inserted in lieu thereof and that the bill be considered read three times.

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

The bill having been deemed read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2038), as amended, was passed.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate insist on its amendments, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer [Mr. WELLSTONE] appointed Mr. BOREN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. MURKOWSKI, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. RUDMAN, Mr. GORTON, Mr. CHAFEE, and from the Committee on Armed Services, Mr. EXON, and Mr. THURMOND, conferees on the part of the Senate.

Mr. BOREN. Mr. President, I ask unanimous consent that S. 1539 be indefinitely postponed.

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

Mr. BOREN. Mr. President, I thank all of my colleagues for their interest in this piece of legislation. I particularly thank the members of the Intelligence Committee who have labored long and hard to produce this legislation.

As I have indicated, in many ways it is a landmark piece of legislation. It includes in it the first major new national security education initiative for

more than two decades, since the passage and implementation of the National Defense Education Act, following the launching of Sputnik by the Soviet Union. It will provide for the first time grants for college undergraduates to study overseas to learn about other cultures, to learn other languages. It will provide grants to colleges and universities to increase courses and improve curriculum in international studies, area studies, foreign studies. It will also provide grants in these fields to those who agree to spend some time in Government service after they receive those graduate degrees.

It helps enhance the human source base and talent of this country in fields that are critical to the national interest, not only to our security, as most broadly and realistically defined, but also for the economic and social strength of this country as well, as we enter a new and very much more international environment, as we approach the next century.

It is also a bill that begins the process, which will rapidly accelerate by next year, to change the budgetary priorities within the intelligence field. It continues the initiative of our committee commenced over 2 years ago to rebuild the human source intelligence capability in the intelligence community, the kind of strengths that are going to be badly needed in a new world environment in which regional conflicts rank high as a risk to this country, where we will need earlier warning of the intentions of potential adversaries so that we will not only have the ability of forceful intervention such as after the invasion of Kuwait, but we can have early knowledge of possible intentions such as those of Saddam Hussein who might threaten our interests, and be able to take other actions short of war to deter aggression in advance, also to penetrate terrorist cells and those trafficking in narcotics and those responsible for the proliferation of weapons, nuclear, chemical, and biological. All of these kinds of challenges.

In addition, the challenge of economic information to combat theft of our economic secrets in the counterintelligence field and to make sure we have a level playing field in terms of the actions of other governments, so that we can compete in the international economy on a fair basis.

All of these areas will demand an improvement in our human source intelligence capability, and this legislation moves us in the right direction in terms of putting more emphasis, a greater budgetary priority on that kind of skill and on that kind of resource.

I thank my colleague, the vice chairman, especially for his leadership in assisting the committee and preparing this legislation. I thank the majority staff director, Mr. George Tenet and the minority staff director, Mr. John Moseman. As I have said many times, these are the only two persons of our committee staff designated as majority and minority. We have a totally unified staff. We do not have a majority and a minority staff. Uniquely, as a committee, we have an American staff. I do not even know the political affiliation of most of the staff members. It is an example I hope perhaps will be taken up by others in the Senate in other areas of jurisdiction because we must find ways to work together more closely and the members of our committee try to do that. As chairman and vice chairman, Senator MURKOWSKI and I try do that. Mr. Tenet and Mr. Moseman set an admirable example to the rest of staff in terms of their own cooperative, bipartisan approach.

Among the other members of the staff I particularly want to thank our general counsel, Mr. Britt Snider; Regina Genton, Gary Sojka, Terry Ryan, Mary Sturtevant, Jim Martin, John Eliff, Chris Straub, Chris Mellon, David Garman, Don Mitchell, Ed Levine, Mr. Keith Hall, who for many years was the budget director of our staff, who is now serving as deputy secretary for intelligence at the Department of Defense, and many other members of the staff that I could mention on this occasion who have given important support to us in preparing this legislation. They have my deep appreciation and they have made a real contribution to their country in the process of working on this legislation.

I also thank my colleagues on the Armed Services Committee and on the Appropriations Committee. Senator BYRD and his committee have been extremely cooperative with us in terms of tracking the anticipated language in our authorization bill and their appropriations bill. They have been fully supportive, enthusiastically supportive of the new directions we are taking in intelligence, of this important education initiative, and I thank my colleague from West Virginia and those who serve with him on the Appropriations Committee.

I also thank my colleagues, Senator NUNN and the ranking member, Senator WARNER, on the Armed Services Committee likewise for their cooperation with us. The work on this bill has been a model of cooperation, not only between the two parties, as we have been virtually unanimous in our deliberations in the intelligence committee, Democrats and Republicans alike, it has also been a model of cooperation between committees of the Senate, especially the Intelligence Committee, the Appropriations Committee, and the Armed Services Committee. I thank all of my colleagues who have been an important part of this process and who have contributed so much to it.

I thank the Chair. I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair. I will not duplicate the remarks of the chairman other than to add in the case of one of the staff members, Mr. Keith Hall, who has moved to the Department of Defense. He was our budget officer. We wish him well in his new responsibility.

I think the chairman has adequately recognized all of the fine work of our staff on both sides and, needless to say, we expect that caliber of work to continue and perhaps even excel, and with a little more praise, why, perhaps that would be accomplished.

But seriously speaking, Mr. President, it has been a pleasure to work with the chairman and the members of the committee as well. I think that we function in a responsible manner and with dispatch, and with that last word I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, it is my pleasure to serve as a member of this committee with our distinguished chairman and distinguished ranking member. As the chairman and the ranking member pointed out, we have a very close working relationship with the Senate Armed Services Committee, on which I am also privileged to serve.

I am confident that the work of our committee reflects not only the charter that we have but also the goals that we have set under the new leadership in this committee. I pay my respects to our chairman and distinguished ranking member for seeing us through some troubled waters this past year, in laying the foundation for what I hope will be a very effective and, I think, Mr. President, necessary reorganization of the Central Intelligence Agency and other aspects of our overall intelligence network.

I look forward to the coming year and working with my distinguished chairman and ranking member.

Mr. BOREN. Mr. President, I want to thank my colleague from Virginia, Senator WARNER, and of course my colleague, Senator MURKOWSKI, the vice chairman, for the kind remarks which they have made.

As I indicated a moment ago I really believe that the cooperation not only in a bipartisan sense within our committee but the special cooperation that we have had with the Armed Services Committee, the leadership of Senator WARNER and Senator NUNN, has really been to the benefit of this country and will enable us I think in the years ahead to make the changes that are going to be necessary.

We built the foundation, as the Senator from Virginia has said. We have already charted a new course. We have

set new priorities. We are beginning to move in that direction. We made important progress on this bill, and it really is the building block upon which we can make truly major changes in a constructive way next year. I want to thank him for his words, and certainly for the immense contribution that he has made to this process personally.

Mr. SEYMOUR. Mr. President, in the wake of the way that the U.S. Senate has handled—or I should say mishandled—the nomination of Judge Clarence Thomas, one of the tasks we have before us is how we repair the confirmation process that has clearly broken down.

Mr. President, today, I am proposing the first step in bringing some sense of order and fairness into the way the Senate conducts itself on the confirmation of nominees. I am submitting for the record the text of an amendment that calls on the FBI to undertake an investigation of the leak of the FBI report from the Senate Judiciary Committee concerning Prof. Anita Hill's allegations.

If states that the FBI will have authority to subpoena the attendance of witnesses and all relevant documentation pertaining to this leak. It also requires the FBI to submit its report to Congress no later than 30 days after the enactment of this act. It is simple. It is straightforward. And it is intended to clean out the stench that today hangs over this highest elected body in our country.

I want to put my colleagues on notice that I intend to offer this amendment to bills that the Senate will be considering in the coming days. And I sincerely hope that when that happens, we will have support on both sides of the aisle. Because it is not just the reputation and credibility of my Democrat colleagues that has been tarnished by this episode. It is not just the reputation and credibility of my Republican colleagues either. It is the credibility of this institution—the U.S. Senate—that has suffered as a result of this national disgrace.

Mr. President, I am circulating a letter to all Senators today on this matter, and I urge them to review it and join with us in supporting this amendment.

One of the things that the American people have complained about in this whole ordeal is that the process is out of order. And they have a clear understanding of what the new rules of the game appear to be. If a nominee can't be challenged on his or her views or opinions, then he or she can be torpedoed, can be defamed, can have their character besmirched and dragged through the public sewer. And all of this by the deliberate and calculated leaking of information, with the clear intent of creating an ethical cloud that's sufficient to sway some votes.

Now, there's been a lot of talk around this town that "well, everyone leaks." "It's just the way things are done." "You can't stop people from leaking." 'It's normal." But what happened over the past week and a half is anything but normal.

We've heard it a lot these past few days, but it bears repeating today: FBI reports contain raw, unsubstantiated, confidential allegations. Without investigation, the charges are inconclusive. Left unsubstantiated, they can be damning. Leaked, they are damning, and they can permanently destroy a person's reputation.

As Senator DANFORTH reminded us last week and again today, leaking an FBI file is not a trivial matter. It is an extremely serious violation of Senate rules. It subjects a Member of the Senate to expulsion from this body. It subjects a staff member of the Senate to termination.

It's one of the main reasons why the American people are so outraged with what has gone on here the past 10 days. If you doubt it, just look at the polls that are in the newspapers and the news magazines. The vast majority believe that we are incapable of conducting the business of confirming nominees in a fair and responsible manner.

That is what we witnessed when the FBI report containing Professor Hill's allegations was leaked. It has caused severe and lasting damage to Judge Thomas, to Professor Hill, and to the Senate. Everybody looks bad because of the reckless action that was taken when this document was leaked. It is unfair, it is unjust, it is unconscionable, and it cannot be permitted to go on. We must do all that we can to ensure that in the future, no human being again goes through what Professor Hill and Judge Thomas were forced to endure.

That's why I will be offering this amendment in the coming days. It begins the process of repairing the damage that this entire episode has created. And it will send a message to the American people that we take this matter, very, very seriously, and that we will not tolerate it in the future.

Now that the vote has been taken on Judge Thomas' nomination, the question people are now asking is: What can we do to get our house back in order. This FBI investigation is the first step in that process, and I hope that my colleagues will join with me in working for its swift approval.

Mr. COATS. Mr. President, I want to join my colleague from California in his efforts to raise what I think is a very important question before this body. The long ordeal which we have just been through here with the Thomas nomination is over, I think much of the relief of the Senate, and certainly to the relief of the American people.

It is not my intention to rehash that debate this evening, but I want to join my colleague from California in raising an issue that I think is unresolved. It is very troubling, and that deserves the Senate's attention.

What we have just completed can only be described as a cheap melodrama. We have conducted our constitutional duties with a decorum of a Phil Donahue Show or Oprah Winfrey Show. We have been trading in allegation and innuendo, and we have decisively and unfortunately rejected the long history of careful deliberation in the nomination process.

There is going to be a great tendency around here to think that is behind us, that is done, let us just put it aside, and everybody will forget about it.

The Members of the Senate may forget about it, or at least want to forget about it, but the American public will not and has not. The process is broken. And our continued participation in it dignifies what I think many consider a sham.

So we are presented with a pretty stark choice. We can either pursue change, pursue reform, or we can further allow further damage to what has been a very badly damaged body.

Mr. President, from discussions with Senators on both sides of the aisle, I know that this is a frustration that is just not reserved to one party, but I think it is essential that our discontent be transformed into a constructive reform effort. I am not exactly sure what final shape this reform effort should take but I think we have some ideas about the direction it ought to go.

First, I think we need to establish clearly a process where the standards of our judgment are clear before we reach conclusions. We have to have some procedural firewalls that prevent lurid allegations from becoming media events and dominating our deliberations. In the case of Clarence Thomas the accusations were both very late and very public, and smelled of obvious political manipulation.

Surely there is some middle ground here, a middle ground where the charges come early enough to be examined, where a committee is trusted to determine which charges are serious enough to merit sustained attention, and where the ploys of ideologs are banished and fair rules of evidence are applied. Without a context for our deliberations with set procedures the nomination process can quickly degenerate from hearing, to inquisition, to character assassination.

Second, we can no longer allow Senate staff to destroy the credibility of this process with unethical and illegal leaks. Staff are not paid by the public to serve a personal political agenda at the expense of this institution and its deliberations or as opposed to what the American people expect of us. In the case of Clarence Thomas it is clear to me that staff has exhibited an exagger-

ated sense of power and a very deficient sense of mission. It is unvarnished arrogance. And I am convinced that those who are responsible have to be held accountable.

So I support the efforts of my colleague from California to request an FBI investigation into what has taken place, and then the Senate after reviewing that can determine what action we ought to take.

Why do we need a fair, predictable, regular process? Because reputations are valued and allegations are cheap. Something is badly wrong when it becomes this easy to discredit or ruin a nominee, and when it becomes this difficult to find out the truth.

When Senate decisions or nominations are made on the weight of allegations and not on the weight of evidence, the potential for abuse is enormous, and the sifting of evidence requires a process with predictable standards of judgment. We demand it in the Court, and we should expect it in a confirmation. Without this, the Senate is going to be subjected to continuing tyranny, the tyranny of scheming staffers, of last-minute allegations, tyranny of being driven by every media tempest, the tyranny of self-doubt, knowing in the end that we have not been fair, or just, or true to the standards that we ought to be exercising.

So I hope the Senate will join Senator SEYMOUR and I and others in reexamining the process that is deeply flawed. We owe it to good men and good women who seek to serve this Nation. We owe it to the future of this institution.

In the final analysis, we must make changes so that posterity may know we have not loosely through silence permitted the things to pass away as in a dream."

That was a statement by Richard Hooker, and I think it is a statement that this Senate ought to take very, very seriously.

Mr. President, I yield the floor.

Mr. GRAMM. Mr. President, tomorrow when the distinguished Senator from California offers his amendment demanding an FBI investigation of those factors surrounding the Clarence Thomas nomination that had to do with the breach of Senate rules and breach of confidence, I am going to be proud to join him in that process.

I want to make it clear that there is a problem. We have had speculation now around here for several weeks as to what all this has done to the reputation of Clarence Thomas or Anita Hill. My guess is if you did a poll tonight on reputations, and you included the Senate, that they would both outpoll us. We have an opportunity to do something about it.

What the distinguished Senator from California is going to do is offer an amendment calling for an independent investigation centered outside the Senate by the FBI to gather the facts as to what happened, how Senate rules were violated, and how we had a breach of trust and confidence.

I think it is vitally important that we adopt that amendment. Let me make it clear that the amendment is going to be offered on the first bill that comes along, and it is going to be offered over and over and over again until, finally, we have an opportunity to vote on it.

I know the American people are for it. I hope the majority of the Members of the Senate are for it.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I will join my colleague from California in this effort. I think one of the untold stories is how Anita Hill was mistreated by the U.S. Senate. The simple facts are these:

First of all, she was assured by Senate staff that there were rumors circulating about sexual harassment at the EEOC and an implication was made that they involved her. In effect, they urged her to make a statement to protect against the rumors that they said were circulating. The tragedy of this is that the story they told her was untrue.

Second, there is a report that those staffers, who the committee declined to question, assured Anita Hill that if she would simply sign the affidavit, it was quite likely that Judge Thomas would withdraw his nomination, and the matter would be settled. That was obviously untrue, as well.

Third, Anita Hill was assured by those people that her affidavit and her statement would be treated in confidence. The simple fact is that that was untrue, as well. A witness came forward to provide the U.S. Senate with vitally needed information, whether you favored Clarence Thomas or opposed him, and the simple fact is that this was relative information, and it was significant information. That witness, who put her faith in the U.S. Senate, was let down by this body in a direct violation of our rules.

The simple fact is that we, as a body, cannot afford to simply ignore the rules that we have passed. We either ought to amend the rules, or we ought to abandon the commitment to keep some communications in confidence, or we ought to enforce them. I see this as an essential ingredient in saying to the American people that we intend to stand by the rules we passed. It is a commitment of honor.

I believe and hope this body will stand behind the initiative of the Senator from California.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on Tuesday last, as the Senate went in recess, pending the final hearings on the Supreme Court nominee's case, I was here on the floor, because by then we were aware of the fact that the rules of the U.S. Senate had been violated and that a breach of confidence had occurred. I said then—and I do not repeat in exact words—that we cannot let this happen if we expect our rules to mean anything. Frankly, if you have U.S. Senate rules that do not mean anything, you probably do not have much of a Senate.

So that night, as forcibly as I could, I suggested that while the proceedings might go on, the U.S. Senate ought to undertake some way to find out who breached the confidence. It had to be a Senator, or a staff person either of the committee, or of one of the committees that a staffer might have shared it with.

Frankly, I compliment the Senator from California, and I will be on his amendment. If it were a bill, I would be on it, because it probably is a simple and, if properly worded, ingenious way to get reliable, trustworthy third parties who do not breach their confidences but have the authority, if the U.S. Senate says, by law, we want you to do this, then they will have all of their authority. And I believe there is a reasonable chance that they will succeed.

On the other hand, if there is not a reasonable chance, it is better by anything we have by way of our committee structure, because it has never worked with this kind of a breach of confidence.

So I say that the Senator from California may be new to the Senate, but he has more than a new idea here tonight. He has one that will work. It is simple, straightforward, and to the point. Once a few words are added to it to make sure everybody understands what they are doing, I think it can have a timeframe to it and get done rather quickly. Frankly, there are a lot of ways to make sure that every single staff person is subjected to the inquiries and subjected in such a way that they would be vulnerable to our rules if, in fact, it is ascertained that they do not cooperate, or that they were the culprit in these breaches of confidential information.

I agree with the Senator from Colorado that the thing that is lost in all of this is that Anita Hill was given some very, very strong what I consider confidential information assurances that I believe might have been part of her reasons for giving her statement. She found shortly thereafter that it meant almost nothing. I just do not believe that is the way the U.S. Senate ought to leave this matter. We ought to at least try, even if we do not succeed, to get to the bottom of it. If nothing else, tonight's words might suggest to somebody around here—if not in this building, maybe in one of the three where

we house people, or to the ones that did it—that they ought to be careful, because this time the Senate is going to try to find out who they are.

I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I commend the Senator from California for the amendment which has been described here on the floor of the Senate in the last few moments and indicate my wholehearted support for that, and I will ask that I be added as a cosponsor when it is subsequently added.

I might say, Mr. President, that the Senator from California is right on the mark. The first problem before us is to figure out what happened in the case of the leak of the information provided by Anita Hill.

Beyond that, Mr. President, it is a question of the future. What the Congress has done so often in the past is exempted itself from legislation applying to everybody else. There are two pieces of legislation, Mr. President, that makes it a crime to leak FBI reports—the Privacy Act and another piece of legislation. What Congress has essentially done is exempt itself from the operation of this statute so that for anybody else in the Federal Government to leak an FBI report is a crime. For a Member of the Senate or a Senate staffer to do, it is not a crime, apparently, but simply a violation of Senate rules.

So, at the appropriate time, I will be offering an amendment on some vehicle dealing with the broader problems of how we deal with this in the future. It seems to me that it is quite simple. The Congress and Members of Congress, all staff, should not be exempt from the criminal laws of this country. It is a crime for an FBI agent to leak an FBI report to the press, and it ought to be a crime for a Senator, or a Senate staffer, to do it.

So I commend the Senator from California for his approach to getting at the problem that has already occurred. But in addition to that, Mr. President, we need to deal with the problem as it may occur in the future, because this is not the first time we have had an FBI report leak out of this body. The Congress should not be treated any differently from any other person in America when it comes to the criminal laws of this country. So there are two ways of getting at the problem.

As I said, I commend the Senator from California for his approach. I, too, will be offering an amendment along the lines I just suggested to legislation coming down the pike in the next few weeks.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I will join my colleague from California as a cosponsor of his amendment. The Senator from Alaska came back for the proposed vote a week ago Tuesday, and prior to that vote, after about 10 hours on the airplane, I went in and read the FBI report, and the accompanying report that Professor Hill had provided that was attached to it. And after reading the periodicals, the newspapers, watching television, and so forth, on the way down, I was struck by the reality that the trust of the Senate had been broken, and certainly the rights of Anita Hill had been violated by this body directly and indirectly through its agents.

I was struck by the significance of that because I felt it was a credibility, if you will, of the Senate itself that had been violated.

I think that, in the last 11 years the Senator from Alaska has been here, we have had leaks in this body before. There has been talk about manner of redress but we have not followed up on it for reasons that I am still a bit perplexed about. So I think there is a frustration now. We have seen this leak of the FBI report.

This is a body that operates under rules, otherwise we will have chaos and, as a consequence, the American public will show its frustration, as it should.

So I think that we are approaching this in a responsible manner. I would hope that we would approach it in a bipartisan manner. I think that we certainly owe it to people who come forward, whether they are asked or come forward voluntarily, and have the assurance from this body or its agents that they will remain confidential. When, through leaks in this body, that confidentiality is broken, it is clearly a case of their rights being violated.

I would only offer one bit of advice to my colleague from California, that I would hope that the special investigator, if indeed it goes that route, does not follow the course of the special investigator in the Iran-Contra affair which has been going on since 1987; and I know my colleague, the chairman of the Intelligence Committee, could wish that as well.

So with that observation, Mr. President, I think we are about ready to go into wrap-up.

I will defer to my colleague, the Senator from Oklahoma, and my good friend, the chairman of the Intelligence Committee.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I have been listening with great interest to my colleagues who have been discussing the problem of leaks during the Thomas confirmation process and, as I have indicated earlier, it is a matter about which I have very strong feelings. I also believe we must have a complete investigation of this matter. It strikes at the heart of the integrity of this institution and the confirmation process.

Many people have been damaged as a result, including both Judge Thomas and Professor Hill. I think we have a responsibility not to rest until those who have been responsible for this leak are determined and are held accountable for it and held responsible for it. As I said, if I had my way, the very smallest amount of accountability that would occur would be that they would be immediately terminated as employees of this institution. I think that is the least that should be done. I could not feel about it more strongly.

I also indicated we followed this kind of process in our committee. I am proud of the fact that in the Intelligence Committee we have established I believe over the past 5 years a very good record in terms of stopping the leaking of sensitive information. We do not even allow Members to take sensitive reports and classified information out of our space.

Most recently, in terms of the Gates confirmation process, we have not allowed staff members to look at FBI reports; Members only will have looked at those reports. And they have never been able to look at those reports except in the presence of agents of the FBI who have been instructed to stay with the documents, the phone calls, or any other matter in the reports, the reading of the reports; the agent has maintained custody of the reports at all times, and also custody of any notes or records that Members might take as they are reading the reports.

So I feel very, very strongly, as do my colleagues on the other side of the aisle who have spoken about it. I talked with the distinguished majority leader, Senator MITCHELL, about it. He made comments on the floor about his view. And he shares that strong determination to bring those responsible for this act to justice. He also shares the determination that we build discipline back into this institution and to all the operations of all the committees of this institution. And so I think it would be only appropriate, as he suggested, that we not simply investigate this one matter, but that we also adopt a systematic approach, generic approach, establishing a right framework of rules and right enforcement procedures that will assure that we have some accountability and this discipline built back into the entire process.

There is no difference of opinion on the two sides of the aisle about that matter, and I commend my distinguished colleague, the Senator from Maine, the majority leader, for the leadership which he has already taken.

We have had a very tragic affair, one that has tarnished the reputation of this institution and I think quite probably tarnished the reputation of many.

I am not one of those who cannot understand why the public is angry about what they have seen. I understand why they are angry. I think they have every right to be angry. I think Professor Hill has every right to be angry. I think Judge Thomas had every right to make the comments that he made about the way he had been treated by the Senate of the United States—or more appropriately, not by the Senate of the United States, but by whomever was responsible for that leak. He was victimized. The members of the committee themselves were victimized, and this institution has been victimized and suffered as a result.

But I think we should view this not as one incident to be dealt with but as a general problem that must be dealt with, a cancer eating away at the reputation of this institution.

The use of leaks—and it occurs, I might sadly say, in the legislative branch; it occurs in the executive branch as well, for those who lose internal debates within the executive branch also leak information as a way of getting their way if they cannot prevail in terms of internal arguments. That happens all too often in this city. It is a matter that needs to be addressed by those in public office and addressed by members of the media who need to set professional standards for themselves as well, and to think long and hard about whether or not it is appropriate for them to be used by people with their own political agendas to distort the integrity of a process.

I do not say that to point the blame at the media. All I say is that we have a problem that is a real serious problem and involves individuals and interest groups with their own agendas. It involves the Congress of the United States and involves the journalistic community. It involves many of us in this country, and we have to do something about it.

Senator DANFORTH once said in the course of this debate that we had gotten into a political climate in this country where it is not enough to beat someone, it is enough to beat them on an issue, it is not enough to have a political triumph; we have the kind of mean-spirited politics now developing where the destruction of the individual is now the accepted means of getting a desired political result.

Nothing is worse than that. Nothing will do more to undermine the public confidence in our Government. Nothing will do more to undermine the moral authority of our Government, or to undermine and tear apart the social fabric of this country than that kind of mean-spirited action that any means is justified by the ends, even the destruction of individuals who are entitled to respect and the treatment of dignity that should be accorded to any individual, the presumption of innocence of individuals, the right of privacy of individuals.

A terrible thing has happened. It has affected many individuals, in fact, on both sides of this issue involved in the Thomas confirmation. It is a sad day. But hopefully from what has happened we will learn some lessons and we will, all of us together, without regard to partisan difference, all of us together will decide to do something to start curing this sickness in our system and in our society, and work together to do it.

Another discouraging element of the division and divisiveness which has occurred is that we have divided people along party lines—some agreed we have been divided by race, divided by gender—at the very time in which our country faces immense challenge. And the only way that we are going to rise to these challenges, the only way we are going to get the country ready for the next century to rebuild the spirit of community in this country is when we stop thinking of ourselves as Democrat or Republican, male or female, members of one racial group or another and start to understand we are part of one American family and that each person in this American family is entitled to respect and fair treatment, and that no one political agenda, no one political agenda on the right or the left justifies inhuman treatment of people, of individuals. We have too much of that in this community.

As I said when we began the confirmation process related to Mr. Gates to be Director of CIA, I was determined that process would be one aimed at weighing the qualifications of an individual person, a human being, with children and parents and a spouse and neighbors and friends, whose reputation, whose respect for his own personal reputation he values. Every person who comes into a confirmation process or involves himself or herself in the political process is entitled to that respect and entitled not to be treated as a pawn in a political chess game as some symbol for some political issue. And that is sadly what we have seen again and again and again; people, whether they are on the right or the left, Democrats or Republicans, male or female, not being treated as individuals but being treated as pawns in a political chess game that has become more and more mean-spirited with lower and lower standards of personal integrity and less and less responsibility being exercised by those who are part of the process, even some of those in this institution and employees of this institution.

And it has to stop. It should be stopped and it should be dealt with in a systematic way, not isolated to this issue alone and this case alone.

But let us work together in a bipartisan way to find a system of appropriate rules and appropriate enforcement, an investigative mechanism to deal not only with the Thomas affair but also with other leaks that have occurred in the past or those that might occur in the future, so that we will create a climate in the entire Senate, as we have tried to create in the Intelligence Committee, with some level of success; not perfect success by any means, because I still find myself very frustrated by some of the things that happen even in the course of our progress. But at least we have made some progress in changing the climate. We must try to do that across the board in this institution.

I join in expressing my concern with my colleagues across the aisles. I want to assure them that I now have spoken with the majority leader, having heard his words on the floor that it is a concern that he shares. It is a matter of deep conviction with him and absolute sincerity with him. I know that he, along with the distinguished Republican leader and others, will be getting together to work for a solution, not to score a political point on this matter, not to score some partisan advantage on this matter, but to find a constructive solution to a very, very real problem.

Mr. President, one of these days we are going to have to get on to the broader tasks of reforming this institution. The distinguished Senator from New Mexico [Mr. DOMENICI] and I have joined with Congressman HAMILTON and Congressman GRADISON on the House side in calling for a new commission along the line of the Monroney-LaFollette Commission, which helped to organize Congress in 1947.

There is so much work to be done. We have gone from 38 committees to 310 committees and subcommittees. Staff has mushroomed all out of control. Procedures have become unmanageable. We have campaigns that are tainted in a way, giving aid and advantage to incumbents.

One of these days, and it is not going to be far off, the American people in utter frustration are going to say: Those people are never going to reform themselves. Those people are never going to reform their institution. We will have to turn to the radical solutions of term limitations to do it.

That is going to happen. There is not going to be a long pause before this movement really takes off. We are going to be voting on it in the State of Washington in just another month. That will be the next sign of the outrage of the American people.

And I might say I felt it myself. I have never felt such disappointment in this institution as I have felt during the last week. And on leaving this city over the weekend, I got on the airplane and someone turned to me and said, "Aren't you a Member of the Senate?"

And looking at the reaction of the other people sitting on the airplane looking at me, you would have thought

I had just been accused of a criminal act. It brought home to me the deep feelings of alienation that exist in the country. And what a tragedy, what a tragedy it is, not just for the Senate but for the country, because something is badly wrong if the people cannot believe in their own Government.

Let me say I think we roundly deserve a lot of criticism that we are now getting as an institution. Let us not wait. The time is now to have hearings on our proposal to reassert a Monroney-LaFollette type effort as we had in 1947, not only to look at the problem of the confirmation process, not only to look at leaks in this institution, but again to look at restoring the basic health and functioning of this institution.

It needs to be done. The public is ready for it. The time is right for it. And we should begin with it.

Mr. President, I do not want to keep my colleagues here any longer. I know that all of us share the same frustration. I know all of us feel the same disappointment and personal hurt from what has happened during this past week. And now we just all have to go to work in a very positive and constructive way and set things right. That is the challenge that is before us.

It is now time to stop the gnashing of teeth. It is the time for healing, but more than anything else, it is the time to start in a constructive way to regain—and merit regaining—the confidence of the American people in this institution and in our political process.

MORNING BUSINESS

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

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

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, announces the appointment of the following Senators to be members of the official Senate delegation to attend the 50th Anniversary Commemoration of the Attack on Pearl Harbor: The Senator from Hawaii [Mr. INOUYE], chairman; the Senator from Nebraska [Mr. EXON]; the Senator from Alabama [Mr. HEFLIN]; the Senator from New Jersey [Mr. LAUTENBERG]; and the Senator from Hawaii [Mr. AKAKA].

KANSAS EDITORIALS SUPPORT CLARENCE THOMAS

Mr. DOLE. Mr. President, although Clarence Thomas has now been confirmed by the full Senate as the newest member of the U.S. Supreme Court, there is no doubt the Thomas nomination and the subsequent hearings on Capitol Hill will be studied and debated for many years to come.

It was not an easy vote, nor was it an easy call for editorial writers all across America. I closely followed editorial opinion in Kansas, and it was clear my homestate newspapers were just as gripped as anyone else by the drama surrounding the Thomas nomination.

Mr. President, that is why I would like to share with my colleagues three editorials from Kansas newspapers that are thoughtful, compelling opinion pieces.

I highlight these editorials because they not only reflect the tough issues and choices that confronted the Senate and the American people during the long confirmation process, but because they also make a convincing case why Clarence Thomas deserved confirmation.

These editorials, from the Wichita Eagle, the Hutchinson News and the Manhattan Mercury, should be available not only to my Senate colleagues, but also to future generations of Americans who want to study this dramatic chapter in our Nation's history.

Mr. President, I ask unanimous consent that these editorials be included in the RECORD.

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

[From the Wichita Eagle, Oct. 15, 1991]

NO PROOF—THOMAS ALLEGATIONS AIRED: HE SHOULD BE CONFIRMED

Americans have been mesmerized by the Senate Judiciary Committee's hearings into allegations that Supreme Court nominee Clarence Thomas sexually harassed a former colleague.

Most Americans wanted to see a clear-cut resolution, some unequivocal evidence to prove or disprove Professor Anita Hill's allegations. None was forthcoming.

In the Thomas case, there was no third-party witness to support Professor Hill's charges. There was no pattern of harassment shown. That doesn't mean Judge Thomas is guilty or innocent. It means only that the Senate proceedings did not resolve the issue conclusively. It boiled down to his word against hers.

By any measure of fairness it is wrong to destroy Judge Thomas' career and ruin his reputation based on unsubstantiated accusations. In previous appearances before the Senate Judiciary Committee, Judge Thomas proved to be a man of strong moral beliefs, a man who had overcome poverty and racial discrimination, a competent jurist who was qualified to sit on the Supreme Court. It would be tragic for the Senate to refuse to confim him based solely on unproven sexual harassment allegations.

However, it would also be tragic if the Thomas case were used to disparage the very real problem of sexual harassment in the workplace. Likewise, it would be tragic if women interpreted the Thomas case as evidence that Americans don't take the problem of sexual harassment seriously.

Indeed, Judge Thomas' confirmation process may prove a greater value in making America a more just nation than any decision he may render on the Supreme Court. Reaction to the case has raised the nation's consciousness about sexual harassment. For the past week, the issue has been the No. 1 topic across the country. It's safe to say that the Thomas case has educated millions of Americans about sexual harassment.

Out of that should come a greater awareness of sexual politics in the workplace—of the potential for abuse and unequal power relationships between male bosses and female employees, of the varying senses of propriety men and women bring to the job.

The ultimate goal is mutual respect among professional colleagues, and a work environment where no one faces sexual humiliation, where each person is free from unwanted sexual advances.

Each American has his or her own theory as to why Anita Hill stepped forward and whether Clarence Thomas was convincing. Yet, based on the Senate Judiciary Committee hearing, all is conjecture and personal opinion.

The issue of sexual harassment will continue long past today when the Senate makes its decision on Judge Thomas. There simply was not compelling evidence to disqualify him from the Supreme Court.

[From the Manhattan Mercury, Oct. 14, 1991]

THOMAS SHOULD BE CONFIRMED

If the gut-wrenching, emotion-packed Clarence Thomas nomination hearings were a trial, a jury could deadlock and go home. But it's not a trial, the senators will have to weigh Anita Hill's harassment allegations against Judge Thomas' denial and against all the positive traits in his record and character. Then they will have to vote on his nomination to the U.S. Supreme Court.

Too many no doubt have been checking with their pollsters to find out how their vote will sit with female and black constituents, with conservatives and liberals, with those who think Anita Hill's a hero and Clarence Thomas is a snake, with those who think Ms. Hill is part of some conspiracy or a pathological liar and Mr. Thomas a wronged man.

It would be nice if this vote were about conscience and not about politics. For the conscience tell us that the burden of proof has to be on Ms. Hill, and as expected, there is now no way to say for sure who has been telling the truth. One of the two is a great actor, has committed the crime of perjury, and has done the country and the other a horrible injustice. The other is as courageous a person as has ever appeared in a Senate hearing. Which is which? We can't tell, and have no way of knowing if in the months and years ahead some evidence will be found to determine the truth.

Public opinion polls are showing that a majority of the people believe Judge Thomas, but polls are volatile and can switch back if something new were to surface. But tomorrow is the time for the vote, and the senators have to go on what has been presented so far.

Because there is a reasonable doubt as to who is telling the truth, Judge Thomas should be confirmed. And if he's been telling the truth, the passion he showed in the last three days will help make him a fine justice, despite some of his views, which are not to our liking.

What had been missing in the part of Judge Thomas' testimony orchestrated by handlers and carefully rehearsed was passion. A justice lacking passion cannot serve as a protector of the rights of the accused, of the poor and the powerless. A justice lacking passion lacks the part of jurisprudence not

found in a textbook: humanity. During the last few anguishing days, Judge Thomas showed that he has plenty of humanity.

[From the Hutchinson News, Oct. 15, 1991]

PLASTIC FEMINISTS DON'T SPEAK FOR ME

(By Mary Rintoul)

I feel as if I'm a traitor to my own sex.

But I do not believe Anita Hill's allegations against Clarence Thomas.

Barring unforeseen circumstances, the Senate will vote at 5 p.m. today whether to allow or deny Thomas a spot on the nation's highest court. If he is denied the title of Supreme Court Justice, the Senate will have pulled off one of the greatest travesties of all time.

During the three days of testimony leading up to today's vote, my heart ached for Thomas during his impassioned speeches to the Senate Judiciary Committee.

My heart ached for his wife, Virginia, who cried as Republican Sen. Orrin Hatch recounted Ms. Hill's damaging allegations.

My heart ached for Virginia Thomas' sister who lives in Hutchinson, and must be going through a private hell.

The only thought that went through my mind when Ms. Hill was testifying Friday was that she was lying. I can't base that on anything but a gut feeling.

I am sure that in 1981 and 1982 she did indeed tell friends and associates that she was being sexually harassed by Clarence Thomas. I do not dispute that testimony offered by her friends Sunday to the committee. But I believe Ms. Hill was lying then as she is lying now because Clarence Thomas did not give her the job promotions she thought she deserved. A woman scorned, if you will.

There are other troubling aspects. Clarence Thomas has been confirmed by the Senate four times for other government positions. Four times. Yet, where was Ms. Hill during those four confirmation hearings? It seems in her mind it was OK for Thomas to be a sexual harasser and a federal appeals judge. But elevate him to the Supreme Court and it's a different story. That makes no sense.

And the Senate Judiciary Committee—

Who on that committee leaked the FBI report on Anita Hill to the media? Others have pointed the finger at Democratic Sens. Ted Kennedy and Howard Metzenbaum. That probably isn't too far from the truth. Their motivations may never be known. But their partisan politics stink.

And the media—

One could go on forever about their role in this mess. But I am troubled most by the so-called experts that print journalists and television reporters chose to interview during the breaks in the hearings.

Let's get it straight. Do not think for one minute that the National Organization for Women speaks for me. Not on the Thomas hearings, not on any subject.

Why on earth do journalists typically run to this organization every time they seek a woman's viewpoint on some issue? Why don't they interview real women. Not those plasticized feminists who think they speak for all women? They do not speak for me. And I resent the media for thinking they do.

I am a woman. I support Clarence Thomas. He should be confirmed.

NOMINATION REFERRED TO COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BOREN. Mr. President, as if in executive session, I ask unanimous consent that the nomination of Ms. Jill Kent to be Chief Financial Officer of the U.S. Department of State, Executive Calendar 324, be referred to the Committee on Governmental Affairs for not to exceed 20 days.

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

VETERANS' HOSPICE CARE ACT OF 1991

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 239, S. 1358, regarding Veterans' Hospice Care.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1358) to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1261

(Purpose: To expand the category of veterans who are eligible for hospice care services and to make technical corrections)

Mr. BOREN. Mr. President, on behalf of Senator CRANSTON, I send a series of modifying amendments to the desk on behalf of the committee and ask that they be considered en bloc as one amendment.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for Mr. CRANSTON, proposes an amendment en bloc numbered 1261.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 2, line 11, strike out "671." and insert in lieu thereof "1771."

On page 2, beginning on line 15, strike out "'(A) who is" and all that follows through line 19 and insert in lieu thereof the following—

"'(A) who is—

"'(i)(I) entitled to receive hospital care in a medical facility of the Department under section 1710(a)(1) of this title, or (ii) eligible for hospital and nursing home care in such facility and receiving such care;

"'(ii) receiving nursing home care at a non-Department of Veterans Affairs nursing home under section 1720(a)(1)(A) of this title; or

"'(iii) receiving domiciliary care, nursing home care, or hospital care for which the Department is paying a State per diem under section 1741 of this title; and'"

On page 3, line 9, strike out "601(4)(A)" and insert in lieu thereof "1701(4)(A)".

On page 3, line 15, strike out "672(b)(1)(D)" and insert in lieu thereof "1772(b)(1)(D)".

On page 4, line 1, strike out "672" and insert in lieu thereof "1772.".

On page 7, line 15, strike out "(B) of" and insert in lieu thereof "(B) or".

On page 7, line 25, strike out "is" and insert in lieu thereof "if".

On page 8, line 5, insert ", supplies, and medications" after "services".

On page 8, line 6, insert "that' after "exceeds".

On page 8, line 6, strike out "673." and insert in lieu thereof "1773.".

On page 8, line 18, strike out "672(a)(1)" and insert in lieu thereof "1772(a)(1)".

On page 9, line 8, strike out "674." and insert in lieu thereof "1774.".

On page 9, line 18, strike out "675." and insert in lieu thereof "1775.".

On page 9, line 23, strike out "672" and insert in lieu thereof "1772".

On page 9, line 24, strike out "673" and insert in lieu thereof "1773".

On page 10, line 6, strike out "673" and insert in lieu thereof "1773".

On page 10, line 24, strike out "672" and insert in lieu thereof "1772".

On page 10, line 25, strike out "673" and insert in lieu thereof "1773".

On page 11, line 17, strike out "672(b)(3)" and insert in lieu thereof "1772(b)(3)".

On page 12, line 25, strike out "672(c)(1)(C)" and insert in lieu thereof "1772(c)(1)(C)".

On page 13, line 18, strike out "673(a)" and insert in lieu thereof "1773(a)".

On page 13, line 25, strike out "672" and insert in lieu thereof "1772".

On page 14, line 1, strike out "673" and insert in lieu thereof "1773".

On page 15, in the matter below line 5, strike out "'671." and insert in lieu thereof "'1771.".

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On page 15, in the matter below line 5, strike out "'674." and insert in lieu thereof "'1774.".

On page 15, in the matter below line 5, strike out "'675." and insert in lieu thereof "'1775.".

Mr. BOREN. I ask unanimous consent that the amendment be considered and deemed to have been agreed to en bloc.

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

So the amendment (No. 1261) was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I rise to urge my colleagues to give their unanimous approval to the pending measure, S. 1358, the proposed Veterans' Hospice Services Act of 1991 as it will be modified by a committee amendment that I am proposing. I worked closely with committee members BOB GRAHAM and JOHN D. ROCKEFELLER IV in the development of this measure, which Senator GRAHAM introduced on June 24, 1991. Joining with us as original cosponsors were committee members DANIEL K. AKAKA, DENNIS DECONCINI, and THOMAS A. DASCHLE and Senators JOHN MCCAIN,

CONNIE MACK, and KENT CONRAD. The committee's ranking minority member, ARLEN SPECTER, and Senators QUENTIN BURDICK, CHRISTOPHER DODD, JOSEPH LIEBERMAN, ERNEST HOLLINGS, DALE BUMPERS, RICHARD BRYAN, DANIEL INOUYE, JOHN GLENN, JOHN KERRY, JAMES SASSER, WENDELL FORD, MARK HATFIELD, and ALFONSE D'AMATO have become additional cosponsors.

On June 12, 1991, the committee held a hearing to receive testimony on, among other matters, a draft of the legislation that was subsequently introduced as S. 1358. On June 26, 1991, the committee met and voted unanimously to report S. 1358 as introduced. The committee report on S. 1358 (S. Rept. No. 102-160) was filed on September 24, 1991.

As the impressive list of cosponsors indicates, S. 1358 enjoys broad bipartisan support. It also earned the endorsement of the six veterans service organizations whose representatives testified at the June 12 hearing—the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, Amvets, the Paralyzed Veterans of America, and the Vietnam Veterans of America. Supporters in the hospice-care community include the National Hospice Organization, Hospice Care, Inc., and the Hospice Association of America.

Mr. President, before I continue my remarks, I will yield to my colleagues, Senator GRAHAM and Senator ROCKEFELLER, for their remarks on the bill. Senator GRAHAM has been a strong advocate of hospice care ever since his days as governor of Florida when he signed into law the first State standards for hospice care. His expertise and concern for the expansion of hospice-care opportunities for veterans contributed significantly to the development of S. 1358. This measure also benefited from the involvement of Senator ROCKEFELLER who brought to the bill a wealth of knowledge about the place of hospice care within the broader continuum of health-care services. I congratulate my colleagues for their work on this measure and look forward to further collaborative efforts with them to improve VA health-care services.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs and as a cosponsor, I am pleased to support passage of S. 1358, the Veterans' Hospice Services Act of 1991. This bill represents a bipartisan effort by committee members to craft a pilot program that will enhance the Department of Veterans Affairs' [VA] ability to provide more comprehensive, compassionate health care. I believe the final product, which incorporates three different models by which VA may furnish hospice care, provides the appropriate balance of services and will allow VA to determine which model of care, or combination of models, best suits the veteran population.

The primary goal of hospice is to make the remaining weeks or months of a patient's life as comfortable and peaceful as possible through pain control and counseling provided by doctors, nurses, home health aides, social workers, clergy, and volunteers. Hospice is more than palliative care for the terminally ill; it is an evolving philosophy of care that is holistic in nature, treating the physical, mental, spiritual, and emotional needs of both patient and family.

The hospice philosophy of care stresses patient rights. Thus, because hospice is an alternative to curative care, patients must choose it as an option. The terminally ill have the right to die in a nurturing environment, among people who love and care for them, and with dignity. Accordingly, the home is the ideal setting for most patients. Nevertheless, there are times when inpatient or nursing-home care is necessary.

We have learned at committee hearings, Mr. President, that hospice services have become a more accepted and respected part of the continuum of care for much of the medical community. Hospice is also a more frequently chosen option for the terminally ill. It seems only appropriate, then, that VA, as the health care provider for our Nation's veterans, explore the feasibility and desirability of establishing a formal hospice benefit.

The Senate bill would establish a pilot program for a duration of 5 years at not less than 15 but not more than 30 VA medical facilities for veterans who are entitled to VA hospital care or eligible for VA hospital or nursing-home care. VA would use the definition of hospice services set forth in the Medicare statute (section 1861(dd)(1) of the Social Security Act, 42 U.S.C. 1395 et seq.). All the services that are provided under Medicare—such as physical therapy, inpatient and respite care, and 24-hour home care when necessary—would be made available to veterans participating in the program. Under the bill, hospice care could be provided in three ways: solely by VA; through a contractual agreement with a community hospice with any necessary inpatient services to be furnished by VA; or through a contractual agreement with a community hospice with inpatient services provided at a non-VA facility.

The Secretary must also designate five VA facilities that presently offer palliative care for the purposes of comparing this care to the three means described above. The amount paid to a non-VA hospice program may not exceed the amount that would be paid to that program under Medicare, but may exceed the Medicare reimbursement rate, on a case-by-case basis, if the Secretary determines this rate to be inadequate for the services being provided. VA would be required to submit annual reports and a final report to the congressional committees, assessing and evaluating the program.

This is a well-written, balanced piece of legislation. I would like to thank staff who worked so hard on this measure, particularly Ann Hardison of Senator BOB GRAHAM's staff; Janet Coffman, Susan Thaul, Bill Brew, and Ed Scott of the committee's majority staff; and Carrie Gavora, Yvonne Santa Anna, and Tom Roberts of my staff.

Mr. President, no one should be denied the right to die a peaceful, dignified death, especially our Nation's veterans. I understand that some VA medical facilities do offer palliative care for terminally ill veterans who choose it. Recently, I received a letter from a family member of a veteran who received such care in the Wilkes Barre, PA, VA Medical Center, and he had nothing but praise and thanks for the care his father received in Wilkes Barre's hospice program.

It is that kind of compassion that veterans deserve, Mr. President. This bill is an important step toward ensuring its availability to all veterans.

I urge my colleagues to support this important measure.

Mr. GRAHAM. Mr. President, I am pleased that today the Senate is considering long overdue legislation extending to the Secretary of Veterans Affairs the authority to begin offering hospice-care services to terminally ill veterans.

Under current law, Medicare-eligible patients have access to hospice care, as do Medicaid patients at State's option. This bill will take us toward allowing all veterans to receive equitable access to the hospice benefit offered Medicare and most Medicaid patients.

Hospice programs are designed to meet the needs of terminally ill patients with a short prognosis for life. Trained teams of physicians, nurses, social workers, volunteers, and chaplains provide pain relief, symptom management, and supportive services to the patients and caregivers.

Although there are numerous types of hospice programs around the country, all have two shared goals. First, hospice seeks to make the final days of the patient's life as comfortable and enjoyable as possible. Second, hospice programs reduce the overwhelming financial burden facing the terminally ill patients and caregiver.

Traditionally, hospice patients are served at home where family and friends become an essential element providing the basic care. The hospice team instructs caregivers in the daily routine of assisting the terminally ill individual. Through this instruction and special counseling, the hospice team helps make the adjustment to new circumstances.

For those individuals who, for whatever reason, do not chose to remain at

home, hospice programs can also arrange for care in medical facilities.

This legislation authorizes the Secretary of Veterans Affairs to select 15–30 VA medical facilities to experiment with offering hospice services to veterans through a variety of methods, including in-house programs staffed by VA personnel and contracting out to private, profit or nonprofit hospice programs.

The bill requires the VA to annually report on the level of veteran participation and satisfaction with the program and to estimate the cost effectiveness of providing terminally ill patients with this type of care.

Mr. President, I am confident that the VA will find real interest in the veterans community for this service. The independent budget offered earlier this year by a number of veterans service organizations specifically called for the activation of hospice programs in the VA.

Second, I am confident that VA reports will show that hospice programs result in substantial savings for both the VA and the individual, as well as freeing-up much-needed beds for other veterans.

The costs involved in caring for a terminally-ill patient in the last 180 days is staggering. A recent study by the Health Care Financing Administration indicated that 46 percent of all costs of care spent in the last year of a patient's life are consumed in the last 60 days. At least a third of those days the patient spends in an acute hospital bed.

A 1985 VA survey showed that there were 5,322 terminally ill patients housed in VA hospitals on most days. Ninety-two percent of those veterans died in the hospital, rather than in their own home.

It is not the intent of this legislation to take away health care services or hospital benefits from our terminally-ill veterans. The terminally ill veteran will be free to elect or reject hospice benefits.

Our brave veterans deserve the right to die with dignity. Extending the hospice-care option in the VA gives them this opportunity.

The legislation has broad bipartisan cosponsorship and was unanimously endorsed by the Veterans' Affairs Committee. I encourage my colleagues to support the bill.

Mr. ROCKEFELLER. Mr. President, I have been proud to work closely with Senator GRAHAM, Senator CRANSTON, the chairman of the Veterans' Affairs Committee, and other Senate colleagues in an effort to extend hospice care to terminally ill veterans. Our veterans and their families would like to have the option of receiving hospice care, and they certainly deserve it.

Hospice care is a compassionate alternative for terminally ill patients who prefer to remain at home during their illness. Under a comprehensive hospice program, patients receive specialized care to control and minimize pain, and their families receive support and counseling.

Hospice care was first introduced into the United States in 1974, with the establishment of the first hospice in Connecticut. In just 17 years, over 1,450 hospice programs have been established and hundreds more are being developed. In West Virginia, we have 12 hospices and 8 other groups are working to develop a comprehensive hospice program.

The need for hospice care for veterans was illustrated during the Senate Veterans' Affairs hearing in June. I was proud to introduce Charlene Farrell, exectuve director of the Hospice of Huntington, to the committee. During her testimony, Charlene shared her personal insights on hospice care. She told a story about a veteran who was in the local VA hospital for 3 months. While in the hospital, suffering from cancer of the tongue, this depressed veteran asked that the door and drapes be closed so he would be in darkness. Eventually, his daughters decided to take him home and turned to the private care of the hospice of Huntington.

Thanks to hospice, this veteran enjoyed several weeks of living with his family before he passed away in July. He had the opportunity to sit outside on his terrace balcony, watch old movies on television, and spend time with his daughters. It was a struggle for his daughters to care for him at home, but with the support of the hospice they had that chance. But, this veteran had to leave the VA health-care system to receive hospice care. Not all veterans and their families can afford to leave the VA for private health care.

Our bill would establish a much-needed pilot program to evaluate the benefits of hospice care for veterans, and determine the best ways to implement hospice care by exploring various ways to provide hospice care within the VA system.

Over 230,000 terminally ill patients and their families are expected to receive hospice care this year.

Many of these individuals will use Medicare benefits to pay for hospice services. The Federal Government approved hospice benefits for eligible Medicare patients in 1983, and some States reimburse for hospice care under Medicaid. Seniors and other Americans eligible for Medicare can chose the hospice program, but unfortunately many veterans do not have such a choice.

We can, and should, change this.

Our country has established a unique VA health-care system with 172 hospitals to provide care to veterans. Because of our enormous Federal budget deficits and funding concerns, the VA health-care system faces serious challenges. I believe we can respond to the challenge of providing veterans with quality health care, despite limited budgets, by trying creative approaches like hospice care. Data from the Health Care Finance Administration [HCFA] indicates that Medicare spends less for patients in the last 90 days of life on the hospice program than Medicare patients who are not involved in hospice.

Clearly, the VA health-care system is quite different from Medicare. This is why we need a demonstration program on hospice within the VA to determine how effective it is, how it can be implemented, and if it is cost-effective.

Hospice care is compassionate. It provides terminally ill veterans and their families with a choice. We should pass this legislation to push the VA to move forward in offering hospice care to veterans.

Mr. CRANSTON. Mr. President, at this point, I will summarize the bill and then speak briefly regarding certain aspects of the legislation.

SUMMARY OF PROVISIONS

Mr. President, S. 1358 as reported, which I will refer to as "the Committee bill," contains amendments to title 38 which would:

First, require the Secretary of Veterans Affairs, during the period beginning on October 1, 1991, and ending on December 31, 1996, to conduct a pilot program in order to assess the feasibility and desirability of furnishing palliative care to veterans having a medical prognosis, as certified by a VA physician, of a life expectancy of 6 months or less, and to determine the most efficient and effective means of furnishing such care.

Second, provide eligibility for services under the program to terminally ill veterans who are entitled to VA hospital care or eligible for VA hospital or nursing home care and receiving such care. This eligibility will be extended by the committee amendment to include veterans who are eligible for and receiving nursing home care in a community facility under VA contract and veterans for whom VA makes per diem payments for care furnished in State veterans homes.

Third, provide that the hospice care services to be furnished under the pilot program are to have the same scope as hospice care services under Medicare and that, in addition, VA would be authorized to provide personal care services as necessary to maintain a veteran's health and safety within the home or nursing home in which the veteran resides, including care or services related to dressing, personal hygiene, feeding, and nutrition.

Fourth, require the Secretary to (a) establish hospice care demonstration projects at not less than 15 but not more than 30 VA medical facilities, and (b) conduct these demonstration projects and allocate resources in a manner that facilitates the evaluation of the furnishing of care to terminally

ill veterans by a variety of means and in a variety of circumstances.

Fifth, require the Secretary to ensure, to the maximum extent feasible, that the medical facilities selected to conduct the demonstration projects under the pilot program include facilities that (a) are located at sites in both urban and rural areas, (b) have the full range of affiliations between VA medical facilities and medical schools, including no affiliation, minimal affiliation, and extensive affiliation, (c) operate and maintain various numbers of beds, and (d) meet any additional criteria or standards that the Secretary may deem relevant or necessary to conduct and evaluate the pilot program.

Sixth, require that under a demonstration project care to terminally ill veterans be furnished by (a) the personnel of a VA medical facility providing hospice care services pursuant to a hospice care program at that facility, (b) a non-VA hospice program providing hospice care services by contract with VA and with any inpatient services furnished at a VA facility, or (c) a non-VA hospice program providing hospice care services by contract with VA and with any inpatient services furnished at a non-VA facility.

Seventh, require that each of these three means of providing care be used at not less than five VA medical facilities.

Eighth, provide that the amount paid to a non-VA hospice program for care provided to a terminally ill veteran generally may not exceed the amount that would be paid to that program if the care were provided under Medicare, but authorize VA to pay more than the Medicare rate if the Secretary determines, on a case-by-case basis, that the Medicare rate would not adequately compensate the hospice program for the cost of furnishing care that is necessary and appropriate.

Ninth, require VA to designate at least five VA medical facilities without a hospice care program at which palliative care for terminally ill veterans is provided by VA personnel for purposes of comparing the furnishing of care at these VA facilities with hospice care provided by the three means described above.

Tenth, require the Secretary, to the extent practicable, to ensure that VA patients who are diagnosed as terminally ill receive information concerning their eligibility, if any, for hospice care and services under Medicare.

Eleventh, require the Secretary, by September 30, 1992, and on an annual basis for the next 5 years thereafter, to submit periodic written reports on the pilot program to the Congressional Committees on Veterans' Affairs.

Twelfth, require the Secretary, not later than August 1, 1995, to submit to the Veterans' Affairs Committees a report evaluating and assessing the pilot program to that point, including (a) an evaluation and assessment of the feasibility and desirability of furnishing palliative care to terminally ill veterans, (b) an assessment of the optimal means of furnishing such care, including such considerations as cost, satisfaction of the veteran, family members, and other persons having close relationships with the veteran, use of acute, inpatient facilities and other VA health care services, and (c) any recommendations for additional legislation regarding such care.

HOSPICE CARE IN THE UNITED STATES

Mr. President, hospice care is an alternative to customary, curative medical treatment of terminally ill persons which has found wide acceptance throughout the United States since the early 1970's. Hospice care neither prolongs life nor hastens death, but instead seeks to enable terminally ill persons to live their final days as happily and comfortably as possible. Acknowledging that death is an inevitable, impending reality for terminally ill persons, hospice programs provide services to assist terminally ill persons, as well as their families and friends, in coping with this reality. Hospices provide a coordinated program of palliative care, encompassing noncurative care focusing on relieving pain and other symptoms, as well as psychological, social, and spiritual support services in home and inpatient settings.

Hospice care also differs significantly from customary, curative medical care in emphasizing the use of family members and volunteers to provide personal-care and basic health-care services.

PURPOSE OF THE COMMITTEE BILL

Mr. President, the committee's main goals in developing this legislation are to make hospice services available to greater numbers of veterans and develop information about how VA might best provide such services. In light of the reported success of the hospice programs currently operated by VA, as well as of the Medicare and Medicaid hospice benefit programs, the question is not whether VA ought to provide palliative care for terminally ill veterans. That question has already been answered in the affirmative. Indeed, VA's own testimony at the committee's hearing indicated as much. As Deputy Secretary Anthony J. Principi stated at the committee's hearing, "Hospice is a proven concept; it is compassionate, it is cost effective, and the VA should be moving more forcefully and aggressively in this direction." VA must now address the more difficult question of the best manner in which to provide palliative care to greater numbers of terminally ill veterans and to ensure that such services are accessible to eligible veterans.

EVALUATION REQUIREMENT

Mr. President, proposed new section 1775 of title 38 would establish criteria for the Secretary to follow in selecting demonstration sites for the hospice pilot program. These include geographic location, urban and rural, size of hospital, measured by numbers of operating beds, level of medical school affiliation, as well as model of care. The committee intends that the Secretary apply these criteria in a manner which enhances both the amount of hospice services available to veterans and the validity of the evaluation component of the pilot.

The emphasis that the committee bill places on the examination of various models of furnishing care is not meant as a criticism of the designated hospice programs currently operated by VA facilities. These programs generally appear to provide good care to the veterans they serve. However, the few existing programs can serve only a small fraction of the terminally ill veterans who wish to receive hospice care services through the VA health-care system.

At the same time, it does not seem necessary that such programs be created in-house at all VA facilities. For example, some VA medical centers may not have sufficient numbers of patients desiring hospice care to justify the establishment of an on-site hospice program. It may well be more appropriate for those VAMC's to contract with Medicare-certified hospices in the local communities where terminally ill veterans live or to offer hospice-type services without establishing a designated hospice program. Other VAMC's might choose to provide case-management services for Medicare eligible veterans who elect to use the Medicare hospice benefit.

Mr. President, the committee expects that there will be no one systemwide method for furnishing hospice care. An organizational arrangement in a densely populated urban area may be inappropriate in a setting where veterans reside in areas which are geographically remote from the nearest VAMC. Similarly, VAMC's with strong training and research affiliations with medical schools or other health professions schools may derive different benefits from certain hospice care models than would those VAMC's which function with minimal or no involvement with professional schools.

Moreover, some within VA have suggested that Medicare standards for hospice care services may not be appropriate for treating veterans under VA auspices. The committee bill would allow VA to test this hypothesis by providing for the evaluation of hospice services furnished by five VA medical centers that furnish some hospice services but do not operate hospice programs that furnish the full range of hospice services as defined in the Medi-

care statute. These five sites could include, but would not be limited to, those VA medical centers—described by Dr. Thomas Yoshikawa, VA Assistant Chief Medical Director for Geriatrics and Extended Care, in his testimony—that furnish components of hospice care within the standard organizational divisions of the medical center. By comparing existing VA programs and the 15 to 30 hospice care demonstration projects, the pilot program would provide the opportunity to answer many questions about the organization, care, cost, and usefulness of different models of hospice-like care, including whether, for VA, alternatives to Medicare-defined standards might be better. The committee bill would require the evaluation and report to provide data comparing the care provided by VA's palliative care programs and the care provided by the demonstration projects in terms of clinical, economic, and social outcomes.

Based on hearing testimony and followup responses of VA, it appears that extensive data regarding the clinical and social outcomes of VA palliative care programs for terminally ill patients do not exist. The evaluation requirement proposed in the committee bill would require VA to collect extensive data on VA palliative care programs and hospice care programs which would assist VA and the Congress in developing policies for expansion of veterans' access to hospice care services.

The committee recognizes that, in light of the large scope and the variety of the questions the evaluation of this pilot program will pose, the development of statistically valid data will be very difficult. What the evaluation should provide at a minimum is the opportunity to explore, if not answer definitively, many relevant questions. No one study, no matter how well done, can provide a definitive answer. The committee intends for VA to learn as much as possible through this pilot program about different ways of providing, paying for, and assessing hospice services to terminally ill veterans.

EXPANDING VETERANS' ACCESS TO HOSPICE SERVICES

Mr. President, expansion of VA hospice services would be an important addition to the continuum of health services VA furnishes to terminally ill veterans. Hospice may not be the appropriate choice for all terminally ill veterans, but, for those whose illnesses have progressed to a stage beyond which curative care can improve their physical condition, it represents a compassionate alternative to customary, curative care. Veterans furnished hospice care would have the opportunity to receive medical, nursing, psychological, social, and spiritual assistance which would enable them to live their last days as happily and as comfortably as possible, while preparing themselves and their families for impending death. We owe nothing less to the dedicated individuals who have served their Nation with honor, courage, and commitment.

Mr. President, a few VA medical centers currently provide the sorts of hospice services that enable terminally ill veterans to remain at home. Out of 172 VA medical centers, only 9 operate designated hospice programs and only 31 furnish some hospice services within the standard organizational divisions of the medical center. These programs can serve only a fraction of the terminally ill veterans who wish to receive hospice care services through VA. Most terminally ill veterans and their families and friends face the agonizing choice of either institutionalizing the veteran or providing care in the veteran's home with little or no assistance from VA. Some terminally ill veterans live in communities that have extensive networks of hospices and home-health agencies, but others live in rural areas in which few community services are available.

Expansion of access to hospice care programs would provide terminally ill veterans using VA health-care services with an option that is already widely available to Medicare and Medicaid beneficiaries. Coverage for hospice care is also widely available to persons holding commercial health insurance policies.

Some may question the need for VA to provide services already available to veteran Medicare and Medicaid beneficiaries. That choice may not be ideal for some veterans who require specialized services, such as spinal cord injury care, which are not readily available outside the VA health-care system, or who have used VA facilities for many years and prefer to be furnished hospice care in the VA system with which they are familiar. In addition, once a terminally ill veteran elects to use the Medicare or Medicaid hospice benefit, the veteran often loses access to VA health-care professionals who have furnished the veteran's care in the past. Provision of hospice care services at VA facilities or through contract arrangements with community facilities would enhance the quality of hospice services terminally ill veterans receive, because it would permit greater coordination and exchange of information between hospice and acute-care providers responsible for the veteran's care.

Moreover, a significant number of terminally ill veterans qualify for neither Medicare nor Medicaid. According to VA's Annual Report for Fiscal Year 1990, 73 percent of all veterans receiving care in VA facilities were under age 65; therefore, the vast majority are likely to be ineligible for the Medicare hospice benefit. Some of these veterans may hold insurance policies providing coverage for hospice care, but many do not. This is especially true of younger veterans with AIDS or incurable cancers or other terminal illnesses. Many of these veterans have little opportunity to receive hospice care unless VA provides it.

COMMITTEE AMENDMENT

Mr. President, the proposed committee amendment to S. 1358 would modify two of the bill's provisions and make several technical corrections. First, the committee amendment would extend eligibility for hospice care services to terminally ill veterans who are eligible for and receiving care in community nursing homes at VA expense and veterans for whom VA is making per diem payments for care furnished by State veterans homes. Expansion of eligibility to these two additional groups would ensure that all terminally ill veterans who are being furnished long-term care at VA expense would be eligible to receive hospice care services.

Second, the committee amendment would modify the provision in the committee bill which authorizes VA, under certain conditions, to provide reimbursement to a contract hospice in excess of the Medicare reimbursement rate or to furnish in-kind services the value of which exceeds the Medicare reimbursement rate or a combination of the two. As I noted earlier in my remarks, this provision was incorporated into the committee bill in order to ensure that veterans whose conditions require extraordinarily expensive care are not excluded from the pilot program. The committee amendment would authorize VA to furnish in-kind supplies and medications, in addition to in-kind services. For example, VA could provide a contract hospice with AZT for treatment of a veteran patient who has AIDS. Because VA purchases pharmaceuticals in bulk, whereas most hospices are small entities that purchase drugs in small quantities, it might be less expensive for VA to provide AZT to the contract hospice for distribution to an AIDS patient than to pay charges that cover the costs incurred by the hospice for purchase of AZT.

CONCLUSION

Mr. President, in closing I express my deep appreciation to Senator GRAHAM and Senator ROCKEFELLER for their efforts in the development of this measure, and I thank the ranking minority member of the Committee on Veterans' Affairs, Senator SPECTER, and the other members of the committee for their cooperation and support.

I also note the contributions of the committee staff members who have worked on this legislation—on the minority staff, Carrie Cavora, Yvonne Santa Anna, and Tom Roberts, and on the majority staff, Janet Coffman, Susan Thaul, Bill Brew, and Ed Scott.

In addition, I thank Ann Hardison of Senator GRAHAM'S staff and Barbara

Pryor of Senator ROCKEFELLER'S staff for their superb work on this measure.

Finally, the committee is deeply indebted to Charlie Armstrong of the Senate Legislative Counsel's Office for his excellent assistance.

Mr. President, I urge the Senate to give its unanimous approval of the pending measure.

Mr. GRAHAM. I do want to highlight one component of this bill that the committee report does not address—the issue of providing services to veterans in non-VA nursing homes. The amendment offered by the committee clarifies our intent that all veterans receiving long-term care at VA expense in non-VA nursing homes shall be included in the hospice pilot projects.

In the reconciliation bills of both 1986 and 1988, Congress clarified that there is little, if any, duplication of services between the nursing facility and hospice programs. By receiving hospice care while residing in a nursing facility, the terminally ill veteran is furnished additional types of care specifically related to terminal illness.

In responding to questions posed by the committee, Hospice Care Inc. Vice-Chairman Donald Gaetz submitted information demonstrating how the provision of hospice care in nursing facilities dramatically increases access to hospice services for patients without standard home environments and substantially breaks the cycle of repetitive trips from the nursing facility to the acute care hospital.

It is my understanding that this demonstration project will show the comparative effect on hospitalizations by terminally ill veterans who reside in nursing homes and receive hospice care as distinguished from those terminally ill veterans whose nursing home services are not supplemented by hospice care.

In cases where hospice services are provided by contract for care of veterans living in a non-VA nursing home, the VA should use the Social Security Act reimbursement methodology whereby the hospice program is paid the rate that would otherwise have been paid to the nursing home plus the hospice per diem. The hospice program is then responsible for reimbursing the non-VA nursing home for its services.

The PRESIDING OFFICER. If there are no further amendments, without objection, the bill is deemed read a third time and passed.

So the bill (S. 1358), as amended, was passed as follows:

S. 1358

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 "Veterans' Hospice Services Act of 1991".

SEC. 2. PROGRAMS FOR FURNISHING HOSPICE CARE TO VETERANS.

(a) ESTABLISHMENT OF PROGRAMS.—Title 38, United States Code, is amended by adding at the end of chapter 17 the following new subchapter:

"SUBCHAPTER VIII—HOSPICE CARE PILOT PROGRAM; HOSPICE CARE SERVICES

"§ 1771. Definitions

"For the purposes of this subchapter—

"(1) The term 'terminally ill veteran' means any veteran—

"(A) who is—

"(i)(I) entitled to receive hospital care in a medical facility of the Department under section 1710(a)(1) of this title, or (II) eligible for hospital or nursing home care in such facility and receiving such care;

"(ii) receiving nursing home care at a non-Department of Veterans Affairs nursing home under section 1720(a)(1)(A) of this title; or

"(iii) receiving domiciliary care, nursing home care, or hospital care for which the Department is paying a State per diem under section 1741 of this title; and

"(B) who has a medical prognosis (as certified by a Department physician) of a life expectancy of six months or less.

"(2) The term 'hospice care services' means (A) the care, items, and services referred to in subclauses (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and (B) personal care services.

"(3) The term 'hospice program' means any program that satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

"(4) The term 'medical facility of the Department' means a facility referred to in section 1701(4)(A) of this title.

"(5) The term 'non-Department facility' means a facility (other than a medical facility of the Department) at which care to terminally ill veterans is furnished, regardless of whether such care is furnished pursuant to a contract, agreement, or other arrangement referred to in section 1772(b)(1)(D) of this title.

"(6) The term 'personal care services' means any care or service furnished to a person that is necessary to maintain a person's health and safety within the home or nursing home of the person, including care or services related to dressing and personal hygiene, feeding and nutrition, and environmental support.

"§ 1772. Hospice care: pilot program requirements

"(a)(1) During the period beginning on October 1, 1991, and ending on December 31, 1996, the Secretary shall conduct a pilot program in order—

"(A) to assess the feasibility and desirability of furnishing hospice care to terminally ill veterans; and

"(B) to determine the most efficient and effective means of furnishing such care to such veterans.

"(2) The Secretary shall conduct the pilot program in accordance with the provisions of this section.

"(b)(1) Under the pilot program, the Secretary shall—

"(A) designate not less than 15 nor more than 30 medical facilities of the Department at or through which to conduct hospice care demonstration projects;

"(B) designate the means by which care to terminally ill veterans shall be provided under each demonstration project pursuant to subsection (c);

"(C) allocate such personnel and other resources of the Department as the Secretary considers necessary to ensure that care to terminally ill veterans is provided in the designated manner under each demonstration project; and

"(D) enter into any contract, agreement, or other arrangement that the Secretary considers necessary to ensure the provision of such care in the designated manner under each such project.

"(2) In carrying out the responsibilities referred to in paragraph (1) the Secretary shall take into account the need to provide for and conduct the demonstration projects so as to provide the Secretary with such information as is necessary for the Secretary to evaluate and assess the furnishing of hospice care to terminally ill veterans by a variety of means and in a variety of circumstances.

"(3) In carrying out the requirement described in paragraph (2), the Secretary shall ensure, to the maximum extent feasible, that—

"(A) the medical facilities of the Department selected to conduct demonstration projects under the pilot program include facilities located in urban areas of the United States and rural areas of the United States;

"(B) the full range of affiliations between medical facilities of the Department and medical schools is represented by the facilities selected to conduct demonstration projects under the pilot program, including no affiliation, minimal affiliation, and extensive affiliation;

"(C) such facilities vary in the number of beds that they operate and maintain; and

"(D) the demonstration projects are located or conducted in accordance with any other criteria or standards that the Secretary considers relevant or necessary to furnish and to evaluate and assess fully the furnishing of hospice care to terminally ill veterans.

"(c)(1) Subject to paragraph (2), hospice care to terminally ill veterans shall be furnished under a demonstration project by one or more of the following means designated by the Secretary:

"(A) By the personnel of a medical facility of the Department providing hospice care services pursuant to a hospice program established by the Secretary at that facility.

"(B) By a hospice program providing hospice care services under a contract with that program and pursuant to which contract any necessary inpatient services are provided at a medical facility of the Department.

"(C) By a hospice program providing hospice care services under a contract with that program and pursuant to which contract any necessary inpatient services are provided at a non-Department medical facility.

"(2)(A) The Secretary shall designate the means of furnishing care to terminally ill veterans under paragraph (1) so that such care is furnished—

"(i) in the case of the means described in paragraph (1)(A), at not less than five medical facilities of the Department; and

"(ii) in the case of each of the means described in subparagraphs (B) and (C) of paragraph (1) in connection with not less than five medical facilities of the Department for each such means.

"(B) The Secretary shall provide in any contract under clause (B) or (C) of paragraph (1) that inpatient care may be provided to terminally ill veterans at a medical facility other than that designated in the contract if the provision of such care at such other facility is necessary under the circumstances.

"(d)(1) Except as provided in paragraph (2), the amount paid to a hospice program for care furnished pursuant to subparagraph (B) or (C) of subsection (c)(1) may not exceed the amount that would be paid to that program

for such care under section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) if such care were hospice care for which payment would be made under part A of title XVIII of such act.

"(2) The Secretary may pay an amount in excess of the amount referred to in paragraph (1) (or furnish in-kind services, supplies, and medications whose value, together with any payment by the Secretary, exceeds that amount) to a hospice program for furnishing care to a terminally ill veteran pursuant to subparagraph (B) or (C) of subsection (c)(1) if the Secretary determines, on a case-by-case basis, that—

"(A) the furnishing of such care to the veteran is necessary and appropriate; and

"(B) the amount that would be paid to that program under section 1814(i) of the Social Security Act would not compensate the program for the cost of furnishing such care.

"§ 1773. Care for terminally ill veterans

"(a) During the period referred to in section 1772(a)(1) of this title, the Secretary shall designate not less than five medical facilities of the Department at which hospital care is being furnished to terminally ill veterans to furnish the care referred to in subsection (b).

"(b) Palliative care to terminally ill veterans shall be furnished by the facilities referred to in subsection (a) by one or more of the following means designated by the Secretary:

"(1) By personnel of the Department providing one or more hospice care services to such veterans at or through medical facilities of the Department.

"(2) By personnel of the Department monitoring the furnishing of one or more of such services to such veterans at or through non-Department facilities.

"§ 1774. Information relating to hospice care services

"The Secretary shall ensure to the extent practicable that terminally ill veterans who have been informed of the medical prognosis receive information relating to the eligibility of such persons (if any) to hospice care and services under under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). A terminally ill veteran may not be advised of his or her prognosis and receive information under this section during the same medical counseling session.

"§ 1775. Evaluation and reports

"(a)(1) Not later than September 30, 1992, and on an annual basis thereafter until October 1, 1997, the Secretary shall submit a written report to the Committees referred to in paragraph (2) relating to the conduct of the pilot program under section 1772 of this title and the furnishing of hospice care services under section 1773 of this title. Such report shall include the following information:

"(A) The location of the sites of the demonstration projects provided for under the pilot program.

"(B) The location of the medical facilities of the Department at or through which hospice care services are being furnished under section 1773 of this title.

"(C) The means by which care to terminally ill veterans is being furnished under each such project and at or through each such facility.

"(D) The number of veterans being furnished such care under each such project and at or through each such facility.

"(E) An assessment by the Secretary of any difficulties in furnishing such care and the actions taken to resolve such difficulties.

"(2) The Secretary shall submit the report referred to in paragraph (1) to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

"(b) Not later than August 1, 1995, the Secretary shall submit to the committees referred to in subsection (a)(2) a report containing the Secretary's evaluation and assessment of the hospice care pilot program under section 1772 of this title and the furnishing of hospice care services under section 1773 of this title. The report shall contain such information (and shall be presented in such form) as will enable the committees to evaluate fully the feasibility and desirability of furnishing palliative care to terminally ill veterans.

"(c) The report shall include the following:

"(1) A description and summary of the pilot program.

"(2) With respect to each demonstration project conducted under the pilot program—

"(A) a description and summary of the project;

"(B) a description of the facility conducting the demonstration project and a discussion of how such facility was selected in accordance with the criteria set out in, or prescribed by the Secretary pursuant to, clauses (A) through (D) of section 1772(b)(3) of this title;

"(C) the means by which care to terminally ill veterans is being furnished under the demonstration project;

"(D) the personnel used to furnish such care under the demonstration project;

"(E) a detailed factual analysis with respect to the furnishing of such care, including (i) the number of veterans being furnished such care, (ii) the number of inpatient admissions (if any) for each veteran being furnished such care and the length of stay for each such admission, (iii) the number of outpatient visits (if any) for each such veteran, and (iv) the number of home-care visits (if any) provided to each such veteran;

"(F) the direct costs (if any) incurred by terminally ill veterans, the members of the families of such veterans, and other individuals in close relationships with such veterans in connection with the participation of veterans in the demonstration project;

"(G) the costs incurred by the Department in conducting the demonstration project, including an analysis of the costs (if any) of the demonstration project that are attributable to (i) furnishing such care in facilities of the Department, (ii) furnishing such care in non-Department facilities, and (iii) administering the furnishing of such care; and

"(H) the unreimbursed costs (if any) incurred by any other entity in furnishing care to terminally ill veterans under the project pursuant to section 1772(c)(1)(C) of this title.

"(3) An analysis (by personnel of the Department or other individuals having a relevant expertise) of the level of the following persons' satisfaction with care to terminally ill veterans furnished under each demonstration project:

"(A) Terminally ill veterans who receive such care, members of the families of such veterans, and other individuals in close relationships with such veterans.

"(B) Personnel of the Department responsible for furnishing such care under the project.

"(C) Personnel of non-Department facilities responsible for furnishing such care under the project.

"(4) A description and summary of the means of furnishing hospice care services at or through each medical facility of the Department designated under section 1773(a) of this title.

"(5) With respect to each such means, the information referred to in clauses (A) through (H) of paragraph (2) and paragraph (3).

"(6) A comparative analysis by the Secretary of the care furnished to terminally ill veterans under the various demonstration projects referred to in section 1772 of this title and at or through the designated facilities referred to in section 1773 of this title, with an emphasis in such analysis on a comparison relating to—

"(A) the management of pain and health symptoms of terminally ill veterans by such projects and facilities;

"(B) the number of inpatient admissions of such veterans and the length of inpatient stays for such admissions under such projects and facilities;

"(C) the number and type of medical procedures employed with respect to such veterans by such projects and facilities; and

"(D) the effectiveness of such projects and facilities in providing care to such veterans at the homes of such veterans or in nursing homes.

"(7) An assessment by the Secretary of the feasibility and desirability of furnishing various means of palliative care to terminally ill veterans, including an assessment by the Secretary of the optimal means of furnishing such care to such veterans.

"(8) Any recommendations for additional legislation regarding the furnishing of care to terminally ill veterans that the Secretary considers appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER VIII—HOSPICE CARE PILOT PROGRAM; HOSPICE CARE SERVICES

"1771. Definitions.
"1772. Hospice care: pilot program requirements.
"1773. Care for terminally ill veterans.
"1774. Information relating to hospice care services.
"1775. Evaluation and reports.".

Mr. BOREN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR TESTIMONY AND REPRESENTATION OF FORMER SENATE EMPLOYEE

Mr. BOREN. Mr. President, on behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on authorization for a former Senate employee to provide testimony and representation by the Senate legal counsel and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 197) to authorize testimony by and representation of former Senate employee.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, a Federal agency has requested the testi-

mony of Jack Blum, a former special counsel to the Committee on Foreign Relations, in relation to information obtained by the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations concerning the Bank of Credit and Commerce International and other financial institutions.

Mr. Blum was employed as special counsel to the Committee on Foreign Relations between February 1987 to April 1989. During that period, Mr. Blum assisted the Subcommittee on Terrorism, Narcotics, and International Operations with its investigation into the adequacy of the U.S. Government's response to the threat to national security posed by the operation of international drug cartels. The investigation focused, in part, on allegations that law enforcement efforts to combat drug trafficking had been sacrificed to competing United States foreign policy objectives in Honduras, Nicaragua, the Bahamas, and Panama. A component of the subcommittee's investigation concerned the role of money laundering in drug trafficking, including allegations about the money laundering activities of BCCI and other financial institutions. In August of this year, Mr. Blum appeared as a witness before the subcommittee to testify concerning what he had learned about BCCI in the course of his work for the subcommittee.

This resolution would authorize Mr. Blum to provide testimony to the agency and to other Federal or State agencies and officials that may seek his testimony on the same or related subjects. It would also authorize the Senate Legal Counsel to provide representation to Mr. Blum in connection with such testimony.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

The resolution (S. Res. 197) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. RES. 197

Whereas, a Federal agency has requested the testimony of Jack Blum, a former special counsel to the Committee on Foreign Relations, about information relating to the Bank of Credit and Commerce International and other financial institutions obtained by the Subcommittee on Terrorism, Narcotics and International Operations during the course of its investigation into the nature of the threat to the national security of the United States from the operation of international drug cartels and the adequacy of the United States Government's response to that threat;

Whereas, by the privileges of the Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent present or former employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Jack Blum is authorized to provide testimony to Federal and state agencies or officials about information, relating to the Bank of Credit and Commerce International and other financial institutions, obtained by the Subcommittee on Terrorism, Narcotics and International Operations during the course of its investigation, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Jack Blum in connection with the testimony authorized by section one of this resolution.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANIMAL RESEARCH FACILITIES PROTECTION ACT OF 1991

Mr. BOREN. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 544, a bill relating to animal research facilities, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 544) to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes.

AMENDMENT NO. 1262

Mr. BOREN. On behalf of Senator HEFLIN, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for Mr. HEFLIN, proposes an amendment numbered 1262.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Research Facilities Protection Act of 1991".

SEC. 2. PROTECTION OF ANIMAL RESEARCH FACILITIES.

The Food Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359) is amended by adding at the end of the following new title:

"TITLE XXVI—ANIMAL RESEARCH FACILITIES

"SEC. 2601. SHORT TITLE.

"This title may be cited as the 'Animal Research Facilities Protection Act of 1991'.

"SEC. 2602. FINDINGS.

"Congress finds that—

"(1) there has been an increasing number of illegal acts committed against animal facilities;

"(2) these actions not only abridge the property rights of the owner of the facility, they may also damage the public interest by jeopardizing crucial scientific, biomedical, or agricultural research;

"(3) these actions can also threaten the public safety by exposing communities to contagious diseases;

"(4) these actions may substantially damage federally funded research;

"(5) disruption of scientific research supported by the Federal Government can result in the potential loss of physical and intellectual property;

"(6) Federal protection of animal research facilities is necessary to prevent and eliminate burdens on commerce; and

"(7) the welfare of animals as well as productive use of Federal research funds require regulation to prevent unauthorized possession, alteration, destruction, or transportation of research records, test data, research materials, equipment, research animals, or any combination thereof.

"SEC. 2603. PROHIBITED ACTS.

"(a) IN GENERAL.—It shall be unlawful for any person—

"(1) to steal, cause the unauthorized release or the intentional loss of any animal from research facility;

"(2) to damage, vandalize, or steal any property in or on a research facility;

"(3) to break and enter any research facility with an intent to destroy, alter, duplicate, or obtain the unauthorized possession of records, data, materials, equipment, or animals;

"(4) to enter, obtain access, or remain on a research facility with the intent to commit an act described in paragraph (1) OR (2);

"(5) to aid, abet, counsel, command, induce, or procure the commission of an act described in paragraph (1), (2), (3), or (4); or

"(6) knowing an offense described in paragraph (1) has occurred, to receive, relieve, comfort, or assist the offender in order to prevent the offender's apprehension, trial, or punishment.

"(b) SCOPE OF AUTHORITY DEFENSE.—It shall be a defense to any provision under this section that the person engaging in such acts is a Federal, State, or local law enforcement official acting within the scope of their official duties, or the person is acting under the authorization of a law enforcement official and the action is within the scope of the law enforcement official.

"SEC. 2604. PENALTIES.

"(a) IN GENERAL.—

"(1) GENERAL VIOLATIONS.—Any person who violates any provision of section 2603 shall be subject to fine of not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(2) WILLFUL VIOLATIONS CAUSING HARM.—If the violation causes harm to person or property and is willful and malicious, the person

shall be subject to a fine of not more than $10,000 or imprisoned for not more than 10 years, or both, for each such violation.

"(3) LIFE-THREATENING VIOLATIONS.—If as a result of the violation, the life of any person is placed in jeopardy, the person shall be fined not more than $25,000 or imprisoned for not more than 20 years, or both, for each such violation.

"(b) REASONABLE COSTS.—

"(1) DETERMINATION.—The United States District Court or the United States Magistrate, as the case may be, shall determine the reasonable cost of replacing materials, data, equipment, or animals, and records that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated as a result of a violation of section 2603.

"(2) LIABILITY.—Any persons convicted of a violation described in paragraph (1) shall be ordered jointly and severally to make restitution to the research facility in the full amount of the reasonable cost determined under paragraph (1).

"SEC. 2605. COURT JURISDICTION.

"The United States District Courts, the District Court of Guam, the District Court of the Virgin Islands, the Highest Court of American Samoa, and the United States courts of the other territories are vested with jurisdiction specifically to enforce, to prevent, and to restrain violations of this title, and shall have jurisdiction in all other kinds of cases arising under this title.

"SEC. 2606. PRIVATE RIGHT OF ACTION.

"(a) IN GENERAL.—Any research facility injured in its business or property by reason of a violation of this title shall have a private right of action to recover actual and consequential damages, and the cost of the suit (including a reasonable attorney's fee), from the person or persons who have violated any provision of this title.

"(b) CONSTRUCTION.—Nothing in this title shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this title. Subsection (a) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of this title.

"SEC. 2607. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL FACILITIES.

"(a) CONDUCT OF STUDY.—The Secretary of Agriculture and the Attorney General shall jointly conduct a study on the extent and effects of domestic and international terrorism on animal research production, and processing facilities and all other facilities in which animals are used for research, food production, exhibition, or pets.

"(b) REPORT.—Not later than 1 year after the date of enactment of this title, the Secretary and Attorney General shall submit a report that describes the results of the study conducted under subsection (a), together with any appropriate recommendations and legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"SEC. 2608. EFFECT ON FEDERAL AND STATE LAWS.

"Nothing in this title shall be construed to affect or preempt any Federal or State law or regulation.".

Mr. HEFLIN. Mr. President, I rise today to ask unanimous consent for S. 544 as substituted by the Senate Agriculture Committee to be read for the third time and considered passed. This bill is designed to deter crimes against the great research institutions of this country. The fact that the United States is the preeminent leader in contributing life-saving cures and life-improving treatment for the diseases which plague the world, should be a source of pride for our citizens. Most of us are grateful that research has eradicated polio and other childhood diseases and provided relief from the suffering caused by heart disease, stroke, diabetes and countless other illnesses. We are grateful, too, that scientists continue to seek solutions to the maladies which still beset us, like Alzheimer's disease, AIDS, cancer, mental illness, spinal cord and head injuries.

Unfortunately, there are some people so opposed to the use of animals in this essential research that they are setting fire to research facilities or breaking into laboratories to steal animals and destroy equipment, records and research data. There are dozens of recent examples. In fact, six major break-ins and thefts at research laboratories have been reported across the country since I introduced this legislation in the last Congress. These crimes were not limited to any one region; they took place in California, Florida, Illinois, New York, Pennsylvania, and Texas. An underground group which calls itself the Animal Liberation Front took credit for all of them. None of these cases have been solved. No one responsible for them has been brought to justice.

In the most egregious of these incidents, a Texas researcher's federally-supported project sustained immediate damages costing $70,000. His basic research that could benefit victims of Sudden Infant Death Syndrome and those suffering from sleep disorders was halted for more than a year. That researcher has been the subject of a second break-in attempt, death threats and a hate campaign which continues to this day.

The victims of the illegal acts of animal liberation supporters are not only research institutions and staff but all of us. The immediate cost to crimes against research facilities is severe, but the ultimate cost to society as a whole is inestimable. Lost research time and information means the delay or loss of the products of that research. The real price of the crime my legislation seeks to prevent is paid by all those who are waiting for cures and treatment for their afflictions. Human beings, of course, will pay the price, but so will all animal life, for animals as well as people benefit from research.

Extremists who perpetrate crimes in the name of animal rights ignore not only the rights of others, but also their own rights of free speech. Responsible dissent is protected by law—none of us would have it any other way. But ideological terrorists and vigilantes who take the law into their own hands must be stopped. Everyone can agree that we owe an enormous debt to research animals. Laboratory animals should be utilized only when necessary and must be well cared for and respected for humane as well as scientific reasons. But no one can condone lawless and senselessly destructive acts for whatever reason they are motivated.

The Animal Research Facilities Protection Act is needed to support law enforcement efforts around the country. Crimes against the Nation's research facilities should be Federal offenses. The fact that 12 States have already enacted laws increasing penalties for crimes against research facilities is convincing evidence that this is an extremely serious problem. No individual State, however, can protect its research facilities from interstate or international saboteurs. We must provide that protection on the Federal level. The Federal investigative capability and legal system must be brought to bear against research sabotage that threatens the future health of the Nation. Mr. President, I urge passage of S. 544, the Animal Research Facilities Protection Act.

The PRESIDING OFFICER. Are there further amendments to the substitute amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1262) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 544

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 "Animal Research Facilities Protection Act of 1991".

SEC. 2. PROTECTION OF ANIMAL RESEARCH FACILITIES.

The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359) is amended by adding at the end the following new title:

"TITLE XXVI—ANIMAL RESEARCH FACILITIES

"SEC. 2601. SHORT TITLE.

"This title may be cited as the 'Animal Research Facilities Protection Act of 1991'.

"SEC. 2602. FINDINGS.

"Congress finds that—

"(1) there has been an increasing number of illegal acts committed against animal facilities;

"(2) these actions not only abridge the property rights of the owner of the facility, they may also damage the public interest by jeopardizing crucial scientific biomedical, or agricultural research;

"(3) these actions can also threaten the public safety by exposing communities to contagious diseases;

"(4) these actions may substantially damage federally funded research;

"(5) disruption of scientific research supported by the Federal Government can result in the potential loss of physical and intellectual property;

"(6) Federal protection of animal research facilities is necessary to prevent and eliminate burdens on commerce; and

"(7) the welfare of animals as well as productive use of Federal research funds require regulation to prevent unauthorized possession, alteration, destruction, or transportation of research records, test data, research materials, equipment, research animals, or any combination thereof.

"SEC. 2603. PROHIBITED ACTS.

"(a) IN GENERAL.—It shall be unlawful for any person—

"(1) to steal, cause the unauthorized release or the intentional loss of any animal from a research facility;

"(2) to damage, vandalize, or steal any property in or on a research facility;

"(3) to break and enter any research facility with an intent to destroy, alter, duplicate, or obtain the unauthorized possession of records, data, materials, equipment, or animals;

"(4) to enter, obtain access, or remain on a research facility with the intent to commit an act described in paragraph (1) or (2);

"(5) to aid, abet, counsel, command, induce, or procure the commission of an act described in paragraph (1), (2), (3), or (4); or

"(6) knowing an offense described in paragraph (1) has occurred, to receive, relieve, comfort, or assist the offender in order to prevent the offender's apprehension, trial, or punishment.

"(b) SCOPE OF AUTHORITY DEFENSE.—It shall be a defense to any provision under this section that the person engaging in such acts is a Federal, State, or local law enforcement official acting within the scope of their official duties, or the person is acting under the authorization of a law enforcement official and the action is within the scope of the law enforcement official.

"SEC. 2604. PENALTIES.

"(a) IN GENERAL.—

"(1) GENERAL VIOLATIONS.—Any person who violates any provision of section 2603 shall be subject to a fine of not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(2) WILLFUL VIOLATIONS CAUSING HARM.—If the violation causes harm to person or property and is willful and malicious, the person shall be subject to a fine of not more than $10,000 or imprisoned for not more than 10 years, or both, for each such violation.

"(3) LIFE-THREATENING VIOLATIONS.—If as a result of the violation, the life of any person is placed in jeopardy, the person shall be fined not more than $25,000 or imprisoned for not more than 20 years, or both, for each such violation.

"(b) REASONABLE COSTS.—

"(1) DETERMINATION.—The United States District Court or the United States Magistrate, as the case may be, shall determine the reasonable cost of replacing materials, data, equipment, or animals, and records that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated as a result of a violation of section 2603.

"(2) LIABILITY.—Any persons convicted of a violation described in paragraph (1) shall be ordered jointly and severally to make restitution to the research facility in the full amount of the reasonable cost determined under paragraph (1).

"SEC. 2605. COURT JURISDICTION.

"The United States District Courts, the District Court of Guam, the District Court of the Virgin Islands, the Highest Court of American Samoa, and the United States courts of the other territories are vested with jurisdiction specifically to enforce, to prevent, and to restrain violations of this title, and shall have jurisdiction in all other kinds of cases arising under this title.

"SEC. 2606. PRIVATE RIGHT OF ACTION.

"(a) IN GENERAL.—Any research facility injured in its business or property by reason of a violation of this title shall have a private right of action to recover actual and consequential damages, and the cost of the suit (including a reasonable attorney's fee), from the person or persons who have violated any provision of this title.

"(b) CONSTRUCTION.—Nothing in this title shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this title. Subsection (a) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of this title.

"SEC. 2607. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL FACILITIES.

"(a) CONDUCT OF STUDY.—The Secretary of Agriculture and the Attorney General shall jointly conduct a study on the extent and effects of domestic and international terrorism on animal research production, and processing facilities and all other facilities in which animals are used for research, food production, exhibition, or pets.

"(b) REPORT.—Not later than 1 year after the date of enactment of this title, the Secretary and Attorney General shall submit a report that describes the results of the study conducted under subsection (a), together with any appropriate recommendations and legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"SEC. 2608. EFFECT ON FEDERAL AND STATE LAWS.

"Nothing in this title shall be construed to affect or preempt any Federal or State law or regulation.".

Mr. BOREN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING RESOLUTION—HOUSE CONCURRENT RESOLUTION 219

Mr. BOREN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Concurrent Resolution 219, a technical correction resolution just received from the House, that the concurrent resolution be agreed to, that the motion to reconsider be laid on the table, that the preamble be agreed to, and further that any statements appear at the appropriate place in the RECORD.

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

Mr. DECONCINI. Mr. President, House Concurrent Resolution 219, the concurrent resolution now pending, instructs the Clerk of the House of Representatives to make a technical correction in the enrollment of H.R. 2622, an act making appropriations for the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for fiscal year 1992. Mr. President, this correction is necessary because an error was contained in the motion agreed to by the House and subsequently by the Senate, when the conference report was considered. This is a technical correction in that the accurate language was included in the statement of managers accompanying the conference report on H.R. 2622 but incorrectly displayed in the House motion in reference to amendment No. 43. This concurrent resolution would simply ensure that the enrolled bill properly reflects the language agreed to by the conferees on H.R. 2622.

I ask for its adoption.

The concurrent resolution (H. Con. Res. 219) was agreed to.

The preamble was agreed to.

DISTRICT OF COLUMBIA MENTAL HEALTH PROGRAM ASSISTANCE ACT OF 1991

Mr. BOREN. Mr. President, I ask unanimous consent the Governmental Affairs Committee be discharged from further consideration of H.R. 1720, the District of Columbia Mental Health Assistance Act of 1991, that the Senate then proceed to its immediate consideration; that the bill be deemed read a third time and passed and that the motion to reconsider be laid upon the table.

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

So, the bill (H.R. 1720) was deemed read the third time and passed.

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar numbers 265, 266, 268, en bloc; that committee amendments and substitute amendments where indicated be agreed to, en bloc; that the several bills each be deemed read for the third time, passed, and the motion to reconsider the passage of each bill be laid upon the table; that consideration of each bill be included separately in the RECORD; and that statements with respect to passage of each bill be included in the RECORD where appropriate.

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

CHACOAN OUTLIERS PROTECTION ACT OF 1991

The Senate proceeded to consider the bill (S. 772) to amend title V of Public Law 96-550, designating the Chaco Cul-

ture Archaeological Protection Sites, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chacoan Outliers Protection Act of 1991".

SEC. 2. CONFORMING AMENDMENT.

(a) Section 501 of Public Law 96-550 (16 U.S.C. 410ii) is amended in the title by striking "Congressional findings" and inserting in lieu thereof "Congressional findings and purpose".

(b) Section 501(b) of Public Law 96-550 (16 U.S.C. 410ii(b)) is amended by striking "San Juan Basin;" and inserting in lieu thereof, "San Juan Basin and surrounding areas;".

SEC. 3. ADDITIONS TO CHACO CULTURE ARCHEOLOGICAL PROTECTION SITES.

Subsection 502(b) of Public Law 96-550 (16 U.S.C. 410ii-1(b)) is amended to read as follows:

"(b)(1) Thirty-eight outlying sites as generally depicted on a map entitled "Chaco Culture Archeological Protection Sites", numbered 310/80,033-B and dated September 1991, are hereby designated as 'Chaco Culture Archeological Protection Sites'. The thirty-eight archeological protection sites totalling approximately 14,287 acres identified as follows:

Name:	Acres
Allentown	380
Andrews Ranch	950
Bee Burrow	480
Bisa'ani	131
Casa del Rio	40
Casamero	160
Chimney Rock	3,160
Coolidge	450
Dalton Pass	135
Dittert	480
Great Bend	26
Greenlee Ruin	60
Grey Hill Spring	23
Guadalupe	115
Halfway House	40
Haystack	565
Hogback	453
Indian Creek	100
Jacques	66
Kin Nizhoni	726
Lake Valley	30
Manuelito-Atsee Nitsaa	60
Manuelito-Kin Hochoi	116
Muddy Water	1,090
Navajo Springs	260
Newcomb	50
Peach Springs	1,046
Pierre's Site	440
Raton Well	23
Salmon Ruin	5
San Mateo	61
Sanostee	1,565
Section 8	10
Skunk Springs/Crumbled House	533
Standing Rock	348
Toh-la-kai	10
Twin Angeles	40
Upper Kin Klizhin	60

"(2) The map referred to in paragraph (1) shall be kept on file and available for public inspection in the appropriate offices of the National Park Service, the office of the State Director of the Bureau of Land Management located in Santa Fe, New Mexico, the office of the Area Director of the Bureau of Indian Affairs located in Window Rock, Arizona, and the offices of the Arizona and New Mexico State Historic Preservation Officers.".

SEC. 4. ASSISTANCE TO THE NAVAJO NATION.

Section 506 of Public Law 96-550 (16 U.S.C. 410ii-5) is amending by adding the following new subsection at the end thereof;

"(f) The Secretary is directed, subject to appropriations, to assist the Navajo Nation in the protection and management of those Chaco Culture Archaeological Protection Sites located on lands under the jurisdiction of the Navajo Nation through a grant, contract, or cooperative agreement entered into pursuant to the Indian Self-Determination and Education Act (Public Law 93-638), as amended, to assist the Navajo Nation in site planning, resource protection, interpretation, resource management actions, and such other purposes as may be identified in such grant, contract, or cooperative agreement.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ACQUISITION OF LAND FOR GOLDEN GATE NATIONAL RECREATION AREA

The Senate proceeded to consider the bill (S. 870) to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, California, which had been reported from the Committee on Energy and Natural Resources, with an amendment on page 2, line 1, strike "bearing", through and including "lands" on line 5, and insert the following: "as generally depicted on a map entitled 'Phleger Estate Addition—Golden Gate National Recreation Area' and dated September 1991".

So as to make the bill read:

S. 870

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 is authorized to acquire by donation approximately one thousand three hundred acres of land in San Mateo County, California, known generally as the Phleger property and as generally depicted on a map entitled "Phleger Estate Addition—Golden Gate National Recreation Area" and dated September, 1991. Upon acquisition of the property and publication of notice in the Federal Register, the Secretary shall revise the boundary of the Golden Gate National Recreation Area to reflect the inclusion of such property within the area and prepare and make available a map displaying such boundary revision in accordance with section 460bb-1(b) of title 16, United States Code.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ADDITIONS TO ASSATEAGUE ISLAND NATIONAL SEASHORE

The Senate proceeded to consider the bill (S. 1254) to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all the enacting clause, and inserting in lieu thereof the following:

SECTION 1. INCREASE IN ACREAGE LIMITATION.

Section 2 of the Act entitled "An Act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes", Public Law 89-195, as amended (16 U.S.C. 459f-1), is amended—

(a) in subsections (a) and (b) by striking "sixteen acres" "ten acres" each place that they appear and insert in lieu the thereof, '112 acres'; and

(b) in subsection (a) by striking "Maryland," through the end of the sentence and inserting in lieu thereof, "Maryland.".

Mr. SARBANES. Mr. President, Assateague Island is a 37-mile undeveloped barrier island, famous for its solitude, natural beauty, free roaming wild ponies, and pristine beaches. The Congress recognized Assateague as an important national and natural resource worthy of protection by authorizing the establishment of the Assateague Island National Seashore in 1965. The legislation before the Senate would provide additional protection for the seashore and adjacent lands. I want to commend the distinguished chairman of the Public Lands, National Parks and Forests Subcommittee, Senator BUMPERS, and the chairman of the Committee on Energy and Natural Resources, Senator JOHNSTON, for moving this bill to the floor so expeditiously.

Mr. President, this year marks the 75th anniversary of the National Park System, and last month I had the opportunity to participate in ceremonies at Assateague celebrating the Park Service's anniversary and the 26th birthday of Assateague. Seventy-five years ago, on August 25, 1916, President Woodrow Wilson signed into law the act establishing the National Park Service. Its fundamental mission: "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations." The creation of the National Park System has been called, "The best idea America ever had," and I think we can all agree with this sentiment.

Some 50 years later, on September 21, 1965, the Congress authorized the establishment of Assateague Island National Seashore, creating in my view one of the real treasures of our National Park System. As all who visit here quickly discover, Assateague is a very special place—a natural preserve, a refuge for people and for wildlife, and one of the largest remaining undeveloped seashore areas on the east coast and in the country.

A great deal of foresight was shown in establishing our National Park System and Assateague Island National Seashore. It is this same foresight that I hope we will demonstrate today by approving this measure.

Assateague National Seashore is increasingly faced with external threats from adjacent land use and development. The Route 611 corridor which leads into Assateague from west Ocean City has been experiencing explosive growth in commercial and residential development. Shopping malls, new housing developments, and other commercial developments are springing up all along this route.

Of immediate concern to the national seashore is a 320-acre tract of private land adjacent to the southern boundary of the Park where the park headquarters is located. The land was once part of Synepuxent, an old family estate dating back to 1524, when the Italian navigator Giovanni De Varrazano landed at this point.

Since the national seashore was established, this land has been farmed—a use regarded as compatible with the needs of the national park. However, the current landowner's personal circumstances may force the sale of the property.

This property is highly desirable for development. It includes approximately 1 mile of frontage on Sinepuxent Bay with panoramic views of the Bay and Assateague Island and parallels Route 611. It is also the nearest location to Assateague for motel and restaurant development. It is the only remaining large privately held tract along the gateway to Assateague.

Portions of the property are presently zoned for hotel, motel, and restaurant development and other portions are zoned for 1 acre residential housing. Although Worcester County officials are currently working to adopt a new land use plan for the county, even the most favorable zoning regulations could be subject to modification in the future and offer no firm guarantees of protection to the park.

The Park Service has stated that protection of this property from development is important to the integrity of the National Seashore area. The concern is twofold: should the property be sold and developed, it could result in a serious visual intrusion for the seashore and the planned Barrier Island Visitor Center. Recently, the State of Maryland donated 6 acres to the Park Service for this center. This is, after all, the "gateway" to Assateague and the visitor's first impression of the park. Second, development along the water could also seriously threaten the water quality of Sinepuxent Bay.

This legislation would expand the Park Service's boundary to include approximately 96 acres of the 320-acre tract. It encompasses the shore frontage immediately adjacent to and south of the National Seashore headquarters and planned Barrier Island Visitor Center. This is the area that would pose the most severe threat to the seashore. A number of options are currently being explored for acquisition, including purchase by a nonprofit organization and donation to the Service. However, the boundary change is absolutely essential for this to occur.

Mr. President, the legislation before us provides additional protection for the seashore and adjacent lands. It is supported by the Committee to Preserve Assateague Island, the State of Maryland, and local elected officials. I urge my colleagues to join in supporting this legislation.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXPENSES AND SUPPLEMENTAL AUTHORITY OF THE SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 248, Senate Resolution 185, that the committee substitute be agreed to, the resolution as amended by agreed to, and that the motion to reconsider be laid on the table.

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

The Senate proceeded to consider the resolution (S. Res. 185) to provide for expenses and supplemental authority of the Select Committee on POW/MIA Affairs, which had been reported from the Committee on Rules and Administration, with an amendment to strike all after the resolving clause and inserting in lieu thereof other language.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The resolution, as amended, is as follows:

That (a) in carrying out its powers, duties, and functions under Senate Resolution 82, agreed to August 2, 1991 (102nd Congress, 1st Session), and under this resolution, from August 2, 1991 through February 29, 1992, and from March 1, 1992 until the end of the One Hundred Second Congress, through January 2, 1993, the Select Committee on POW/MIA Affairs (referred to in this resolution as the "select committee") is authorized in its discretion to—

(1) make expenditures from the contingent fund of the Senate; and

(2) appoint and fix compensation of personnel.

(b)(1) The expenses of the select committee for the period from August 2, 1991, through February 29, 1992, shall not exceed $540,300 of which amount not to exceed $53,000 may be expended for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(2) The expenses of the select committee for the period from March 1, 1992 through January 2, 1993, shall not exceed $1,360,200 of which amount not to exceed $160,000 may be expended for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(c) Expenditures from the contingent fund shall be paid out of the appropriations account for Expenses of Inquiries and Investigations upon vouchers approved by the chairman, except that vouchers shall not be required for—

(1) the disbursement of salaries of employees who are paid at an annual rate;

(2) the payment of expenses for telecommunications services provided by the Telecommunications Department, Sergeant at Arms, United States Senate;

(3) the payment of expenses for stationery supplies purchased through the Keeper of the Stationery, United States Senate;

(4) the payment of expenses for postage to the Postmaster, United States Senate; or

(5) the payment of metered charges on copying equipment provided by the Sergeant at Arms, United States Senate.

(d) There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the select committee to be paid from the appropriations account for Expenses of Inquiries and Investigations, in like manner as for the standing and permanent select committees of the Senate.

(e) Of the funds authorized by this resolution for the funding period ending on the last day of February 1992, any unexpended balance remaining after such last day shall be transferred to a special reserve for this committee, which reserve shall be available to this committee for the period commencing March 1, 1992, and ending with the close of September 30, 1992, for the purpose of—

(1) meeting any unpaid obligations incurred during the funding period ending on the last day of February 1992; and

(2) meeting expenses of such committee incurred after such last day and prior to the close of September 30, 1992.

SEC. 2. (a) In addition to all powers, duties, and functions vested in the Select Committee of POW/MIA Affairs by Senate Resolution 82, agreed to August 2, 1991 (102nd Congress, 1st Session), the select committee is authorized to do the following:

(1) To delegate to the chairman the power, with the consent of the vice chairman, to authorize subpoenas for the attendance of witnesses and the production of correspondence, books, papers, documents, and other records.

(2) To (A) authorize staff to conduct depositions of witnesses under oath, including oaths administered by individuals authorized by local law to administer oaths, for the purpose of taking testimony and receiving correspondence, books, papers, documents, and other records, and (B) require, by subpoena or order, the attendance of witnesses and the production of correspondence, books, papers, documents, and other records at such staff depositions.

(3) To make to the Senate any recommendations by report or resolution, including recommendations for criminal or civil enforcement, which the select committee may consider appropriate with respect to (A) the failure or refusal of any person to appear at a hearing or deposition or to produce records, in obedience to a subpoena or order, or (B) the failure or refusal of any person to answer questions during his or her appearance as a witness at a hearing or deposition.

(4) To procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such service under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(5) To (A) use, with the prior consent of the chairman of any other Senate committee or the chairman of any subcommittee of any committee of the Senate, the facilities of any other Senate committees or the services of any members of the staff of them whenever the select committee or its chairman considers that such action is necessary or appropriate to enable the select committee to carry out its powers, duties, and functions, and (B) pay the official travel expenses for staff members of other committee used pursuant to this resolution.

(b) Any foreign travel by Members and employees required for the select committee shall be deemed to be on behalf of the Senate for purpose of Senate Resolution 179, agreed to may 25, 1977 (95th Congress, 1st Session).

(c) The Majority Leader and the Minority Leader may each select one investigator to serve on the staff of the select committee.

(d) The Majority Leader and the Minority Leader shall serve as ex officio members of the select committee but shall have no vote in the select committee and shall not be counted for purposes of determining a quorum.

SEC. 3. The disclosure of any classified information obtained by the select committee either directly from the Executive branch of the United States Government, through the Selection Committee on Intelligence, or by other means, shall be governed by the provision of section 8 of Senate Resolution 400, agreed to May 19, 1976 (94th Congress, 2nd Session), except that reference to the Select Committee on Intelligence in such section shall be deemed to be references to the select committee.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, 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 HOUSE

At 10:10 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 429) to amend the Sherman Act regarding retail competition, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. BROOKS, Mr. EDWARDS of California, Mr. SYNAR, Mr. FISH, and Mr. CAMPBELL of California as managers of the conference on the part of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3033. An act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 219. A concurrent resolution making corrections in the enrollment of H.R. 2622.

At 6:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 35. An act to designate certain lands in the State of North Carolina as wilderness, and for other purposes;

H.R. 1297. An act to amend the Dingell-Johnson Sport Fish Restoration Act to authorize the use by coastal States of apportionments under that act for construction, renovation, operation, and maintenance of pumpout stations for marine sanitation devices;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wilderness Refuge";

H.R. 2369. An act to establish the Flint Hills Prairie National monument; and

H.R. 2436. An act to expand the Fort Necessity National Battlefield, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 35. An act to designate certain lands in the State of North Carolina as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1297. An act to amend the Dingell-Johnson Sport Fish Restoration Act to authorize the use by coastal States of apportionments under that Act for construction, renovation, operation, and maintenance of pumpout stations for marine sanitation devices; to the Committee on Commerce, Science, and Transportation.

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wilderness Refuge"; to the Committee on Environment and Public Works.

H.R. 2369. An act to establish the Flint Hills Prairie National monument; to the Committee on Energy and Natural Resources.

H.R. 2436. An act to expand the Fort Necessity National Battlefield, and for other purposes; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1579. A bill to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call, and for other purposes (Rept. No. 102-190).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

The following-named persons to be members of the Federal Energy Regulatory Commission:

Elizabeth Anne Moler, of Virginia, for the term expiring June 30, 1994. (Reappointment)

Branko Terzic, of Wisconsin, for the term expiring June 30, 1995. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 102-9. Convention for a North Pacific Marine Science Convention (Exec. Rept. No. 102-18).

TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

Resolved, (two thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention for a North Pacific Marine Science Organization (PICES), which was done at Ottawa on December 12, 1990, and signed by the United States on May 28, 1991.

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. PRESSLER (for himself, Mr. D'AMATO, Mr. KASTEN and Mr. HELMS):

S. 1833. A bill extending nondiscriminatory treatment (most-favored-nation treatment) to the products of Estonia, Latvia, and Lithuania, and for other purposes; to the Committee on Finance.

By Mr. LOTT:

S. 1834. A bill to amend the Social Security Act to clarify the medicare geographic classification adjacency requirements; to the Committee on Finance.

By Mr. GRASSLEY:

S. 1835. A bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to qualified beginning farmers and ranchers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HATCH (for himself, Mr. BRADLEY, Mr. DECONCINI, Mr. MCCAIN, Mr. GRASSLEY, Mr. DOLE, Mr. KASTEN, Mr. PRESSLER, Mr. D'AMATO, Mr. LUGAR and Mr. GARN):

S. Res. 196. A resolution expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet armed forces from the Bal-

tic states and undertake discussions with the governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal; to the Committee on Foreign Relations.

Mr. BOREN (for Mr. MITCHELL) (for himself and Mr. DOLE):

S. Res. 197. A resolution to authorize testimony by and representation of a former Senate employee; considered and agreed to.

Mr. SANFORD (for himself, Mr. JEFFORDS and Mr. MITCHELL):

S. Res. 198. A resolution amending Senate Resolution 62 of the One Hundred Second Congress to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER (for himself, Mr. D'AMATO, Mr. KASTEN, and Mr. HELMS):

S. 1833. A bill extending nondiscriminatory treatment (most-favored-nation treatment) to the products of Estonia, Latvia, and Lithuania, and for other purposes; to the Committee on Finance.

NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

Mr. PRESSLER. Mr. President, today I send to the desk a bill removing legislative obstacles to the granting of nondiscriminatory trade treatment—most-favored-nation status—to the products of Estonia, Latvia, and Lithuania.

The bill I am introducing with Senators D'AMATO and KASTEN is the same as H.R. 3313, introduced by Congressman SAM GIBBONS. I commend Mr. GIBBONS for his leadership on this matter in the other body.

I also commend President Bush for recognizing the democratic Governments of Estonia, Latvia, and Lithuania on September 2. Today these nations are working hard to rejoin the international community of which they were once a vital part. The swift provision of nondiscriminatory trade status to their goods will hasten the revitalization of their economies.

Mr. President, I also would like to commend Senator HELMS for his leadership in recognizing the importance of granting most-favored-nation [MFN] status to Estonia, Latvia, and Lithuania in June 1990, following the initialing of the United States-Soviet Trade Agreement. At that time, Senator HELMS asked for the extension of MFN to the Baltic States on the basis of trade agreements they signed with the United States in 1925 and 1926. His plea for full implementation of the longstanding United States non-recognition of the annexation of these nations by the Soviet Union can now be realized. Now that the United States formally has recognized the Baltic governments, the "effective control of borders" criterion cited as an obstacle to the Senator's request has disappeared as an issue.

Mr. President, I ask unanimous consent that a copy of a letter sent to the President by Senator HELMS and 22 other Senators on June 18, 1990, be included in the RECORD at the conclusion of my remarks.

The bill I am introducing now gives the administration the legislative flexibility it needs and wants to grant most-favored-nation trade status to Estonia, Latvia, and Lithuania. The Trade Act of 1974 placed these states in the rate of duty column 2, specifically excluding them from receiving favorable tariff rates. Title IV of the Trade Act requires all states that did not have MFN in 1974, to fulfill emigration law criteria.

It is, indeed, unfortunate that these obstacles stand in the way of the swift provision of MFN to Estonia, Latvia, and Lithuania through the renegotiation of agreements these nations signed with the United States in 1925 and 1926. When MFN status was terminated with the Soviet Union in 1951, President Truman announced the suspension of MFN for Estonia, Latvia, and Lithuania for the duration of Soviet domination and control of their territory. I note the careful choice of the word "suspension" rather than termination. In no way did President Truman want to give legitimacy to Soviet military occupation, as expressed in the Roman maxim, "Ex iniuria ius non oritur," which means "legal rights will not arise out of wrongdoing."

According to this policy, in 1974, Estonia, Latvia, and Lithuania should have been placed in the rate of duty column 1 with a note regarding their suspended trade status. They should have been excluded from title IV restrictions at that time.

Mr. President, I would like to note that in addition to granting Estonia, Latvia, and Lithuania MFN, the United States Government should correct other legal anachronisms adversely affecting Estonia, Latvia, and Lithuania. Specifically, the United States State Department should review and renegotiate, if necessary, with the representatives of Estonia, Latvia, and Lithuania, all agreements and treaties signed by the United States and those countries from 1922 to 1940, as well as all agreements and treaties between the United States and the Soviet Union that relate to the territorial integrity of Estonia, Latvia, and Lithuania.

I cite as an example the United States-Soviet Civil Aviation and Maritime Agreements that incorrectly refer to the cities of Riga, Tallinn, Pyarnu (Parnu in Estonian), Klaipeda, Liepaja, and Ventspils as "Soviet" cities.

Additionally, the United States should support the inclusion of Estonia, Latvia, and Lithuania in the multilateral CFE treaty, which directly affects Soviet military equipment on their sovereign territory. I hope that the CFE agreement will expedite the prompt withdrawal of the over 100,000 Soviet troops who are stationed in Estonia, Latvia, and Lithuania.

Mr. President, I ask unanimous consent that a list of all agreements signed by the United States and the Republics of Lithuania, Latvia, and Estonia as contained in the State Department publication "Treaties in Force" be included in the RECORD at the conclusion of my remarks.

I hope that both the Gibbons bill and my bill will pass expeditiously through the House Ways and Means and Senate Finance Committees. This bill will put an end to 50 years of suspended legal animation for the Baltic States. There is no good reason to delay any longer. Most certainly, MFN must not be held hostage to or be postponed until the United States-Soviet Trade Agreement is considered by the Senate. Indeed, the United States Senate would do final justice to our longstanding nonrecognition policy by granting MFN to Estonia, Latvia, and Lithuania before granting it to the Soviet Union.

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

COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 18, 1990.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: This past weekend the citizens of Lithuania, Latvia, and Estonia observed the fifty-year mark of the illegal annexation of their sovereign states by the Soviet Union. Yet, the renewed Soviet military presence in the Baltic States and the economic blockade of Lithuania continue to violate the human rights of the Baltic people and endanger Soviet efforts at perestroika.

As you know, the Senate, by a vote of 73–24, recently adopted a resolution urging you not to submit the U.S.-Soviet trade agreement to the Senate for approval until the Soviet Union has lifted its economic embargo against Lithuania and has entered into negotiations with the duly elected representatives of the Lithuanian people, with the intended result the Soviet recognition of the independence of the government of the Republic of Lithuania. We again urge you not to send the trade agreement to the Congress until these conditions are met.

Fifty years ago, President Franklin Delano Roosevelt complied with generally recognized principles of international law, and publicly declared that the United States would not recognize the forcible seizure of the Republics of Lithuania, Latvia, and Estonia by the USSR. Since 1940, all United States administrations have affirmed the legal right of the Baltic people to self-determination.

We are very concerned that, unless certain precautions are taken, the recently proposed US-Soviet trade, maritime, aviation and student exchange agreements may violate the long-standing US non-recognition policy. Specifically, these agreements may imply de facto and possibly de jure recognition of the Soviet incorporation of Lithuania, Latvia, and Estonia.

We therefore urge you to issue, as an appendix to the agreements, a statement that any such agreements do not affect the de jure independence of the Baltic States, nor do these agreements imply any Soviet right to speak in international forums or conclude international agreements on behalf of the Baltic States. Moreover, any such statement should clearly object to any implied right of the USSR to exercise any form of authority over the Republics of Lithuania, Latvia, and Estonia.

It should be noted that there are precedents for such an approach. The U.S.-Israeli trade agreement of 1985 clearly states that the United States has not recognized Israel's authority over the West Bank. Furthermore, the U.S. Senate's reservation to the Japanese Peace Treaty of 1953 includes a proviso that the United States does not recognize Soviet claims to Southern Sakhalin, the Kurile Islands, the Habemai Islands or the island of Shikotan and the 1947 decision of the Nurnberg Tribunal specifically notes that any Soviet claims to the Baltic States are not accepted by the United States.

Our government continues to recognize the validity of all bilateral agreements signed between the Republics of Lithuania, Latvia, and Estonia and the United States, including the trade agreements of 1926 granting each Most-Favored-Nation trading status. When the United States decided to revoke MFN status for the Soviet Union in 1952, the Truman Administration placed controls on trade with the Baltic States in order to prevent the exploitation of their separate MFN status. These controls were acquiesced in by the Charges d'Affaires of the Baltic States in Washington, for the duration of the period of occupation.

Today, the Republics of Lithuania, Latvia, and Estonia have elected democratic governments which are no longer politically under the domination of the Soviet Union. In pursuing the restoration of Baltic independence, these governments have consistently strived to avoid threatening the overall stability of the Soviet Union, by denouncing all forms of violence and provocation, calling for peaceful negotiations with Moscow, and agreeing to suspend all independence-enabling legislation until a negotiated settlement can be reached.

Furthermore, these governments, which have demonstrated a strong commitment to human rights, democratic pluralism, and free-market economies, offer a unique economic and political channel between the Soviet Union and the West. Thus, strong US support for the independent Baltic governments would encourage, rather than threaten, Soviet stability and efforts at perestroika.

As you know, on May 26 the Foreign Ministers of the Republics of Lithuania, Latvia, and Estonia jointly declared that any agreements signed between the United States and the Soviet Union will not be binding upon the Baltic States. Previously, the Baltic leaders have asked Western nations to conclude bilateral agreements with their governments at the earliest possible time.

We urge you to consider taking steps to normalize US economic relations with the Baltic States. Such actions could include initiating bilateral discussions with the three Baltic governments regarding trade, aviation, and maritime concerns at the earliest possible time. We believe that such actions would enhance our fifty-year policy of supporting independence for the people of Lithuania, Latvia, and Estonia.

Sincerely,

Robert Byrd, Alfonse D'Amato, Alan Dixon, Pete Wilson, Dan Coats, Arlen Specter, Jesse Helms, Donald W. Riegle, Jr., Dennis DeConcini, Gordon Humphrey, Conrad Burns, Carl Levin, Barbara Mikulski, Malcolm Wallop, Connie Mack, Steve Symms, Frank Lautenberg, Robert Kasten, Bill Armstrong, Paul Simon, James McClure, John McCain, Joseph Lieberman.

ESTONIA

The United States has not recognized the incorporation of Estonia, Latvia, and Lithuania into the Union of Soviet Socialist Republics. The Department of State regards treaties between the United States and those countries as continuing in force.

COMMERCE

Treaty of friendship, commerce, and consular rights, and protocol. Signed at Washington December 23, 1925; entered into force May 22, 1926. 44 Stat. 2379; TS 736; 7 Bevans 620; 50 LNTS 13.

CONSULS (SEE COMMERCE)

EXTRADITION

Treaty for extradition of fugitives from justice. Signed at Tallinn November 8, 1923; entered into force November 15, 1924. 43 Stat. 1849; TS 703; 7 Bevans 602; 43 LNTS 277.

Supplementary extradition treaty. Signed at Washington October 10, 1934; entered into force May 7, 1935. 49 Stat. 3190; TS 888; 7 Bevans 645; 159 LNTS 149.

FINANCE

Debt funding agreement signed at Washington October 28, 1925; operative December 15, 1922. Treasury Department print; 7 Bevans 613.

Agreement modifying the debt funding agreement of October 28, 1925. Signed at Washington June 11, 1932; operative July 1, 1931. Treasury Department print; 7 Bevans 642.

MARITIME MATTERS

Agreement relating to mutual recognition of ship measurement certificates. Exchange of notes at Washington August 21, 1926 and at New York November 30, 1926; entered into force November 30, 1926. 47 Stat. 2597; EAS 9; 7 Bevans 635; 62 LNTS 313.

PACIFIC SETTLEMENT OF DISPUTES

Treaty of arbitration. Signed at Tallinn August 27, 1929; entered into force June 18, 1930. 46 Stat. 2757; TS 816; 7 Bevans 637; 102 LNTS 233.

Treaty of conciliation. Signed at Tallinn August 27, 1929; entered into force June 18, 1930. 46 Stat. 2760; TS 817; 7 Bevans 639; 102 LNTS 239.

PUBLICATIONS

Agreement relating to the exchange of official publications. Exchange of notes at Tallinn December 6, 1938; entered into force July 15, 1939. 53 Stat. 2059; EAS 138; 7 Bevans 647.

TRADE (SEE ALSO COMMERCE)[1]

Agreement according mutual unconditional most-favored-nation treatment in customs matters. Exchange of notes at Washington March 2, 1925; entered into force August 1, 1925. TS 722; 7 Bevans 608; 43 LNTS 289.

VISAS

Agreement for the reciprocal waiver of passport visa fees for nonimmigrants. Exchange of notes at Riga and Tallinn April 8, and July 28, 1925; entered into force July 28, 1925. 7 Bevans 611.

LATVIA

The United States has not recognized the incorporation of Estonia, Latvia, and Lithuania into the Union of Soviet Socialist Republics. The Department of State regards treaties between the United States and those countries as continuing in force.

COMMERCE[2]

Provisional commercial agreement according mutual unconditional most-favored-nation treatment in customs matters. Signed at Riga February 1, 1926; entered into force April 30, 1926. TS 740; 9 Bevans 528; LNTS 33.

Treaty of friendship, commerce, and consular rights. Signed at Riga April 20, 1928; entered into force July 25, 1928. 45 Stat. 2641; TS 765; 9 Bevans 531; 80 LNTS 35.

EXTRADITION

Treaty of extradition. Signed at Riga October 16, 1923; entered into force March 1, 1924. 43 Stat. 1738; TS 677; 9 Bevans 515; 27 LNTS 371.

Supplementary extradition treaty. Signed at Washington October 10, 1934; entered into force March 29, 1935. 49 Stat. 3131; TS 884; 9 Bevans 554; 158 LNTS 263.

FINANCE

Agreement relating to the funding of the indebtedness of Latvia to the United States. Signed at Washington September 24, 1925; operative December 15, 1922. Treasury Department print; 9 Bevans 521.

Agreement modifying the debt funding agreement of September 24, 1925. Signed at Washington June 11, 1932; operative July 1, 1931. Treasury Department print; 9 Bevans 551.

PACIFIC SETTLEMENT OF DISPUTES

Treaty of arbitration. Signed at Riga January 14, 1930; entered into force July 10, 1930. 46 Stat. 2763; TS 818; 9 Bevans 546; 105 LNTS 307.

Treaty of conciliation. Signed at Riga January 14, 1930; entered into force July 10, 1930. 46 Stat. 2766; TS 819; 9 Bevans 548; 105 LNTS 301.

POSTAL MATTERS

Convention for the exchange of money orders. Signed at Washington October 21 and at Riga November 14, 1922; effective January 2, 1923. 38 LNTS 331.

VISAS

Agreement for the reciprocal waiver of passport visa fees for nonimmigrants. Exchange of notes at Riga February 18 and March 27, 1935; entered into March 27, 1935; operative April 1, 1935. 9 Bevans 556.

LITHUANIA

The United States has not recognized the incorporation of Estonia, Latvia, and Lithuania into the Union of Soviet Socialist Republics. The Department of State regards treaties between the United States and those countries as continuing in force.

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[1] Application of controls to trade between the United States and Estonia while that country is under Soviet domination or control was acquiesced in by the Acting Consul General of Estonia in Charge of the Estonian Legation in New York in a note dated July 16, 1951 to the Secretary of State.

[2] Application of controls to trade between the United States and Latvia while that country is under Soviet domination or control was acquiesced in by the Charge d'Affaires of Latvia in Washington in a note dated July 11, 1951, to the Secretary of State.

CUSTOMS

Arrangement regarding reciprocal privileges for consular officers to import articles free of duty for their personal use. Exchanges of notes at Washington July 28, September 17 and 19, and October 4, 1934; operative October 15, 1934, 9 Bevans 685.

EXTRADITION

Treaty of extradition. Signed at Kaunas April 9, 1924; entered into force August 23, 1924, 43 Stat. 1835; TS 699; 9 Bevans 655; 51 LNTS 191.

Supplementary extradition treaty. Signed at Washington May 17, 1934; entered into force January 8, 1935. 49 Stat. 3077; TS 879; 9 Bevans 683; 157 LNTS 441.

FINANCE

Agreement for the funding of the debt of Lithuania to the United States. Signed at Washington September 22, 1924; operative June 15, 1924. Treasury Department print; 9 Bevans 661.

Amendment: June 9, 1932 (Treasury Department print; 9 Bevans 681).

PACIFIC SETTLEMENT OF DISPUTES

Arbitration treaty. Signed at Washington November 14, 1928; entered into force January 20, 1930. 46 Stat. 2457; TS 809; 9 Bevans 671; 100 LNTS 111.

Treaty of conciliation. Signed at Washington November 14, 1928; entered into force January 20, 1930. 46 Stat. 2459; TS 810; 9 Bevans 673; 100 LNTS 117.

POSTAL MATTERS

Convention for the exchange of money orders. Signed at Washington April 10 and at Kaunas July 30, 1923; operative October 15, 1923.

Amendments: May 26 and June 13, 1934. June 11 and 28, 1934.

Parcel post agreement. Signed at Kaunas December 4 and at Washington December 28, 1939; operative February 1, 1940. 54 Stat. 2021; Post Office Department print; 202 LNTS 381.

TRADE AND COMMERCE[3]

Agreement according mutual unconditional most-favored-nation treatment in customs matters. Exchange of notes at Washington December 23, 1925; entered into force July 10, 1926. TS 742; 9 Bevans 668; 54 LNTS 377.

TRADE-MARKS

Agreement relating to the registration of trade-marks. Exchange of notes at Riga September 14, 1929 and at Kaunas October 11, 1929; entered into force October 11, 1929. 9 Bevans 675.

VISAS

Arrangement for the reciprocal waiver of passport visa fees for nonimmigrants. Exchange of notes at Washington April 17, 1937; entered into force April 17, 1937; operative May 1, 1937. 9 Bevans 688.

By Mr. GRASSLEY:

S. 1835. A bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to qualified beginning farmers and ranchers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

BEGINNING FARMER AND RANCHER CREDIT ACT

• Mr. GRASSLEY. Mr. President, today I want to talk about the future of American agriculture. No, I am not going to talk about bioengineering, remote sensing satellites, or using animals to produce medical products. I am also not going to talk about economic competition with the European Community or the prospects for new agricultural crops or products. I am going to talk about the future of farming as it relates to the alarming dropoff in the number of young people entering farming.

Mr. President, new blood is essential to the survival of any organization. Without new blood, industries and countries begin to show the characteristics of aging entities. New blood ensures that the organization is renewed by new entrants with their physical and mental energy.

American agriculture is as dependent on new technology, new thinking, and new people as any organization. But, as I will show you in a minute, new farmers are not entering farming, either on a part-time or full-time basis. The result is, the average age of farmers is rising and our rural communities are struggling. This is occurring even as we have spent billions of dollars during the eighties to stabilize the farm economy. To a large extent, we were finally able to do just that. In 1990, farmers enjoyed record income and debt to asset ratios fell to more manageable levels.

However, a couple of reports released this last year show that these benefits have all accrued to existing farmers and have done little to increase the number of new and beginning farmers and ranchers. The first report was published by the U.S. Department of Agriculture's Economic Research Service. It is rather dryly entitled "Estimating Entry and Exit of U.S. Farms." Among other items of interest, the report shows that during the time period of 1978–82, nearly 101,000 farmers entered farming each year, while in the period of 1982–87, only 75,000 entered annually. That is a drop of 29 percent in the number of beginning farmers.

Among age groups, the drop in new farmers is even more alarming. For instance, the drop in new farmers 25 years old or less—that is, those just out of college or high school—was down 50 percent. Entry of farmers in the 25 to 34 cohort—frequently people who have spent time working for established farmers while saving up money in order to start their own operation—dropped 30 percent.

Clearly, young people during the mid-1980's were making a fairly rational choice. Faced with high credit and startup costs, they could see that the barriers to entry were too high in many cases. As a consequence of having fewer young farmers, the average farmer's age increased. Iowa State University's "1991 Iowa Farm and Rural Life Poll" shows how the demographics will begin to look in the near future. The survey found the average Iowa farmer to be 53 years old and with nearly 40 percent of them over the age of 55. Worse yet, only 5 percent of the farmers surveyed were under 30. I want to note these figures are in line with the 1987 Census of Agriculture numbers.

Also, roughly 20 percent of the surveyed farmers are contemplating retiring in the next 5 years. What this means is that a significant change in the form of the family farm will occur in the nineties, feeding on the trend to bigger operations with fewer workers and families.

Mr. President, I think it is possible for us to change some of these demographic trends. That is why I am today introducing the Beginning Farmer and Rancher Credit Act. This bill is designed to give starting farmers the financial help they need to begin farming. It does this by helping beginning farmers make the downpayment through a loan coming from within FmHA's farm ownership loan program. FmHA would loan up to 30 percent of the purchase price, with the farmer kicking in 10 percent. It would also establish a Federal-State partnership with qualified State beginning farmer programs. Finally, 80 percent of direct farm ownership funds would be used for the downpayment loan program.

Mr. President, this is just one effort to make it possible for interested young people to enter farming. Many other steps are needed. Surely the future nature of agriculture will be affected by the demographics of our farmers as by the technology used.•

ADDITIONAL COSPONSORS

S. 493

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 493, a bill to amend the Public Health Service Act to improve the health of pregnant women, infants, and children through the provision of comprehensive primary and preventive care, and for other purposes.

S. 549

At the request of Mr. CRANSTON, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 549, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

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[3] Application of controls to trade between the United States and Lithuania while that country is under Soviet domination or control was acquiesced in by the Minister of Lithuania in Washington in a note dated July 11, 1951 to the Secretary of State.

S. 810

At the request of Mr. HARKIN, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 810, a bill to improve counseling services for elementary schoolchildren.

S. 846

At the request of Mr. PRYOR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 1120

At the request of Mr. RIEGLE, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1120, a bill to provide for a demonstration project to examine whether having a respiratory care practitioner available to provide assistance in a home setting would reduce the overall costs under Medicare of providing care to pulmonary disease patients by decreasing hospitalization rates for such patients.

S. 1175

At the request of Mr. KERRY of Massachusetts, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1175, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoners or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purposes.

S. 1357

At the request of Mr. BREAUX, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1493

At the request of Mr. GRAHAM, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1493, a bill to establish the High Speed Surface Transportation Development Corporation; to provide for high speed surface transportation infrastructure development; and for other purposes.

S. 1599

At the request of Mr. BRADLEY, the names of the Senator from Delaware [Mr. BIDEN], the Senator from North Dakota [Mr. BURDICK], the Senator from Idaho [Mr. CRAIG], the Senator from Maryland [Mr. SARBANES], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1599, a bill to extend nondiscriminatory (most-favored-nation) treatment to Estonia, Latvia, and Lithuania.

S. 1603

At the request of Mr. GRAMM, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1603, a bill to provide incentives for work, savings, and investments in order to stimulate economic growth, job creation, and opportunity.

S. 1623

At the request of Mr. DECONCINI, the names of the Senator from Connecticut [Mr. DODD], the Senator from Washington [Mr. ADAMS], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1623, a bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

S. 1653

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1653, a bill to amend the Internal Revenue Code of 1986 to remove United States tax barriers inhibiting competitiveness of United States owned businesses operating in the European Community.

S. 1711

At the request of Mr. DOLE, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1711, a bill to establish a Glass Ceiling Commission and an annual award for promoting a more diverse skilled work force at the management and decisionmaking levels in business, and for other purposes.

S. 1726

At the request of Mr. DIXON, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1726, a bill to amend the Immigration and Nationality Act to restore authority in courts to naturalize persons as citizens.

S. 1729

At the request of Mr. KENNEDY, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1729, a bill to amend the Public Health Service Act to require drug manufacturers to provide affordable prices for drugs purchased by certain entities funded under the Public Health Service Act, and for other purposes.

S. 1791

At the request of Mr. DOLE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1791, a bill to provide emergency unemployment compensation, and for other purposes.

S. 1810

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Alabama [Mr. SHELBY], the Senator from Hawaii [Mr. AKAKA], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the Medicare Program, and for other purposes.

At the request of Mr. DURENBERGER, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1810, supra.

S. 1817

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1817, a bill to amend the Trade Act of 1974 to require the National Trade Estimate include information regarding the impact of Arab boycotts on certain United States businesses.

SENATE JOINT RESOLUTION 6

At the request of Mr. JOHNSTON, the names of the Senator from Tennessee [Mr. GORE], the Senator from Kentucky [Mr. FORD], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 6, a joint resolution to designate the year 1992 as the "Year of the Wetlands."

SENATE JOINT RESOLUTION 100

At the request of Mr. KOHL, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 100, a joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 113

At the request of Mr. LAUTENBERG, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating the oak as the national arboreal emblem.

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. PRYOR], the Senator from Indiana [Mr. LUGAR], the Senator from Idaho [Mr. CRAIG], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. DIXON, the names of the Senator from New Jersey

[Mr. BRADLEY], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Kansas [Mr. DOLE], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate March 19, 1992, as "National Women in Agriculture Day."

SENATE JOINT RESOLUTION 188

At the request of Mr. LAUTENBERG, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Colorado [Mr. BROWN], the Senator from North Dakota [Mr. BURDICK], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 188, a joint resolution designating November 1991 as "National Red Ribbon Month."

SENATE JOINT RESOLUTION 190

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Joint Resolution 190, a joint resolution to designate January 1, 1992, as "National Ellis Island Day."

SENATE JOINT RESOLUTION 197

At the request of Mr. COCHRAN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 197, a joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 25, 1991, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 206

At the request of Mr. RIEGLE, the names of the Senator from Montana [Mr. BURNS], the Senator from Georgia [Mr. NUNN], the Senator from Washington [Mr. ADAMS], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 206, a joint resolution to designate November 16, 1991, as "Dutch-American Heritage Day."

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. CRANSTON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Concurrent Resolution 69, a concurrent resolution concerning freedom of emigration and travel for Syrian Jews.

SENATE RESOLUTION 196—RELATIVE TO SOVIET WITHDRAWAL FROM THE BALTIC STATES

Mr. HATCH (for himself, Mr. BRADLEY, Mr. DECONCINI, Mr. MCCAIN, Mr. GRASSLEY, Mr. DOLE, Mr. KASTEN, Mr. PRESSLER, Mr. D'AMATO, Mr. LUGAR, and Mr. GARN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 196

Whereas the rightful independence of the Baltic states of Lithuania, Latvia, and Estonia from the Union of Soviet Socialist Republics has been recognized;

Whereas more than 100,000 Soviet military personnel continue to maintain a presence in the Baltic states; and

Whereas the continued presence of Soviet troops threatens the peace and independence of the Baltic states: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should call upon the President of the Union of Soviet Socialist Republics to begin immediately a prompt withdrawal of Soviet armed forces from the Baltic states and to undertake discussions with governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal.

Mr. HATCH. Mr. President, I rise today to submit a sense-of-the-Senate resolution that explicitly calls for the Soviet Government to immediately begin a withdrawal of Soviet armed forces from the Baltic States and undertake discussions with the Governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal. I am joined in this effort by Senators BRADLEY, DECONCINI, MCCAIN, GRASSLEY, DOLE, KASTEN, PRESSLER, D'AMATO, LUGAR, and GARN.

Despite the recent independence of these states, the Soviets continue to maintain approximately 45,000 troops in each of the three Baltic States. The continued stationing of roughly 135,000 troops in the Baltic States remains a flagrant violation of their territorial integrity and political sovereignty. The continuing imposition of Soviet forces in these countries was recently characterized by Lithuanian President Landsberlgis as an act of violence, of coercion. The Baltic leadership has a right to be concerned. Some elements of the Soviet navy are reluctant to abandon their strategically located Baltic seaports, and the large presence of Soviet ground troops in these countries remains a highly destabilizing influence.

Mr. President, I hope that the Soviet Government takes notice of this resolution, and realizes how seriously Members of this Chamber view the continuing presence of Soviet forces in the Baltics.

SENATE RESOLUTION 197—AUTHORIZING TESTIMONY BY AND REPRESENTATION OF A FORMER SENATE EMPLOYEE

Mr. BOREN (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 197

Whereas, a Federal agency has requested the testimony of Jack Blum, a former special counsel to the Committee on Foreign Relations, about information relating to the Bank of Credit and Commerce International and other financial institutions obtained by the Subcommittee on Terrorism, Narcotics and International Operations during the course of its investigation into the nature of the threat to the national security of the United States from the operation of international drug cartels and the adequacy of the United States Government's response to that threat;

Whereas, by the privileges of the Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent present or former employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Jack Blum is authorized to provide testimony to federal and state agencies or officials about information, relating to the Bank of Credit and Commerce International and other financial institutions, obtained by the Subcommittee on Terrorism, Narcotics and International Operations during the course of its investigation, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Jack Blum in connection with the testimony authorized by section one of this resolution.

SENATE RESOLUTION 198—RELATIVE TO AN INVESTIGATION BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. SANFORD (for himself, Mr. JEFFORDS, and Mr. MITCHELL) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 198

Resolved, That Senate Resolution 62 of the One Hundred Second Congress (agreed to February 28, 1991) is amended—

(1) in section 2(a), by striking "$55,873,148" and inserting "$56,469,148"; and

(2) in section 12(b)—

(A) by striking "$2,774,561" and inserting "$3,370,561"; and

(B) by striking "$45,000" and inserting "$117,000"; and

(2) by adding at the end of section 12 the following new subsection:

"(d)(1) For purposes of the expeditious conduct at any time or place by the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations of its duly authorized inquiry into allegations that private United States citizens acted to delay the release of United States hostages in Iran until after the 1980 presidential election, the Subcommittee may—

"(A) authorize staff to conduct depositions of witnesses under oath, including oaths administered by individuals authorized by local law to administer oaths, for the purpose of taking testimony, and to receive books, tapes, papers, documents, and other records in connection with such testimony,

"(B) require, by subpoena or order, the attendance of witnesses and the production of books, tapes, papers, documents, and other records at such staff depositions; and

"(C) adopt and publish in the Congressional Record rules (not inconsistent with

the Standing Rules of the Senate) which shall govern for all purposes the Subcommittee's conduct of this inquiry.

"(2) The powers authorized by this section shall be supplementary to such other powers as are lawfully authorized for the Subcommittee.".

AMENDMENTS SUBMITTED

ETHICS IN GOVERNMENT ACT AMENDMENTS

DOLE AMENDMENT NO. 1255

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (S. 242) to amend the Ethics in Government Act of 1978 to modify the rule prohibiting the receipt of honoraria by certain Government employees, and for other purposes, as follows:

At the appropriate place insert the following:

SEC. . POST-EMPLOYMENT RESTRICTIONS TECHNICAL CORRECTION.

(a) LIMITATION ON POST-EMPLOYMENT RESTRICTIONS.—Section 207(j) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate, in his capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

"(B) Subparagraph (A) shall not apply to—

"(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission;

"(ii) any communication or appearance referred to in subparagraph (A) that is made by a person on any matter in which that person also represents, as agent or attorney or otherwise, anyone other than a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; and

"(iii) any communication to, or appearance before, an employee (as defined in section 2105 of title 5) of an Executive agency (as defined in section 105 of title 5), unless the employee is—

"(I) a noncareer employee of the Executive Office of the President;

"(II) the head or assistant head of an Executive department or a military department (as such terms are defined in sections 101 and 102 of title 5); or

"(III) an employee appointed by the President by and with the advice and consent of the Senate.

"(C) For purposes of this paragraph—

"(i) the term 'candidate' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

"(ii) the term 'authorized committee' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than one candidate may not be designated as an authorized committee for purposes of subparagraph (A);

"(iii) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

"(iv) the term 'national Federal campaign committee' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to the Congress;

"(v) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

"(vi) the term 'political party' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

"(vii) the term 'State' means a State of the United States, or the District of Columbia.".

(b) APPLICABILITY.—A former officer or employee who is subject to the prohibitions contained in section 207(c) of title 18, United States Code, as in effect before January 1, 1991, shall, notwithstanding such prohibitions, be permitted to make communications and appearances solely on behalf of a candidate, in his capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party, as though the provisions of section 207 of title 18, United States Code, in effect on or after January 1, 1991, as amended by this section, were applicable to such former officer or employee.

INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992

BOREN AMENDMENT NOS. 1256 AND 1257

Mr. BOREN proposed two amendments to the bill (S. 1539) to authorize appropriations for fiscal year 1992 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, as follows:

AMENDMENT NO. 1256

Title VII of S. 1539 is amended by striking section 701 in its entirely and inserting in lieu thereof the following:

SEC. 701. (a) The Congress finds that—

(1) the security of the United States is and will continue to depend on the ability of the United States to exercise international leadership;

(2) United States leadership is and will increasingly be based on the political and economic strength of the United States, as well as United States military strength around the world;

(3) recent changes in the world pose threats of a new kind of international stability as Cold War tensions continue to decline while economic competition, regional conflicts, terrorist activities, and weapons proliferation have dramatically increased;

(4) the future national security and economic well-being of the United States will substantially depend on the ability of its citizens to communicate and compete by knowing the languages and cultures of other countries.

(5) the Federal Government has a vested interest in ensuring that the employees of its national security agencies are prepared to meet the challenges of this changing international environment;

(6) the Federal Government also has a vested interest in taking actions to alleviate the problem of American undergraduate and graduate students being inadequately prepared to meet the challenges posed by increasing global interaction among nations; and

(7) American colleges and universities must place a new emphasis on improving the teaching of foreign languages, area studies, and other international fields to help meet such challenges.

(b) The purposes of this section are as follows:

(1) To provide the necessary resources, accountability, and flexibility to meet the national security education needs of the United States, especially as such needs change over time.

(2) To increase the quantity, diversity, and quality of the teaching and learning of subjects in the fields of foreign language, area studies, and other international fields that are critical to the Nation's interest.

(3) To produce an increased pool of applicants for work in the national security agencies of the United States Government.

(4) To expand, in conjunction with other Federal programs, the international experiences, knowledge base, and perspectives on which the United States citizenry, Government employees, and leaders rely.

(5) To permit the Federal Government to advocate the cause of international education.

(c)(1) The National Security Act 1947 (47 U.S.C. 401 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

"SEC. 801. SHORT TITLE.

"This title may be cited as the 'National Security Education Act of 1991'.

"SEC. 802. PROGRAM REQUIRED.

"(a) PROGRAM REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense, in consultation with the National Security Education Board established by section 803, shall carry out a program for—

"(A) awarding scholarships to undergraduate students who are United States citizens or resident aliens in order to enable such students to study, for at least 1 semester, in foreign countries;

"(B) awarding fellowship to graduate students who—

"(i) are United States citizens or resident aliens to enable such students to pursue education in the United States in the disciplines of foreign languages, area studies, and other international fields that are critical areas of such disciplines; and

"(ii) pursuant to subsection (c)(1), enter into an agreement to work for the Federal Government or in the field of education in the area of study for which the fellowship was awarded; and

"(C) awarding grants to institutions of higher education to enable such institutions to establish, operate, and improve programs in foreign languages, area studies, and other international fields that are critical areas of such disciplines.

"(2) RESERVATIONS.—The Secretary shall have a goal of reserving for each fiscal year—

"(A) for the awarding of scholarships pursuant to paragraph (1)(A), ⅓ of the amount available for obligation out of the National Security Education Trust Fund for such fiscal year;

"(B) ⅓ of such amount for the awarding of fellowships pursuant to paragraph (1)(B); and

"(C) ⅓ of such amount to provide for the awarding of grants pursuant to paragraph (1)(C).

"(b) CONTRACT AUTHORITY.—The Secretary may enter into one or more contracts, with private national organizations having an expertise in foreign languages, area studies, and other international fields, for the awarding of the scholarships, fellowships, and grants described in subsection (a) in accordance with the provisions of this title. The Secretary may enter into such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law that requires the use of competitive procedures.

"(c) SERVICE AGREEMENT.—In awarding a fellowship under the program, the Secretary or contract organization referred to in subsection (b), as the case may be, shall require the recipient of the fellowship to enter into an agreement that contains the assurances of such recipient that the recipient—

"(1) will maintain satisfactory academic progress; and

"(2) upon completion of such recipient's education, will work for the Federal Government or in the field of education in the area of study for which the fellowship was awarded for a period specified by the Secretary, which period shall be equal to not less than one and not more than three times the period for which the fellowship assistance was provided.

"(d) DISTRIBUTION OF ASSISTANCE.—In selecting the recipients for awards of scholarships, fellowships, or grants pursuant to this title, the Secretary or a contract organization referred to in subsection (b), as the case may be, shall take into consideration the extent to which the selections will result in there being an equitable geographic distribution of such scholarships, fellowships, or grants (as the case may be) among the various regions of the United States.

"(e) MERIT REVIEW.—A merit review process shall be used in awarding scholarships, fellowships, or grants under the program.

"(f) INFLATION.—The amounts of scholarships, fellowships, and grants awarded under the program shall be adjusted for inflation annually.

"(g) ADMINISTRATION OF PROGRAM THROUGH THE DEFENSE INTELLIGENCE COLLEGE.—The Secretary shall administer the program through the Defense Intelligence College.

"SEC. 803. NATIONAL SECURITY EDUCATION BOARD.

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a National Security Education Board.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Board shall be composed of the following individuals or the representatives of such individuals:

"(A) The Secretary of Defense, who shall serve as the chairman of the Board.

"(B) The Secretary of Education.

"(C) The Secretary of State.

"(D) The Secretary of Commerce.

"(E) The Director of Central Intelligence.

"(F) The Director of the United States Information Agency.

"(G) Four individuals appointed by the President, by and with the advice and consent of the Senate, who have expertise in the fields of international, language, and area studies education.

"(2) TERM OF APPOINTEES.—Each individual appointed to the Board pursuant to paragraph (1)(G) shall be appointed for a period specified by the President at the time of the appointment but not to exceed 4 years. Such individuals shall receive no compensation for service on the Board but may receive reimbursement for travel and other necessary expenses.

"(c) FUNCTIONS.—The Board shall—

"(1) develop criteria for awarding scholarships, fellowships, and grants under this title;

"(2) provide for wide dissemination of information regarding the activities assisted under this title;

"(3) establish qualifications for students and institutions of higher education desiring scholarships, fellowships, and grants under this title;

"(4) make recommendations to the Secretary regarding which countries are not emphasized in other United States study abroad programs, such as countries in which few United States students are studying, and are, therefore, critical countries for the purposes of section 802(a)(1)(A);

"(5) make recommendations to the Secretary regarding which areas within the disciplines described in section 802(a)(1)(B) are areas of study in which United States students are deficient in learning and are, therefore, critical areas within such disciplines for the purposes of such section;

"(6) make recommendations to the Secretary regarding which areas within the disciplines described in section 802(a)(1)(C) are areas in which United States students, educators, and Government employees are deficient in learning and in which insubstantial numbers of United States institutions of higher education provide training and are, therefore, critical areas within such disciplines for the purposes of such section; and

"(7) review the administration of the program required under this title.

"SEC. 804. NATIONAL SECURITY EDUCATION TRUST FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Security Education Trust Fund'.

"(b) AVAILABILITY OF SUMS IN THE FUND.—To the extent provided in appropriations Acts, sums in the Fund shall be available for—

"(A) awarding scholarships, fellowships, and grants in accordance with the provisions of this title; and

"(B) properly allocable administrative costs of the Federal Government for the program under this title.

"(2) Any unobligated balance in the Fund at the end of a fiscal year shall remain in the Fund and may be appropriated for subsequent fiscal years.

"(c) INVESTMENT OF FUND ASSETS.—The Secretary of the Treasury shall invest in full the amount in the Fund that is not immediately necessary for obligation. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

"(d) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

"(e) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—The interest on, and the proceeds from the sale of redemption of, any obligations held in the Fun shall be credited to and form a part of the Fund.

"SEC. 805. ADMINISTRATIVE PROVISIONS.

"(a) IN GENERAL.—In order to conduct the program required by this title, the Secretary may—

"(1) prescribe regulations to carry out the program;

"(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purpose of conducting the program required by this title, and to use, sell, or otherwise dispose of such property for that purpose;

"(3) accept and use the services of voluntary and noncompensated personnel; and

"(4) make other necessary expenditures.

"(b) ANNUAL REPORT.—The Secretary shall submit to the President and the Congress an annual report of the conduct of the program required by this title. The report shall contain—

"(1) an analysis of the mobility of students to participate in programs of study of foreign countries;

"(2) an analysis of the trends within language, international, and area studies, along with a survey of such areas as the Secretary determines are receiving inadequate attention;

"(3) the impact of the program activities on such trends; and

"(4) an evaluation of the impediments to improving such trends;

"SEC. 806. AUDITS.

"The conduct of the program required by this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property of the Department of Defense pertaining to such activities and necessary to facilitate the audit.

"SEC. 807. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'Board' means the National Security Education Board established pursuant to section 803;

"(2) the term 'Fund' means the National Security Education Trust Fund established pursuant to section 804; and

"(3) the term 'institution of higher education' has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965.".

(2) The table of contents for such Act is amended by inserting at the end the following:

"TITLE VIII—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

"Sec. 801. Short title.
"Sec. 802. Program required.
"Sec. 803. National Security Education Board.
"Sec. 804. National Security Education Trust Fund.
"Sec. 805. Administrative provisions.
"Sec. 806. Audits.
"Sec. 807. Definitions.".

(d) Of the amounts made available in the National Security Education Trust Fund for fiscal year 1992 for the scholarships, fellowships, and grants program provided for in title VIII of the National Security Act of 1947, as added by subsection (c), the Secretary shall reserve—

(1) $15,000,000 for awarding scholarships pursuant to section 802(a)(1)(A) of such Act;

(2) $10,000,000 for awarding fellowships pursuant to section 802(a)(1)(B) of such Act; and

(3) $10,000,000 for awarding grants pursuant to section 802(a)(1)(C) of such Act.

AMENDMENT NO. 1257

Add at the appropriate place in the bill the following new subsection:

( ) The Secretary of Defense shall take appropriate action to ensure that included within the budget submitted to Congress for the General Defense Intelligence Program for fiscal year 1993, and for every fiscal year thereafter, shall be the amounts requested to be authorized and appropriated for the (1) the TR-1 airborne reconnaissance platform and related sensor programs; and (2) the Airborne Reconnaissance Support Program. The Secretary of Defense is further directed to the consolidate management during Fiscal Year 1992 of the TR-1, U-2, and Airborne Reconnaissance Support Programs within the General Defense Intelligence Program.

GLENN (AND OTHERS) AMENDMENT NO. 1258

Mr. GLENN (for himself, Mr. SPECTER, Mr. HARKIN, Mr. BYRD, Mr. AKAKA, Mr. BRYAN, Mr. CRANSTON, and Mr. ADAMS) proposed an amendment to the bill S. 1539, supra, as follows:

On page 34, between lines 18 and 19, insert the following new section:

SEC. 602. APPOINTMENT OF CERTAIN OFFICIALS BY THE PRESIDENT.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by inserting at the end thereof the following new section:

"SEC. 18. APPOINTMENT OF CERTAIN OFFICIALS BY THE PRESIDENT.

"(a) PRESIDENTIAL APPOINTMENTS.—The President shall appoint, by and with the advice and consent of the Senate, the following officers of the United States who shall serve within the Central Intelligence Agency:

"(1) the Deputy Director for Operations.

"(2) the Deputy Director for Intelligence.

"(3) the General Counsel.

"(b) BASIS FOR REMOVAL.—Notwithstanding section 102(c) of the National Security Act of 1947 (50 U.S.C. 403(c)), any individual appointed pursuant to this section shall serve at the pleasure of the President and may be removed from office only by the President.".

FEDERAL FACILITY COMPLIANCE ACT

McCONNELL AMENDMENT NO. 1259

Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill (S. 596) to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements, as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) This section may be cited as the "Federal Recycling Incentive Act".

(b) Subtitle F of the Solid Waste Disposal Act is amended by adding at the end thereof the following:

"FEDERAL GOVERNMENT REQUIREMENTS

"SEC. 6005. (a) FEDERAL AGENCIES.—Prior to the expiration of the 180-day period following the date of the enactment of this section, the Administrator of General Services, in consultation with the Administrator of the Environmental Protection Agency, by regulation, shall establish, and from time to time modify, a program pursuant to which each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government shall be required to separate all high grade paper, newspapers, aluminum, and glass bottles and containers comprising solid waste generated by such department, agency, or instrumentality, and to collect and make such paper, aluminum, bottles, and containers available for recycling, by sale or otherwise.

"(b) PUBLICATION IN FEDERAL REGISTER.—Within 60 days following the establishment or modification of a program pursuant to subsection (a) the Administrator of General Services shall submit a copy of such program or modification to the Congress and publish a copy thereof in the Federal Register.

"(c) EFFECTIVE DATE.—Effective 180 days following such publication in the Federal Register, each department, agency, and instrumentality of the executive, legislative, and judicial branches shall take such action as may be necessary to carry out the program established pursuant to subsection (a) as published in the Federal Register.

"(d) PROCEEDS FROM SALE.—Any moneys received by any such department, agency, or instrumentality from the sale of such paper, aluminum, bottles, and containers may be retained by it and shall be available for use by it in carrying out its functions.

"(e) ENFORCEMENT.—The Administrator of General Services, in consultation with the Administrator of the Environmental Protection Agency, shall, by regulation, establish and implement a system for monitoring and enforcing the provisions of this section.

"(f) REPORT.—Prior to the expiration of the 15-month period following the date on which such program takes effect and annually thereafter the Administrator of General Services shall report to the Congress with respect to the extent of compliance by each department, agency, and instrumentality of the executive, legislative, and judicial branches with the program established pursuant to this Act for the preceding 12-month period. Such report shall identify any such department, agency, and instrumentality which fails to comply, in whole or in part, with such program. A copy of the report shall be published in the Federal Register.

"(g) AUTHORIZATION.—For the purpose of enabling the Administrator of General Services to carry out his section, there are authorized to be appropriated such sums as may be necessary.

"(h) DEFINITION.—As used in this section, the term 'high grade paper' means letterhead, dry copy papers, miscellaneous business forms, stationery, typing paper, tablet sheets, and computer printout paper and cards, commonly sold as 'white ledger', 'computer printout', and 'tab card' grade by the wastepaper industry.".

SEYMOUR (AND OTHERS) AMENDMENT NO. 1260

Mr. SEYMOUR (for himself, Mr. DOMENICI, and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill S. 596, supra, as follows:

At the appropriate place, add the following:

The Federal Bureau of Investigation is hereby authorized and directed to require by subpoena the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such sworn testimony and to make such expenditures out of any funds appropriated and not otherwise obligated to make an investigation into the matter of releasing of confidential documents transmitted to the Senate Committee on the Judiciary regarding Professor Anita Hill of the University of Oklahoma and to report to the Congress the results of this investigation not later than 30 days after the date of enactment of this Act.

VETERANS' HOSPICE SERVICES ACT OF 1991

CRANSTON AMENDMENT NO. 1261

Mr. BOREN (for Mr. CRANSTON) proposed an amendment to the bill (S. 1358) to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans, as follows:

On page 2, line 11, strike out "671." and insert in lieu thereof "1771."

On page 2, beginning on line 15, strike out "'(A) who is" and all that follows through line 19 and insert in lieu thereof the following—

"'(A) who is—

"'(i)(I) entitled to receive hospital care in a medical facility of the Department under section 1710(a)(1) of this title, or (ii) eligible for hospital and nursing home care in such facility and receiving such care;

"'(ii) receiving nursing home care at a non-Department of Veterans Affairs nursing home under section 1720(a)(1)(A) of this title; or

"'(iii) receiving domiciliary care, nursing home care, or hospital care for which the Department is paying a State per diem under section 1741 of this title; and'"

On page 3, line 9, strike out "601(4)(A)" and insert in lieu thereof "1701(4)(A)".

On page 3, line 15, strike out "672(b)(1)(D)" and insert in lieu thereof "1772(b)(1)(D)".

On page 4, line 1, strike out "672" and insert in lieu thereof "1772.".

On page 7, line 15, strike out "(B) of" and insert in lieu thereof "(B) or".

On page 7, line 25, strike out "is" and insert in lieu thereof "if".

On page 8, line 5, insert ", supplies, and medications" after "services".

On page 8, line 6, insert "that' after "exceeds".

On page 8, line 16, strike out "673." and insert in lieu thereof "1773.".

On page 8, line 18, strike out "672(a)(1)" and insert in lieu thereof "1772(a)(1)".

On page 9, line 8, strike out "674." and insert in lieu thereof "1774.".

On page 9, line 18, strike out "675." and insert in lieu thereof "1775.".

On page 9, line 23, strike out "672" and insert in lieu thereof "1772".

On page 9, line 24, strike out "673" and insert in lieu thereof "1773".

On page 10, line 6, strike out "673" and insert in lieu thereof "1773".

On page 10, line 24, strike out "672" and insert in lieu thereof "1772".

On page 10, line 25, strike out "673" and insert in lieu thereof "1773".

On page 11, line 17, strike out "672(b)(3)" and insert in lieu thereof "1772(b)(3)".

On page 12, line 25, strike out "672(c)(1)(C)" and insert in lieu thereof "1772(c)(1)(C)".

On page 13, line 18, strike out "673(a)" and insert in lieu thereof "1773(a)".

On page 13, line 25, strike out "672" and insert in lieu thereof "1772".

On page 14, line 1, strike out "673" and insert in lieu thereof "1773".

On page 15, in the matter below line 5, strike out "'671." and insert in lieu thereof "'1771.".

On page 15, in the matter below line 5, strike out "'672." and insert in lieu thereof "'1772.".

On page 15, in the matter below line 5, strike out "'673." and insert in lieu thereof "'1773.".

On page 15, in the matter below line 5, strike out "'674." and insert in lieu thereof "'1774.".

On page 15, in the matter below line 5, strike out "'675." and insert in lieu thereof "'1775.".

ANIMAL RESEARCH FACILITIES PROTECTION ACT OF 1991

HEFLIN AMENDMENT NO. 1262

Mr. BOREN (for Mr. HEFLIN) proposed an amendment to the bill (S. 544) to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Research Facilities Protection Act of 1991".

SEC. 2. PROTECTION OF ANIMAL RESEARCH FACILITIES.

The Food Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359) is amended by adding at the end of the following new title:

"TITLE XXVI—ANIMAL RESEARCH FACILITIES

"SEC. 2601. SHORT TITLE.

"This title may be cited as the 'Animal Research Facilities Protection Act of 1991'.

"SEC. 2602. FINDINGS.

"Congress finds that—

"(1) there has been an increasing number of illegal acts committed against animal facilities;

"(2) these actions not only abridge the property rights of the owner of the facility, they may also damage the public interest by jeopardizing crucial scientific biomedical, or agricultural research;

"(3) these actions can also threaten the public safety by exposing communities to contagious diseases;

"(4) these actions may substantially damage federally funded research;

"(5) disruption of scientific research supported by the Federal Government can result in the potential loss of physical and intellectual property;

"(6) Federal protection of animal research facilities is necessary to prevent and eliminate burdens on commerce; and

"(7) the welfare of animals as well as productive use of Federal research funds require regulation to prevent unauthorized possession, alteration, destruction, or transportation of research records, test data, research materials, equipment, research animals, or any combination thereof.

"SEC. 2603. PROHIBITED ACTS.

"(a) IN GENERAL.—It shall be unlawful for any person—

"(1) to steal, cause the unauthorized release or the intentional loss of any animal from research facility;

"(2) to damage, vandalize, or steal any property in or on a research facility;

"(3) to break and enter any research facility with an intent to destroy, alter, duplicate, or obtain the unauthorized possession of records, data, materials, equipment, or animals;

"(4) to enter, obtain access, or remain on a research facility with the intent to commit an act described in paragraph (1) or (2);

"(5) to aid, abet, counsel, command, induce, or procure the commission of an act described in paragraph (1), (2), (3), or (4); or

"(6) knowing an offense described in paragraph (1) has occurred, to receive, relieve, comfort, or assist the offender in order to prevent the offender's apprehension, trial, or punishment.

"(b) SCOPE OF AUTHORITY DEFENSE.—It shall be a defense to any provision under this section that the person engaging in such acts is a Federal, State, or local law enforcement official acting within the scope of their official duties, or the person is acting under the authorization of a law enforcement official and the action is within the scope of the law enforcement official.

"SEC. 2604. PENALTIES.

"(a) IN GENERAL.—

"(1) GENERAL VIOLATIONS.—Any person who violates any provision of section 2603 shall be subject to fine of not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(2) WILLFUL VIOLATIONS CAUSING HARM.—If the violation causes harm to person or property and is willful and malicious, the person shall be subject to a fine of not more than $10,000 or imprisoned for not more than 10 years, or both, for each such violation.

"(3) LIFE-THREATENING VIOLATIONS.—If as a result of the violation, the life of any person is placed in jeopardy, the person shall be fined not more than $25,000 or imprisoned for not more than 20 years, or both, for each such violation.

"(b) REASONABLE COSTS.—

"(1) DETERMINATION.—The United States District Court or the United States Magistrate, as the case may be, shall determine the reasonable cost of replacing materials, data, equipment, or animals, and records that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated as a result of a violation of section 2603.

"(2) LIABILITY.—Any persons convicted of a violation described in paragraph (1) shall be ordered jointly and severally to make restitution to the research facility in the full amount of the reasonable cost determined under paragraph (1).

"SEC. 2605. COURT JURISDICTION.

"The United States District Courts, the District Court of Guam, the District Court of the Virgin Islands, the Highest Court of American Samoa, and the United States courts of the other territories are vested with jurisdiction specifically to enforce, to prevent, and to restrain violations of this title, and shall have jurisdiction in all other kinds of cases arising under this title.

"SEC. 2606. PRIVATE RIGHT OF ACTION.

"(a) IN GENERAL.—Any research facility injured in its business or property by reason of a violation of this title shall have a private right of action to recover actual and consequential damages, and the cost of the suit (including a reasonable attorney's fee), from the person or persons who have violated any provision of this title.

"(b) CONSTRUCTION.—Nothing in this title shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this title. Subsection (a) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of this title.

"SEC. 2607. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL FACILITIES.

"(a) CONDUCT OF STUDY.—The Secretary of Agriculture and the Attorney General shall jointly conduct a study on the extent and effects of domestic and international terrorism on animal research production, and processing facilities and all other facilities in which animals are used for research, food production, exhibition, or pets.

"(b) REPORT.—Not later than 1 year after the date of enactment of this title, the Secretary and Attorney General shall submit a report that describes the results of the study conducted under subsection (a), together with any appropriate recommendations and legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"SEC. 2608. EFFECT ON FEDERAL AND STATE LAWS.

"Nothing in this title shall be construed to affect or preempt any Federal or State law or regulation.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 16, at 10

a.m. to hold a hearing on S. 1793, sanctions legislation relating to the Yugoslav civil war.

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

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 16, at 2 p.m. to hold an ambassadorial nomination hearing.

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

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 16, at 3:30 p.m. to hold a nomination hearing for Mr. Richard Houseworth, to be U.S. alternate Executive Director of the Inter-American Development Bank.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, October 16, 1991, at 9:30 a.m. for a hearing on drug price increases and the public health.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., October 16, 1991, to consider S. 484, S. 106, S. 140, H.R. 543, the nomination of Elizabeth Moler, the nomination of Branko Terzic, S. 1671, S. 549, S.J. Res. 23, S. 1179, S. 1187, and S. 1528.

Agenda	*Date put on agenda*
1. S. 484, to establish conditions for the sale and delivery of water from the Central Valley Project, CA, a Bureau of Reclamation facility, and for other purposes	7-19-91
2. S. 106, to amend the Federal Power Act	9-20-91
3. S. 140, to increase Federal payments in lieu of taxes to units of general local government, and for other purposes	9-20-91
4. H.R. 543, to establish the Manzanar National Historic Site in the State of California, and for other purposes	9-20-91
5. Nomination Agenda of Elizabeth Moler to be a Member of the Federal Energy Regulatory Commission	10-10-91
6. Nomination of Branko Terzic to be a Member of the Federal Energy Regulatory Commission	10-10-91
7. S. 1671, to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, NM, and for other purposes	10-10-91
8. S. 549, to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System	10-10-91
9. S.J. Res. 23, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920	10-10-91
10. S. 1179, to stimulate the production of geologic map information in the United States through the cooperation of Federal, State, and academic participants	10-10-91
11. S. 1187, to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes	10-10-91
12. 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, and for other purposes	10-10-91

1. FROM THE SUBCOMMITTEE ON WATER AND POWER

S. 484 (Bradley and Cranston). The Central Valley Project Improvement Act.

Purpose: The purposes of S. 484 are to promote and expand the authorized purposes of the Central Valley Project, California, by establishing conditions which must be satisfied before the Secretary of the Interior may sell or deliver water from the Central Valley Project under contract or other agreement, and for other purposes.

Legislative History: S. 484 was introduced by Senators Bradley and Cranston on February 26, 1991. The Subcommittee on Water and Power conducted hearings on S. 484 in Los Angeles, California, on March 18; in Washington, D.C. on May 8; and in Sacramento California on May 30, 1991.

At the May 8 Subcommittee hearing, representatives from the Bureau of Reclamation testified in opposition to S. 484 as unnecessary at this time. Representatives from the U.S. Fish and Wildlife Service and Bureau of Indian Affairs supported certain provisions of S. 484, while opposing others as unnecessary. Representatives from the Environmental Protection Agency supported the bill. A representative of the Department of Agriculture expressed concern over certain provisions of the bill, while supporting others.

Amendments: Senator Bradley may offer amendments. Other amendments are expected.

2. FROM THE SUBCOMMITTEE ON WATER AND POWER

S. 106 (Craig, Symms & Seymour). A bill to amend the Federal Power Act.

Purposes: The purpose of S. 106 is to reverse the U.S. Supreme Court's 1990 opinion in the case of California v. FERC (generally known as the "Rock Creek" case). The bill amends the Federal Power Act to prohibit the granting of a Federal license for a hydroelectric project unless the applicant complies with all substantive and procedural requirements of the affected State in which the project is located with respect to water acquisition and use.

Legislative History: S. 106 was introduced on January 14, 1991. The Subcommittee on Water and Power conducted a hearing on S. 106 on June 5, 1991. The Administration and staff of the Federal Energy Regulatory Commission testified in opposition to the measure.

Amendments: Amendments are expected.

3. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 140 (Wirth and Brown). To increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

Purposes: The purpose of S. 140 is to increase Federal payments in lieu of taxes (PILT) to units of local government and to provide for an annual adjustment of the PILT payments for inflation.

Legislative History: S. 140 was introduced by Senator Wirth on January 14, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on the measure on July 23, 1991. An identical bill, S. 3128, was introduced by Senator Wirth on September 27, 1990 but no action was taken.

At the Subcommittee hearing, witnesses from the Forest Service and the Bureau of Land Management testified in opposition to the bill.

Amendments: Senator Garn is expected to offer an amendment.

4. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

H.R. 543. To establish the Manzanar National Historic Site in the State of California, and for other purposes.

Purpose: The purpose of title I of H.R. 543 is to establish the 500-acre Manzanar National Historic Site in California. Title II of H.R. 543 directs the Secretary of the Interior to conduct a National Historic Landmark theme study on Japanese-American history.

Legislative History: H.R. 543 passed the House of Representatives by a voice vote on June 24, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on H.R. 543 on July 25, 1991. The Subcommittee also held a hearing on S. 621, sponsored by Senators Cranston and Akaka, which would establish the Manzanar National Historic Site, and S. 1344, introduced by Senators Akaka, Cranston and Adams, pertaining to the Japanese-American history theme study.

At the Subcommittee hearing, the Associate Director of the National Park Service testified in support of title I and in opposition to title II of H.R. 543.

Amendments: Amendments are likely.

5. FROM THE FULL COMMITTEE

To consider the nomination of Elizabeth Moler to be a Member of the Federal Energy Regulatory Commission.

Legislative History: The Full Committee conducted a hearing on October 2, 1991. Commissioner Moler has submitted all required information under the Committee Rules.

6. FROM THE FULL COMMITTEE

To consider the nomination of Branko Terzic to be a Member of the Federal Energy Regulatory Commission.

Legislative History: The Full Committee conducted a hearing on October 2, 1991. Commissioner Terzic has submitted all required information under the Committee Rules.

7. FROM THE FULL COMMITTEE

S. 1671 (Domenici and Bingaman). To withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, New Mexico, and for other purposes.

Purpose: S. 1671 would permanently withdraw the public lands surrounding the Waste

Isolation Pilot Plant and transfer the jurisdiction over these lands to the Department of Energy. S. 1671 authorizes the Secretary of Energy to carry out an experimental program at the WIPP and contains limitations and restrictions on the operation of the WIPP during the period.

Legislative History: S. 1671 was introduced on August 2, 1991. The full Committee held a field hearing on S. 1671 in Albuquerque, New Mexico on September 21, 1991. In April 1991, the Administration submitted to the Congress legislation dealing with the same subject matter (S. 1007), which was introduced by request by Senator Johnston on May 8, 1991.

Amendments: A joint staff substitute will be circulated. Further amendments are possible.

8. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 549 (Cranston). To amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

Purpose: The purpose of S. 549 is to designate approximately 8 miles of the lower Merced River in California as a component of the National Wild and Scenic Rivers System.

Legislative History: S. 549 was introduced by Senator Cranston and on March 5, 1991, the Subcommittee on Public Lands, National Parks and Forests held a hearing on the bill on March 21, 1991. The House and Senate passed similar legislation last Congress, although because of non-germane amendments, the bill was not enacted.

At the Subcommittee hearing, the Assistant Director of the Bureau of Land Management testified in support of the bill, if amended.

Amendments: Amendments are likely.

9. FROM THE FULL COMMITTEE

S.J. Res. 23 (Mr. Inouye). To consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

Purpose: The purpose of Senate Joint Resolution 23 is to provide Congressional consent to amendments to the Hawaiian Homes Commission Act. In 1959, the Hawaii Admission Act transferred authority over the Hawaiian Homes Commission Act to the State of Hawaii, but at the same time required Congressional consent to certain amendments to the Act proposed by the State.

Legislative History: Senate Joint Resolutions 23 through 34 were introduced by Senator Inouye on January 14, 1991. A hearing was held on July 23, 1991. Testimony was heard from representatives of the Department of the Interior, the Office of the Governor, the Department of Hawaiian Home Lands, and the Office of Hawaiian Affairs.

Amendments: Amendments are anticipated.

10. FROM THE SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

S. 1179 (Johnston, Bingaman, Craig, Jeffords, Ford, Bentsen, Shelby, Burdick, Murkowski, Burns, Heflin, Boren, Pryor, Kerry, DECONCINI, Symms, Hatfield, and Wirth). The Geologic Mapping Act of 1991.

Purpose: The purpose of the bill is to stimulate the production of geologic map information in the United States through the cooperation of Federal, State, and academic participants.

Legislative History: S. 1179 was introduced on May 23, 1991. The Subcommittee on Mineral Resources Development and Production held a hearing on July 26, 1991.

At the Subcommittee hearing, the U.S. Geological Survey (USGS) testified that the Administration could not support S. 1179 because it duplicated authorities contained in the USGS's Organic Act of 1879, and that the funding levels run counter the Administration's.

Amendments: Amendments are likely.

11. FROM THE SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

S. 1187 (Bingaman and Wallop). To amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands; and for other purposes.

Purpose: The purpose of S. 1187 is to establish additional procedures for entry for mineral prospecting, exploration, development and production on Stock Raising Homestead Act lands where the mineral estate is owned by the federal government and the surface has been patented for stock raising purposes.

Legislative History: S. 1187 was introduced by Senators Bingaman and Wallop on May 24, 1991. The Subcommittee on Mineral Resources Development and Production held a hearing on the bill on July 30, 1991.

At the Subcommittee hearing, the Bureau of Land Management supported the bill, with some recommendations for amendments.

In the 101st Congress, similar legislation, S. 1908, was introduced by Senator Bingaman and a hearing was held on March 9, 1990, but no action was taken.

Amendments: Amendments are likely.

12. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 1528 (Bingaman and Domenici). To establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes.

Purpose: The purpose of S. 1528 is to establish the Mimbres Culture National Monument in southwestern New Mexico and to establish an archeological protection system for Mimbres sites.

Legislative History: S. 1528 was introduced by Senators Bingaman and Domenici on July 23, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 1528 on September 26, 1991. Last Congress, the Subcommittee held a hearing on similar legislation, S. 2429, introduced by Senator Bingaman.

At the Subcommittee hearing, the Associate Director of the National Park Service testified in support of the bill.

Amendments: Amendments are possible.

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

COMMITTEE ON FINANCE

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 16, 1991, at 10 a.m. to hold a hearing on Japanese Keiretsu practices and their impact on United States-Japan economic relations.

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

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. BOREN. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance be authorized to meet during the session of the Senate on October 16, 1991, at 2 p.m. to hold a hearing on S. 1826, the Crop-Sharing Hunger-Relief Act.

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

ADDITIONAL STATEMENTS

KRUTULIS' 40TH ANNIVERSARY OF COMMITMENT TO EDUCATION

• Mr. GRAHAM. Mr. President, today I rise to honor Marian Krutulis for her 40 years of love and dedication as an educator and as owner of the prestigious Gulliver Schools. Marian Krutulis is a humble and dedicated individual who has used her talents, time and love toward benefiting students from kindergarten to the university level in education.

As founder of the Florida Kindergarten Council, Florida Association of Academic Non-Public Schools, and cofounder of the Florida Council, she has dedicated her life to the improvement of education—the foundation of our country's future and progress. In addition, Marian has served and chaired several committees, earning her a distinguished reputation in the Miami area as well as an invitation from the U.S. Secretary of Education to serve as a consultant.

When Marian and her husband, Joseph, took students into their home, fed them, and offered them their love and understanding, she went beyond her duties as an educator. She taught her students that education goes beyond the textbooks and the classroom. Marian was not afraid to instill values in her students. As an educator, she has served as an example to the community as she helped students of all ages to realize their potential and enriched their lives with the never-ending joy of learning.

It is with great honor, Mr. President, that I ask my colleagues to join me in saluting the spirit and enthusiasm that Marian Krutulis has demonstrated as an outstanding educator and as a member of the Greater Miami community.•

MONHEGAN ISLAND—MAINE'S ESSENCE

• Mr. COHEN. Mr. President, Monhegan Island, a small lobstering community in my home State of Maine, has for years attracted artists, poets, birdwatchers, and vacationers to its shores.

The untamed beauty of this island—nearly 10 miles from the mainland—embraces visitors with its majestic cliffs, turbulent sea, thriving forests, brisk sea air, and countless species of wildlife, including a family of American bald eagles.

In a recent article for the Boston Globe, Ellen Bartlett captures well the essence of Monhegan Island as she describes the rich, distinctive experience of an autumn repose there.

Mr. President, I ask that the text of the article be printed in the RECORD.

The article follows:

[From the Boston Globe, Sept. 22, 1991]

MONHEGAN—MAINE'S ESSENCE

(By Ellen Bartlett)

One of the first things you are likely to see when you emerge from the pine woods at Lobster Cove is the wreck of the D.T. Sheridan.

The tugboat has been laying on its side on the southern tip of the island since 1948, hull ripped open like some flimsy envelope, parts scattered and rusting. To the uninitiated, such a find—by a dark crashing sea, with a foghorn sounding a lonely low note in the distance—can be an easy metaphor for the ruthless power of the sea.

(Except that accounts say the D.T. Sheridan was abandoned offshore because of a fire and kind of drifted to its doom, or, alternatively, the captain wasn't paying attention and ran aground.)

If you don't get out to Lobster Cove, the Visitor's Guide to Monhegan Island, Maine—a 12-page guide booklet sold at island stores (both of them) for 10 cents—has some pretty graphic imagery of it own.

Upon describing the cove as "an excellent area for bird watching," it then warns in bold letters: Don't try to swim or wade there (or anywhere else on the back of the island).

"Undertows there are unpredictable and dangerous, and high surf can sweep you away," it says.

"No one has been saved who has gone overboard from Green Point to Lobster Cove."

Then there is Gull Cove, which the guide recommends as a place to watch the sea up close—just not too close.

"An almost invisible moss grows on rocks wet by the surf. * * * People venturing onto such rocks have slipped, falling into the sea, and been lost," it says. Huge waves (called combers) "come without warning and sweep away anything in their path."

It is enough to make the faint of heart retreat to their rooms. Except rooms on Monhegan are not places where guests would want to spend a lot of time. Nothing wrong with them. They're just rooms, clean, utilitarian, plain, unheated, often unlit.

Monhegan in autumn is the essence of Maine: it can be harsh, unpredictable, cold; it also can sweep you off your feet.

No sooner does Labor Day pass than Maine is emptied of its summer millions. Those who ignore the ebb tide of visitors and go downeast in autumn will find themselves pleasantly surprised by how little they have missed (even on the hottest July day, only the hardiest can bear to swim here anyway) and how much they have gained, in insight into the real Maine, without traffic and noise and crowds, not to speak of shorter lines at L.L. Bean.

Autumn is the long slow slide into winter, the summer residents pack, the migrant workers finish the blueberry harvest, the days grow shorter but the winter storms only threaten. It is a brief window of opportunity on Monhegan, only a matter of weeks between the time the summer residents leave and the hotels and guesthouses close.

By the end of October, the island's 80 year-rounders have Monhegan to themselves again. They are not likely to be interrupted much, with weather unpredictable, boats less frequent, the journey less and less pleasant.

If the truth be known about the seas off Maine, they can be unpleasant any time of the year. Just a day after Labor Day, the mailboat Laura B was maneuvering rough waters en route to Monhegan. Those passengers who had chosen to ride it out in the bow may have been soaked and freezing, but they were happier than those who had thought themselves so smart to grab seats in the stern cabin.

It could have been worse. Balmy Days II, the badly-misnamed dayboat out of Boothbay Harbor, was halfway to Monhegan when it was forced to turn back. By the time they got back to the dock, passengers were so ill most declined the offer to bus them to Port Clyde for the afternoon mailboat.

Out on the island, the wind was up, the whistle buoys gave out their faint haunting boots, the bell buoys clanged, black-backed gulls fought the winds and lost.

Barely more than a square mile in area, Monhegan lies just beyond Penobscot Bay, 10 miles offshore from Port Clyde, the nearest point of land. Monhegan was described by a mariner in 1590 as "beached like a whale," with high headlands sloping down to a flat tail.

The back side of the island faces the open Atlantic from dramatic cliffs that rise 160 feet above the sea; where the land is low and gentle, there are seals swimming, cormorants diving for fish then, looking poised and vain, drying their black wings from perches on the rocks.

For birdwatchers, Monhegan is mecca, directly under the path and therefore a favorite stopping place for migrating birds heading north along the Atlantic coast. Hundreds of species of birds, from predator hawks to geese, are sighted in fall and spring.

Perhaps the island's best feature is its 17 miles of walking trails, leading over cliffs and into valleys, under virgin spruce and fir, rambling through raspberries and tracing the shore.

Theodore Edison, son of the inventor, receives much of the credit for the unspoiled nature of Monhegan; he has amassed many of the island's 600 acres, and in 1954 he founded Monhegan Associates, a nonprofit group dedicated to preserving the wild beauty of the island. Development has been confined to a community of 125 dwellings clustered around the harbor.

It is noted with irony that one descended from Thomas Edison, the inventor of the electric light, would be linked with a place where electricity is still a luxury; there are a few private generators, but many islanders still make do with gas appliances and kerosene lamps.

Amenities may be lacking, but the island is far from primitive. It supports a thriving community of artists, primarily painters, following the example of Rockwell Kent, James Fitzgerald and others. Jamie Wyeth is probably the best-known resident, but there are many more working artists in studios scattered throughout the community; hours when they are open to the public are posted on one of the community bulletin boards. (Along with such intriguing notices as "Lost on trails—women's jean shorts. Please return.")

The island also has produced a number of poets.

Creased with years huge elephant-hided rocks slumber by the sea.
Herring gulls crack shells against them, breaking sea urchins, waves brake and turn away.
Year after year, barnacle shells mark tide on the rocks . . .

Frances Downing Vaughan wrote about more than Monhegan; a collection of her work is on sale at the Island Spa.

It is easy to see the attraction of writers and artists to such a place. Monhegan, wrote Ruth Lothrop, a Maine author whose fifth book was dedicated to the island, "has retained its unique essence down to the present day—unchanging, majestic and magical, it still remains one of the last bastions of unspoiled nature in an increasingly chaotic world."

Lothrop incidentally, lives on Monhegan in a house of "her own unique design and specializes today in 6-foot murals of her original Monhegan scenes in acrylic on wood." Or so it was reported in a review of her work posted on one of the bulletin boards.

The bulletin boards seem to be the primary means of communication on Monhegan; they are democratic, inclusive and nondiscriminatory between visitors, artists and local fishermen, a forum for everything, from selling gas heaters to announcing the recent "pukamani" for Rueben Tam, an artist and poet. (A pukamani, the poster explained, is a "ceremony practiced by Tiwi Aborigines of Australia when a loved one dies." Reuben Tam had passed away earlier in the year.)

The invitation for the late-summer event was still posted though the time had passed. "Please come," it said, "Bring flowers, wreaths, words, stories, songs, offerings to taste, touch, smell and listen to. Come and show affection for Monhegan's memorable artist, poet, gardener, gatherer, cook, punster, rockhounder, star-gazer and moonwatcher."

But turn from the bulletin board, walk a few yards, and you find yourself on the harbor, watching the lobster boats riding to their anchors. Lest there be any mistake, Monhegan is still essentially a lobstering community. Art may be the expression of it, but fishing is the soul of the community.

The island's year-round residents are fishing people; indeed, the lobstering on the island takes place in the harshest months. Monhegan is the only Maine island with a closed legal lobster season, from Jan. 1 to June 25.

As wonderful as autumn is to visit as Monhegan, it surely must be a difficult time for those who have to leave.

Consider the following conservation, overheard by the pay telephone on the porch of the Monhegan House, a plain but charming old Victorian hotel:

"I know I should be thinking about returning and all.

"But to what?

I had passed by and entered the lobby, but stayed by the screen door wondering, to what would he be returning?

"I can't handle the day-to-day drudgery of medicine," he said. "The bills, the computers.

"I just can't. Not anymore."

Those who do not wish to make the autumn passage offshore will find that mainland Maine is not dissimilar, there are many possibilities.

On my way to Monhegan, I stayed at the Mill Pond Inn in Damariscotta Mills, which is located, appropriately enough, on a round mill pond, which is connected to Damariscotta Lake, which features, among other things, a family of bald eagles.

There are many such places, in small villages, off the beaten tourist track, not much to do, except to walk, sleep in, eat well.

The Mill Pond Inn has a canoe for guests to take out on the lake. Directions to the eagles were, roughly: Go under the bridge by the old ice house and turn left, paddle a hundred yards or so around a point and along the shore, and there, midway up a second point, in the crook of a tall white pine, is the nest.

I paddled the canoe past the point, let it drift to a stop in a mat of lily pads. I sat

with the sun on my back and watched. The sun sank, I watched, fish surfaced at the side of the canoe with little plops, a great blue heron passed by, a graceful dart. Dragon flies made purple circles in the air.

Sunk into peaceful contemplation, I was heaving a contended sigh, when there was an agonizing endless screeching squeal of brakes. I braced for the crash, watched a mustard-colored pickup truck fishtail to a stop in the middle of the road along the lake. It made a wild U-turn and raced off back in the direction from which it came.

Had the eagles been anywhere near, they certainly would be gone now. This too, is Maine. I headed the canoe back to the inn.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Mr. Stuart Feldman, a member of the staff of Senator ORRIN G. HATCH, to participate in a program in Japan, sponsored by the Japanese Ministry of Foreign Affairs, from October 19–30, 1991.

The committee has determined that participation by Mr. Fieldman in the program in Japan, at the expense of the Japanese Ministry of Foreign Affairs, is in the interest of the Senate and the United States.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign county paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Gerald Sinclair, a member of the staff of Senator SIMON, to participate in a program in Germany sponsored by the German Government from October 12–23, 1991.

The committee has determined that participation by Mr. Sinclair in this program, at the expense of the German Government is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Michael J. Cook, a member of the staff of Senator CHAFEE, to participate in a program in Australia, sponsored by the Australian Government, in early January 1991.

The committee has determined that participation by Mr. Cook in the program in Australia, at the expense of the Australian Government, is in the interest of the Senate and the United States.•

COSPONSORSHIP OF S. 1653

• Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 1653, the European Community Competitiveness Tax Act of 1991, introduced by my distinguished colleague from New York, Senator MOYNIHAN. This legislation amends the Internal Revenue Code of 1986 to remove U.S. tax barriers to U.S.-owned businesses operating in the European Community.

S. 1653 amends subpart F so that U.S. businesses operating in the EC will not be subject to subpart F taxation on their undistributed earnings if they pay an effective foreign tax rate of at least 80 percent rather than the current 90 percent. This provision makes subpart F rules more flexible as they relate to sales and services income of U.S. foreign subsidiaries located and operating in the EC.

This legislation will allow U.S. multinational corporations greater freedom to consolidate and streamline their EC operations. This will enhance efficiency and increase the competitive position of U.S. companies in the EC markets.

Current tax law encourages U.S. businesses to establish or maintain subsidiaries in each European country, thereby increasing operating costs. Subpart F is counterproductive to position in the EC market. At a time when we are rapidly trying to establish and maintain competitive positions worldwide, it seems appropriate to correct the identifiable deficiencies within our own system as quickly as possible. Increased competitiveness abroad will increase exports and create more jobs here at home. We know, on average, that for every $1 billion in merchandise exported approximately 22,000 jobs are created. Also, about 1 in 6 manufacturing jobs results from merchandise exports showing just how important exports are to our overall economy.

Mr. President, I join my colleague Senator MOYNIHAN in supporting this as an interim measure to increase competitiveness for U.S. companies in the EC. I look forward to supporting continued efforts to assist New York companies competing abroad.•

THE MINNESOTA TWINS

• Mr. DURENBERGER. Mr. President, this past Sunday the Minnesota Twins earned the 1991 American League championship as a result of their 8 to 5 victory over the Toronto Blue Jays. They now await the winner of the National League championship between the Atlanta Braves and Pittsburg Pirates.

Perhaps the most impressive aspect of this series was the fact that the Twins were able to sweep the Blue Jays in their own ballpark after having won only two games there during the regular season. In doing so, they became the first team to win three playoff games on the road. In addition to the outstanding team effort which was played out in front in the entire sports community, there were also many stories of individual achievement.

Once again the Minnesota pitching staff came through with flying colors. Beginning with the pitching of veteran Jack Morris (2–0, 4.05 ERA) and ending with strong performances by Carl Willis, Mark Guthrie, and Rick Aguilera out of the bullpen, Toronto was limited to a .249 batting average during the ALCS.

Timely hitting and aggressive baserunning once again became the benchmark of an offense which came to life when the series was on the line. Led by championship series MVP Kirby Puckett (.429 average, 2 home runs, and 6 RBI's), the Minnesota bats came alive during the final games in SkyDome. As a result, the Hubert H. Humphrey Metrodome will once again play host to baseball's finest when the first game of the 88th World Series is played there this coming Saturday.

Mr. President, perhaps Jack Morris said it best when he stated, "This is what you live for. This is the culmination of a lot of work, of people pulling hard all year long." This expression of teamwork has again brought the Twins organization to the doorstep of another world championship. I congratulate the Toronto Blue Jays on an excellent season and thank them for their effort in a most memorable championship series. I congratulate the Twins on a job well done and I am confident the citizens of my home State of Minnesota will once again be celebrating as baseball's world champions in the very near future.•

WORLD FOOD DAY

• Mr. LEAHY. Mr. President, today is World Food Day. By bringing the plight of hunger to national and international attention, World Food Day helps to search for and bring about solutions to end hunger in developing countries.

I first introduced a resolution marking this day in 1981. This year, nearly 450 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances. This day also serves as a focal point for year-round hunger programs.

The member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day to increase public awareness of world hunger problems.

Hunger and malnutrition remain daily facts of life for hundreds of millions of people in this country and throughout the world. The children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease. Many other children suffer permanent physical or mental impairment because of vitamin or protein deficiencies.

The people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world. The enormous food production capacity of the United States is valuable tool in efforts to alleviate world hunger and encourage peace.

Let us also remember that millions of Americans are hungry every day, too. As chairman of the Committee on Agriculture, Nutrition, and Forestry, I urge every Senator to join me in the search for both national and global solutions to hunger.●

200TH ANNIVERSARY OF THE FOUNDING OF GEORGETOWN, DE

● Mr. BIDEN. Mr. President, it is with great pleasure that I speak today about a very special occasion, the bicentennial anniversary of the founding of Georgetown, DE. All Delawareans are proud of such an historic achievement, but we also believe this is a celebration whose meaning has resonance for all Americans.

Georgetown is a town that embodies the spirit of America. Tradition lives side by side with progress, the sense of community is strong and valued, neighbors care for and help one another, and visitors are welcome and made to feel at home. It is a center of education, commerce, and government, located literally and by design in the center of Sussex County. Since October 26, 1791, Georgetown has been the "Seat of Justice."

For the citizens of Delaware, Georgetown also serves as a center of unity through the tradition of Return Day. Beginning in 1792, when election outcomes were not announced until 2 days after the votes were cast, people gathered in Georgetown to hear the results announced.

It has been suggested that, with modern election methods, Return Day is no longer necessary, but Delawareans know better. The other purpose of Return Day—bringing together candidates and citizens who had been on opposite sides in the election in a spirit of reconciliation and unity—remains as effective and essential as it ever was.

It may seem improbable to those who have never been in Georgetown 2 days after an election, but it is a powerful event. You can feel the change from the fight of the campaign to cooperation of representative government and close community; you can feel people setting aside past differences and agreeing to work together to make life in Delaware better. That's the spirit of Return Day, and that's the spirit and character of Georgetown.

It is with deep pride that I speak about Georgetown and the tradition of Return Day. All citizens of our State honor those who laid the town's foundation, built its traditions, and have maintained its heritage and its heart. Georgetown's bicentennial reminds us all of what is best and most meaningful in our tradition of community. I congratulate Georgetown's citizens and join them in celebration, as do all Delawareans, with enthusiasm and thanks.●

THANKING SUPREME COURT NOMINATION TASK FORCE MEMBERS

● Mr. KOHL. Mr. President, I rise today to thank 14 of the best and the brightest legal minds in the United States. During the recent nomination of Judge Clarence Thomas to be Associate Justice of the Supreme Court, and also during the deliberation of Justice Souter's nomination, I sought the assistance of those whom I consider to be among the most qualified attorneys—both legal scholars and practitioners—in my home State. Although every member may not agree with my vote, their efforts in analyzing Judge Thomas' opinions, writings, and speeches contributed greatly to my making a well-informed decision.

This nonpartisan task force was chaired by the deans of my State's two law schools, and included private practitioners, public practitioners, and law school professors. They devoted many hours of their own time, pro bono, for the good of the citizens of their community, Wisconsin, and the country. This unselfish giving of hard work is one example of what makes Wisconsin special, and why I am proud to represent that State.

Mr. President, the members of my Supreme Court Nomination Task Force are as follows:

TASK FORCE MEMBERS

Dean Dan Bernstine (co-Chair), University of Wisconsin Law School.

Professor Gordon Baldwin, Marquette University Law School.

Greg Conway, Esq., Liebmann, Conway, Olejniczak, Jerry, S.C., Green Bay, Wisconsin.

Ray Dall'osto, Esq., Gimbel, Reilly, Guerin & Brown, Milwaukee, Wisconsin.

Professor Marc Galanter, University of Wisconsin Law School.

Patricia Gorence, Deputy Attorney General, Department of Justice, State of Wisconsin.

Professor James Jones, University of Wisconsin Law School.

Dean Frank DeGuire (Co-Chair), Marquette University Law School.

Professor Linda Greene, University of Wisconsin Law School.

Professor Peter Rofes, Marquette University Law School.

Thomas P. Schneider, Deputy District Attorney, Milwaukee, Wisconsin.

Professor Frank Tuerkheimer, University of Wisconsin Law School.

Professor Phoebe Williams, Marquette University Law School.

Brady Williamson, Esq., LaFollette & Sinykin, Madison, Wisconsin.●

COMMENDING CHIEF M. SGT. MELVIN E. KERR, SR.

● Mr. LUGAR. Mr. President, on October 5 of this year, Chief M. Sgt. Melvin E. Kerr, Sr., retired from the 906th Tactical Fighter Group at Wright-Patterson Air Force Base in Ohio after 39 years of service to the military. This occasion provides me with the opportunity to recognize a native Hoosier for his exceptional service to our country.

A graduate of Lincoln High School in Evansville, IN, Melvin joined the Air Force and relocated to Alaska. After 4 years of service, he joined the Active Reserves. During his tenure, his units provided support for the conflicts in Korea, Vietnam, and the Middle East. Melvin has received numerous citations and awards. The Good Conduct Medal, Air Reserve Forces Meritorious Service Medal, National Defense Service Medal, and the Air Force Longevity Service Award.

Paula Kerr, his wife, worked for me during my mayoral tenure with the Indianapolis Housing Development Authority. Together, they have raised 8 children and 14 grandchildren. His civilian positions include managing security for the Merchants National Bank Co. and military intelligence for Fort Benjamin Harrison in Indiana.

Melvin embodies the rare qualities of courage, devotion, strength, and patience that has made our military the greatest in the world.

I ask my colleagues to join me in congratulating Melvin E. Kerr for his many contributions to our country and to his family.●

COMMENDING NYNEX INFORMATION RESOURCES CO.

● Mr. D'AMATO. Mr. President, as everyone knows, when a telephone company like AT&T messes up, I'm at least as ready as the next person to criticize it and demand that the situation be corrected. At the same time, when a phone company behaves like a respon-

sible corporate citizen—setting an example I would like to see more companies follow—I also think it deserves some mention.

That is why I would like to call my colleagues' attention to a recent incident involving the NYNEX Information Resources Co.—publisher of yellow pages and phone books throughout New York State—that demonstrates an attitude worthy of public recognition, and, hopefully, emulation.

It seems that, somehow, an ad in questionable taste for one of these socalled escort services got into one edition of the Yellow Pages and was printed in all 600,000 copies. I think everyone knows that when you deal with hundreds of thousands of entries, mistakes occasionally happen.

Anyway, when NYNEX found out that this ad had slipped through 50,000 Yellow Pages that had already been distributed, it immediately went out and collected all the directories it could, carefully sliced out the pages of both the collected and undistributed directories with the offensive ad, and replaced them with new pages. This cost NYNEX hundreds of thousands of dollars.

Personally, I wish we did not even have to tolerate these escort services. But as long as we do, I and the parents of New York State are grateful to NYNEX for making sure that its Yellow Pages—which are in everyone's homes—are free of the offensive ad.

I think this shows that some telephone companies—while not perfect—still try to show the type of civic responsibility that we all applaud. I only wish that more businesses would pay the same kind of attention to decency and good taste, and I complement the NYNEX Information Resources Co. on its conduct.●

U.S. HONG KONG POLICY ACT

● Mr. SIMON. Mr. President, I am pleased to cosponsor S. 1731, the U.S.-Hong Kong Policy Act of 1991, introduced by my friend Senator MITCH MCCONNELL. I look forward to working with Senator MCCONNELL on the Foreign Relations Committee markup of the bill, especially with regard to provisions in which I am particularly interested and have discussed with him. I am grateful to Senator MCCONNELL for crafting a bill which addresses a serious omission in our foreign policy. This is an important bill for United States policy in Asia, and I urge Members to give it serious consideration. I hope that this bill will find strong support not only in the Senate, but among all interested parties.

Hong Kong is already in the throes of transition. The purpose of this bill is to establish a legal framework for our relations with Hong Kong after June 30, 1997, and to encourage additional official and private contacts before and after that time. It is important that we take this action now, to demonstrate a serious U.S. interest in the future of Hong Kong and its people.

Hong Kong is a unique legal entity and requires and deserves a comprehensive U.S. policy which takes that fact into account. We have already taken some partial steps, including the provisions of the 1990 Immigration and Nationality Act relating to Hong Kong. On September 27, the Senate also adopted Senate Resolution 182, introduced by Senator MCCONNELL and me which commended Hong Kong on the holding of its first-ever direct elections.

I would like to take a moment to address this point. S. 1731 accepts the provisions of the joint declaration as the basis for the transfer of sovereignty in 1997. Its relevance therefore depends on both the United Kingdom and the People's Republic of China fulfilling their obligations under that document. Specifically, China declares in the joint declaration that Hong Kong will enjoy "a high degree of autonomy," and be "vested with executive, legislative and independent judicial power."

All parties share an interest in seeing Hong Kong continue to flourish under the economic system which has brought it such prosperity and prominence. But as I said in this Chamber on May 20 of this year after returning from Hong Kong, "political freedom and economic growth in Hong Kong go together, and if one is diminished, the other will be diminished." The goose that lays the golden egg cannot survive if it is throttled by repression. It is abundantly clear that the people of Hong Kong value the future of their civil liberties as much, if not more than, their social and economic freedoms.

I do not seek confrontation with the PRC over the provisions of this bill. I hope the Chinese will welcome it as a way of ensuring maintenance and growth in the mutually beneficial relations enjoyed by the United States and Hong Kong today. Formalization of relations established by this bill can contribute to a process of confidence building in Hong Kong as 1997 approaches.

But I feel compelled to say that a series of recent Chinese statements and decisions have made me increasingly doubtful about Beijing's future actions. China reacted very negatively to the outcome of the September 15 elections to Hong Kong's Legislative Council. A recent statement by a senior Chinese official in Hong Kong which called into question whether the Legislative Council even constitutes a legislative organ is even more disturbing.

Hong Kong is an intricate marvel that spins in its own orbit of tradition, technological prowess and sheer determination of the human spirit. The people of Hong Kong deserve the full scope and range of freedoms that will allow them to expand the horizon of their aspirations and their success. I hope this bill can assist them in that endeavor.●

ORDERS FOR TOMORROW

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the Senate's convening tomorrow be changed to 11 a.m.; that the following Senators be recognized to speak during morning business in the following order: Senator WOFFORD for up to 20 minutes; Senator DURENBERGER for up to 20 minutes; Senator GORE for up to 10 minutes; Senator BREAUX for up to 10 minutes; and Senator WALLOP for up to 15 minutes; that the cloture vote occur at 12:30 p.m.; and that all other provisions of the previous order remain in effect.

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

RECESS UNTIL 11 A.M. TOMORROW

Mr. BOREN. Mr. President, if there be no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess until 11 a.m., Thursday.

There being no objection, the Senate, at 7:02 p.m., recessed until Thursday, October 17, 1991, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 16, 1991:

DEPARTMENT OF STATE

GEORGE FLEMING JONES, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

JOHN GIFFEN WEINMANN, OF LOUISIANA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF OF PROTOCOL FOR THE WHITE HOUSE.

U.S. INFORMATION AGENCY

JOHN CONDAYAN, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY, VICE HENRY E. HOCKEIMER.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOHN W. CRAWFORD, JR., OF MARYLAND, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 1996. (REAPPOINTMENT)

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

CAROL K. DIPRETE, OF RHODE ISLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1996. (REAPPOINTMENT).

HOUSE OF REPRESENTATIVES—*Wednesday, October 16, 1991*

The House met at 10 a.m.

Chaplain Jonathan A. Panitz, Office of the Chief of Chaplains, U.S. Navy, Washington, DC, offered the following prayer:

O great and immutable Lord, we ask that Your beneficent presence fill these Chambers. Cause the essence of wisdom, knowledge, and discernment to fill the hearts and minds of our Nation's chosen representatives. Enable them to discharge their awesome responsibilities with courage and foresight. Bless them with equal measures of justice and mercy. May their sense of wit be tempered by true compassion. May their desire for effective change be met with patience and forbearance. Bless them, O Lord, as they steer this Nation's democratic course through sometimes troubled and turbulent waters. When ill winds blow, create for them a haven of safety and security. Enfold them securely in the comforting web of Your grace. Bring to fruition all their noble and worthy plans. Allow them, O Lord, to reflect honor and glory upon our great democracy so that all who know us will call us truly blessed. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Florida, [Ms. ROS-LEHTINEN] please come forward and lead the House in the Pledge of Allegiance.

Ms. ROS-LEHTINEN 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.

INTRODUCTION OF LT. COMDR. JONATHAN A. PANITZ

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

Mr. ROE. Mr. Speaker, it is my pleasure to have Lt. Comdr. Jonathan A. Panitz, a former constituent, as the guest chaplain for today. Chaplain Panitz, who is currently the head of the policy branch in the Office of the Chief of Chaplains at the Pentagon, is the son of a dear friend, the late Rabbi David H. Panitz.

Chaplain Panitz received his B.S. degree from New York University in 1968 and his rabbinic ordination in 1975 from the Leo Baeck College of London, England. He also received a masters degree in biomedical ethics and moral theology from Catholic University in 1988, and a masters degree in guidance and counseling from Providence College in 1991. He is married and has three children.

Chaplain Panitz has served congregations in Salisbury, MD, and Fall River, MA. As a Navy chaplain, he has held positions in Yokosuka, Japan; Norfolk, VA; and Newport, RI. He is a member of the Rabbinical Assembly, the American Mensa Society, the American Association of Counseling Therapists—specialty in hypnotherapy, and the Jewish War Veterans. As I mentioned above, he is currently the head of the policy branch of the Office of the Chief of Chaplains. I am very pleased to have him here today, Mr. Speaker.

THE CRIME BILL

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

Mr. SENSENBRENNER. Mr. Speaker, the delay in bringing up the crime bill is not a case of haste makes waste. Last March the President challenged us to pass a crime bill within 100 days. We failed to do that.

Last Thursday the Rules Committee reported out a rule so that we could bring up the crime bill yesterday and start debate on it, but lo and behold, the liberals on the House Judiciary Committee did not like the rule because it did not stack the deck so much in their favor. So the crime bill did not come up yesterday, and the Rules Committee reconvened and reported out a rule that will make it much more difficult for the gentleman from Illinois [Mr. HYDE] to get the liberals' habeas corpus provision stricken from the bill and replaced with the President's habeas corpus reform.

Let there be no mistake about it, the rule which we will be voting on shortly is one that is designed to protect criminals, not to protect society, and for that reason alone the rule ought to be voted down.

BENEFIT OF THE DOUBT

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

Mr. TRAFICANT. Mr. Speaker, Judge Souter got the benefit of the doubt. Nancy Reagan got the benefit of the doubt. Clark Clifford got the benefit of the doubt. Edwin Meese got the benefit of the doubt, and now Judge Thomas gets the benefit of the doubt. And that is good, because the Constitution says you are innocent until proven guilty.

Not quite so. Check the laws of the Internal Revenue Service. An American taxpayer is guilty and must prove himself innocent in a court of law.

The bottom line here in the Congress is very simple. If you are a big shot and you have political clout in America, you get the benefit of the doubt and you are innocent until proven guilty. But if you are a plain old American taxpayer, you just simply get screwed, and that is the fact of it.

GET TOUGH ON CRIME, NOT SOFT ON CRIMINALS

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

Mr. LAGOMARSINO. Mr. Speaker, in my home State of California, the reported incidents of violent crimes have been increasing at an alarming rate. Reports of violent crimes in California have increased by over 35 percent in the past 5 years, while reports of willful homicides have increased almost 10 percent in 1990 alone. Let's not get too caught up in these percentages, though, these numbers represent almost 312,000 violent crime victims and 3,562 murder victims, not to mention the families and friends, who are also victimized by these horrific crimes.

Now, at a time when many Americans have lost the right to feel safe in their own communities, the House is considering so-called crime control legislation which, as reported, would help criminals feel safer on our streets.

I strongly support the President in his desire to see Congress pass tough, comprehensive anticrime legislation that ensures the certainty of apprehension, prosecution, and punishment of violent criminals. The message to criminals should be simple: If you commit a crime, you will be caught. If you are guilty, you will be punished.

TERM LIMITATION BIG WINNER IN THOMAS CONTROVERSY

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

Mr. RICHARDSON, Mr. Speaker, who is the big winner after the Thomas controversy? Term limits for the Congress.

This is unfortunate because this movement is a Republican scheme to gain control of the Congress. If we had term limits, the Government would be run by bureaucrats, staff, and lobbyists, because all elected officials would be too busy getting their feet wet.

Very few know that since 1980 close to 70 percent of the Congress has changed. Understandably, there is frustration with our process out there.

One constituent told me this weekend that while she thought I was a good Congressman and supported me, that after 9 years she thinks I am part of the process that needs to be changed. I asked her why, and she said, "Because you guys, especially the President, aren't dealing with problems like the economy."

Mr. Speaker, the time has come to deal with problems like the economy. The President needs to lead. He is too preoccupied with foreign affairs, negatively using the quota issue, vetoing unemployment bills. We need to deal with important problems like health care, education, and the economy. Unless we do that, this term limit movement will gain more ground.

□ 1010

SUPPORT THE VOLKMER-SENSENBRENNER AMENDMENT TO H.R. 3371

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

Mr. SCHULZE. Mr. Speaker, every 10 seconds in America, a criminal breaks into a home or business. Will eliminating 22 semiautomatic weapons do anything to reduce criminal activity?

Eliminating guns or the ability to legally own guns has never prevented criminals from arming themselves with the weapons of their choice. For years, gun control advocates argued that the Saturday night special was the choice of criminals, now, it is semiautomatic assault weapons.

Washington, DC, is the best example of gun control's absolute and total failure. Murder occurs on a daily basis in our Nation's Capital where it is illegal to own a handgun, much less the weapons in H.R. 3371.

Banning the weapons contained in H.R. 3371 will do nothing to reduce the alarming number of break-ins and violent crimes occurring in America.

I urge my colleagues to reject gun control as crime control. Support the Volkmer-Sensenbrenner amendment to H.R. 3371.

DELETE GUN CONTROL FROM CRIME CONTROL BILL

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

Mr. VOLKMER. Mr. Speaker, again, I want to inform my colleagues that I will be offering amendments striking the bans on so-called assault weapons and magazines with a capacity of more than seven rounds when we debate the crime bill this week.

We will hear heated debate, and some will argue that these assault weapons are the weapons of choice for the criminals. I seem to remember a few years ago when we had the Volkmer-McClure bill up that the weapon of choice was an automatic weapon, and we banned that. Then they said that the "Saturday night special" was the weapon of choice for the criminals, and when we did the Brady bill, the handgun was the weapon of choice for the criminal.

You know, they have no data to support the allegations, and their provisions are based upon erroneous assumptions.

These two provisions I am seeking to strike will not affect criminals, but will affect the law-abiding citizen. It is a longstanding position of mine that gun control measures do not equal crime control.

The committee did include significant penalties for illicit firearms use. I support those provisions, because they focus where the problem is: the criminal.

I cannot support gun control under the guise of crime control. I ask support of my efforts to delete gun control from a crime control bill.

PEOPLE NEED ANSWERS, NOT BACKDOOR VETOES

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

Ms. DELAURO. Mr. Speaker, I recently received a letter from a constituent of mine who wrote: "For the people like myself who aren't earning big money * * * how do we make it? Why do we have to be hammered like this? The old American dream of a home, a family, a job seems to have been replaced * * * I feel I speak for many when I say we need some answers."

Mr. Speaker, I spend every weekend at home, usually at shopping centers, listening to my constituents. People are scared about the future. The American dream no longer seems to be within reach of average working families; they want some answers.

And I do, too. Why do our highest leaders not seem to be listening? The gross national product is down for the third straight quarter, poverty is up, income for middle class families is down, corporate profits are down, yet the President still insists that a recovery is under way and that the economy is in no need of attention.

There are 9 million Americans presently unemployed, and they are far from realizing the American dream.

The White House listens to the cries of the Kurds and the cries of Bangladeshi. Why can not the White House acknowledge the cry for attention from hard-working people in need. Unemployment benefits are being exhausted and the President looks for yet new ways to put off and ignore the problem. The people need answers, not backdoor vetoes.

HABEAS CORPUS REFORM

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

Mr. WOLF. Mr. Speaker, today we debate the Judiciary Committee's version of the President's crime bill, a bill that weakens many of the most important crime control measures the President seeks, and which many in the House have sought for years.

We have an opportunity today to show the American people that this House has the will to regain control of the towns and cities of this Nation and get the criminals off the streets and behind bars.

The President and some of our colleagues in the House have come up with a plan to do this. We need tough but fair standards that will show the criminals of this Nation that the Congress is serious about controling crime.

While we have a duty to protect the constitutional rights of those who are charged with crimes and find themselves going through our justice system, we also have a responsibility to protect the innocent victims of crime whose own lives and the lives of their families are forever changed.

Guilty people should go to jail. Innocent people should be exonerated. And victims should be protected by laws that work.

Let us pass tough language, like the President recommended, and get serious about controlling crime in this Nation.

THE POLICE CORPS

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

Mr. MCCURDY. Mr. Speaker, my colleagues, in spite of all the rhetoric, it is perfectly clear that the Federal Government does not have much jurisdiction over the crimes that affect most Americans today. Most of those are

governed by local communities and the States.

However, there is something the Federal Government can do. This week I am offering an amendment along with the majority leader, the gentleman from Missouri [Mr. GEPHARDT], the minority leader, the gentleman from Illinois [Mr. MICHEL], the gentleman from California [Mr. DORNAN], the gentleman from Nebraska [Mr. HOAGLAND], and 65 other cosponsors called the Police Corps.

This is something the Federal Government can help local communities with by increasing the number of cops on the beat, putting cops on the street where they belong. It is similar to the GI bill where we offer educational opportunities for young people who want to spend 4 years in a local police department. It expands the pool of available applicants. It raises the qualifications of our police, and it frees police to deal with crime in the most volatile areas.

Again, it puts police on the street where they belong.

I urge your acceptance and support of this amendment.

THE EXCLUSIONARY RULE

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

Mr. McEWEN. Mr. Speaker, as you know, there are many things that the Federal Government can do in the area of crime, not the least of which is to define when a criminal is not a criminal.

When the proof of the criminal's guilt may be a gun or burglary tools or stolen merchandise which are found by a police officer who thought she was conducting a proper search but later found that someone had made a technical mistake, as an example.

The Constitution of the United States through the Bill of Rights protects people from unreasonable searches and seizures. In some countries, we all know police forces run rampant over the rights of individuals. Our fourth amendment protects that from happening in the United States.

To help enforce the fourth amendment, our courts have adopted the policy of not allowing evidence into a trial if the evidence came to light as the result of an imperfect action by the police such as an improper entry into the home, or finding evidence unexpected in a search.

But what about the officer who followed the law? What if she felt that she did everything right, and the court finds that this was only an insignificant mistake like maybe not double checking a well-executed warrant when it later turned out to be mistyped before conducting the search? Should that evidence be thrown out then, too? Is setting murderers and rapists and assaulters free the price that Americans must continue to pay until all police officers achieve human perfection?

The President's crime bill makes reasonable concessions for minor police human errors that would otherwise put known criminals, people directly implicated in serious crimes, on the street.

The Democrats' crime bill dilutes this commonsense provision. When police officers act in good faith in the interests of justice, we need to exclude the exclusionary rule.

EQUALITY FOR WOMEN

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

Mr. SARPALIUS. Mr. Speaker, we have just witnessed how sexual harassment can affect a woman in this country.

Mr. Speaker, in this country, if a woman is sexually harassed, the maximum award that she can receive in the courts is her job back, which she does not want, attorneys' fees paid for, and backpay. And that is it.

□ 1020

This body addressed that issue. Today in this country, there is no real equality for women, but when we passed the civil rights bill, a big percentage of that bill addressed equality for women, I thought we had taken a giant step. After we passed that bill, the President said that he would veto it.

Mr. Speaker I challenge our President to open his eyes, to reexamine the civil rights bill, look at what it does for equality for women in this country.

WHAT IS UP AND WHAT IS DOWN

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

Mr. PAXON. Mr. Speaker, there are just 21 days left until the first anniversary of the 1990 budget agreement, and after that 1-year time period has elapsed I think it is a good opportunity to evaluate the effect of that budget agreement on this country.

Let us look at what is up and let us look at what is down. What is up, taxes are up, Federal spending is up, the deficit and the debt of this Nation are up higher than ever before; the result, unemployment at its highest levels ever with at least 2 million American families feeling the sting of unemployment in the last year, 2 million more.

What is down is economic growth, job creation, business and economic indicators; most of all hope and opportunity for every American family is down as a result of what we have seen over the past year.

Mr. Speaker, the American people know how to change all this. Let us bring taxes down, seriously down. Let us control runaway government spending and government redtape.

Most of all, most importantly, Mr. Speaker, as we approach this 1-year anniversary of that budget agreement, let us make economic growth this Nation's No. 1 national priority on a bipartisan basis.

ECOTERRORISM IN THE PERSIAN GULF

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

Mr. TAUZIN. Mr. Speaker, I rise today to remind this House of the worst, the cruelest form of ecoterrorism that has ever been inflicted on this planet. The memories of the victory of the war in the Persian Gulf are still fresh and so is the oil.

I show pictures today that were taken just 2 weeks ago of the oil damage that still remains in the Arabian Gulf, oil damage that now kills and destroys mangrove swamps, sensitive environmental areas that are breeding grounds for fish and wildlife, for sea turtles, oil that continues to coat hundreds of miles of beaches and sensitive environmental areas in the Arabian Gulf.

Saddam Hussein's act of ecoterrorism still has gone unanswered. Tomorrow, the Committee on Merchant Marine and Fisheries will begin its inquiry into this mess and we will begin demanding that the United Nations take steps to encourage our friends in Saudi Arabia and Kuwait to begin the cleanup. They are victims of this mess. They are not the cause of it, but we need to encourage them to begin the efforts of cleaning it up.

We need to demand that the United Nations take steps to require that Saddam Hussein pay for the almost one-half billion dollars that Saudi Arabia has estimated it will cost to clean up the gulf.

Very little is being done today. The new world order witnessed the victory when we won the war in the Persian Gulf, but we also witnessed the loss of the gulf.

Mr. Speaker, it is time now that we begin to clean it up and win it back.

LET US TAKE A FRESH LOOK AT AMERICA'S POSTAL SYSTEM

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

Mr. BROOMFIELD. Mr. Speaker, yesterday, a fellow Member came up to me and said, "BILL, I'm a cosponsor of your resolution for a commission to study the Postal Service, but I've got to take my name off."

"The Postal Committee and the postal unions are putting a full court press on me," he said. "They say your bill is for privatizing the Postal Service."

Privatize, I say, baloney. Nothing in the resolution calls for privatization, and I showed him the resolution to prove it.

What are they afraid of?

It has been 20 years since the Federal Postal Service became a quasi-independent agency. Americans are up in arms about the lousy service.

It is time for some fresh thinking about how to manage America's postal system.

We need a bipartisan commission including representatives of postal unions and management, as well as Congress and the general public, to review the process.

INTRODUCTION OF FOREIGN AID REPORTING REFORM ACT OF 1991

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

Mr. VALENTINE. Mr. Speaker, this morning I introduced the Foreign Aid Reporting Reform Act of 1991. This bill would require the President to submit to the Congress an annual report on the entire American foreign aid program containing detailed information about costs, justification, and proposed termination dates for U.S. foreign assistance programs.

I believe we need to understand just what it is we're going to spend our constituent's money on before we make decisions that will affect their economic future by affecting the economic health of our country.

As we find new ways to juggle increasingly limited resources and the world changes around us, we must realize that this one facet of our foreign policy has remained untouched. This legislation will finally allow us to see the inner workings of the giant machine that is our foreign aid program.

Mr. Speaker, I urge all of my colleagues to join me in supporting this bipartisan effort. Bring accountability back to the foreign aid program. Support the Foreign Aid Reporting Reform Act of 1991.

RESTORE THE DREAM OF FAMILY FARMERS

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

Mr. BARRETT. Mr. Speaker, the dream of many family farmers and ranchers has been to pass along the farm to their children or relatives.

Unfortunately, that vision today is being plowed under by our Federal Tax Code. Currently, if a husband and wife have died, the Federal Government places a special-value tax on the children or relatives that inherit the farm or ranch.

Constituents have told me some heart-wrenching accounts of how this tax killed any possibility of keeping the farm in the family because of the inheritance taxes they had to pay. Many times the family had to sell the land just to pay the taxes.

That is why today I am introducing the Farm Estate Fairness Act that will amend the Internal Revenue Code to allow any qualified heir to be free from the special-value tax.

The hope of family farmers for more than 200 years has been to pass the place along to the son or daughter. I urge my colleagues to cosponsor the Farm Estate Fairness Act, and allow the dream to become reality.

LISTEN TO THE PEOPLE ON THE ECONOMY

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

Mr. APPLEGATE. Mr. Speaker, the real crime that we have in this country is the economy of the country, and until we get that economy straightened around, crime in this country is going to run rampant.

I think I know how the people feel, and just in the event that you did not read the CBS poll on Bush and the economy, it says that there is an approval rating of 30 percent against a 62-percent disapproval rating.

And is President Bush paying attention to the economy, paying enough? Eighteen percent, he should pay more by 78 percent.

Bush's weakness on the economy: Given the importance of both foreign and domestic policy, does the President spend too much of his policy on foreign policy? Fifty-nine percent.

Does he spend too much time on domestic? Two percent, that is all.

And the sad part about it is the way people feel, the future for the next generation of American's will be, and this is how they feel, it is going to be better, only 20 percent; but 52 percent of the people feel that it is going to be worse.

I think the American people, by these polls, are sending a very strong message to those of you who sit in this body. It will have some say over how the economy is going to ultimately end up. You had better get the message. The people are saying something, and if you do not listen to what they are saying, they are going to throw you out of office next year.

NEXT SATURDAY IS TAXPAYER'S ACTION DAY

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

Mr. DELAY. Mr. Speaker, I agree with the gentleman who just spoke in the well. Congress does not have to wait for the President. It can act on its own. Instead of destroying the economy, it can help the economy.

Mr. Speaker, all over America, taxpayers are angry and fed up. Everywhere they turn, some politician is going on and on about the need for new taxes. Well, as Ronald Reagan said so long ago, the problem isn't that the people are taxed too little, it's that Government spends too much. But there is something the taxpayers can do.

This coming Saturday, October 19, the Council for Citizens Against Government Waste is sponsoring Taxpayers' Action Day—a day of nationwide protests against tax hikes, Government waste, corruption, and mismanagement.

Mr. Speaker, to join the tens of thousands of angry taxpayers already coming out on the 19th and to find where the nearest demonstration is you can call 1-800-BE-ANGRY—that is 1-800-232-6478.

□ 1030

S&L BAILOUT SHOULD BE ON A PAY-AS-YOU-GO BASIS

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

Mr. KENNEDY. Mr. Speaker, the last thing my colleagues want to hear is more funds are needed for the savings-and-loan bailout. The President has asked for another $80 billion to pay off the depositors of failed thrifts, double the money that has been spent so far.

The President proposes to borrow these funds and have the average taxpayers pay them back with interest over the next 30 years. That is a huge ball and chain around the necks of the next century's working families.

Instead of building better roads and schools or fighting crime and budget deficits, they will be paying off our bailout bill just because we lack the courage to pay it ourselves. Last week members of a banking subcommittee said, "No more business-as-usual inside the beltway." They voted to replace Bush's budget-busting borrow-and-spend bailout with a pay-as-you-go plan. It was a vote to cut the budget deficit by up to $200 billion. It was a vote to end the budgetary double standards by treating the bailout just like we treat other programs for housing, for education, and for health care.

Most importantly, it was a vote to keep, not break, the budget's summit agreement as well as to keep faith with future generations of Americans.

They expect us to lead them with a stronger America than the one we inherited. Mr. Speaker, if we can stop

writing hot checks on the House bank, then we can surely stop the President from writing them on the people's bank.

It is time we start paying our bills as they come due, not sending them to our children and to our grandchildren.

CONGRESS MUST NOT GO HOME AND LEAVE SMALL BUSINESS WITH A PROMISE OF "TRUST US"

(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, I rise in support of the Small Business Jobs and Tax Benefits Act of 1991, introduced by Mr. FRANKS of Connecticut. This bill would extend five critically important small-business tax credits that are scheduled to expire at the end of this year.

If we fail to extend them before we adjourn, small businesses will be faced with an impossible choice: Gamble on the hope that we will approve them retroactively; or stop doing the research, stop providing the training, and simply discontinue the other activities that these credits are designed to encourage.

Smaller firms simply cannot afford to do business the way that Congress does—in fits and starts, with little regard for the future.

Mr. Speaker, I say to my colleagues this is no time for us to close up shop and go home, leaving small businesses and their employees with little more than a promise of "Trust Me" from Uncle Sam.

I urge Members to join me in cosponsoring H.R. 3487. Remember—it's easy to say that you're all for small business. But it is how you vote that really counts.

LET US PROHIBIT SUBMACHINEGUN SALES, TAKE THEM OFF THE MARKET

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

Mr. HOAGLAND. Mr. Speaker and my colleagues, we have a lot of hard and difficult work to accomplish in the remaining months of this year. I would like to call on all of you to support the ban on semiautomatic weapons that is contained in the crime bill that we are going to begin debating today. The crime bill prohibits 13 categories, 22 specific kinds of semiautomatic assault weapons. Now, these weapons have no purpose whatever for the average citizen, no reason for the average citizen to own. They have no hunting purpose. The only purpose is to provide firepower for criminals against police officers who carry handguns that really have virtually no defense against these submachineguns.

So I would ask all of you to support the ban on submachineguns. It does not include the popular M-1 carbine many of us are familiar with from our service in the armed services. It does not prohibit semiautomatic rifles that people like to use for hunting. It prohibits submachineguns. Let us take those off the market.

THE CRIME BILL: VOTE FOR GEKAS, HYDE, AND McCOLLUM AMENDMENTS

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

Mr. ZIMMER. Mr. Speaker, in early March, the President challenged Congress to enact a tough crime bill within 100 days; 233 days later, the Democratic leadership is finally moving on what they call a crime bill.

However, their bill is a facade. It will not curb crime, but rather will offer criminals greater protection from the law.

Despite law enforcement officials' efforts to protect innocent victims, crime runs rampant in this country.

Nearly 50 percent of all violent crimes are committed by repeat offenders.

The lipservice and demonstration programs offered in the Democrats' bill will not save the lives of innocent people. We need a tough crime bill that will effectively put criminals behind bars and give Americans back their communities.

The President's crime bill, H.R. 1400, includes key provisions that were passed in the previous Congress and, unlike the Democrats' crime bill, it would be tough on criminals.

Critical amendments that will be voted on today and tomorrow can salvage the Democrats' crime bill. If amended to include several of the President's proposals, this crime bill could put criminals in jail where they belong, provide law enforcement officials with the help they need, and give Americans the protection they deserve.

I urge my colleagues to vote for the Gekas, Hyde, and McCollum amendments and for their constituents' lives and safety.

SUPER SAVINGS BONDS

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

Ms. KAPTUR. Mr. Speaker, I rise today as cochair of the congressional competitiveness caucus to introduce the Super Savings Bond Act, sponsored by the leadership of the congressional competitiveness caucus and Cochairman JIM KOLBE, and Vice Chairmen NORM MINETA and AMO HOUGHTON, and several members of the Ways and Means Committee.

This legislation will increase national savings. It will reduce our Nation's debt currently owed to foreign creditors. In 1990, the United States paid $206 billion in interest on our Federal debt. Of this, 20 percent was paid out to foreign creditors. The amount of foreign funds that flood into America to compensate for the lack of savings here at home among individuals, corporations, and government impacts directly on our economic health and competitiveness. Today 62 cents of every U.S. individual tax dollar goes to pay interest on the national debt, and of that 8 cents flows offshore, amount to $37.4 billion in 1990 and $172.3 billion between 1985 and 1990. Why shouldn't we pay that money to our own citizens?

I once asked a renowned economist if we could hold the Federal deficit constant but substantially increase the purchase of U.S. savings bonds by U.S. citizens whether we would see an increase in savings in America and a decrease in interest rates. His reply was yes. But it would take concerted Presidential and congressional leadership to achieve.

The Super Savings Bond Act will be attractive investments for U.S. households while at the same time it will reduce our Nation's dependence on foreign financing. Our bill creates super savings bonds [SSB's] to encourage saving among working men and women so each American has the chance to make a contribution to a healthy America. SSB's will be sold through a payroll deduction system to encourage a regular pattern of saving. SSB's will be sold in small denominations ranging from $50 to $500 in face value.

The U.S. savings rate has dropped from over 7 percent of national income in the 1970's to barely 1.5 percent of national income in 1990. The United States saves less than any other Western nation. The United States savings rate is less than one-quarter of Japan's saving rate and less than half of the savings rates of Canada, the United Kingdom, France, and most other European nations.

Only one-quarter of all U.S. households currently own U.S. savings bonds. The savings bond market is not a saturated market. The SSB's higher rate of return should appeal to all potential households, helping more people to save. Since it is fundamentally a good investment, SSB's can also unleash a new category of savers among households of moderate means who will be able to buy bonds in small denominations.

National dissavings is manifested in America's large, nonsustainable budget and trade deficits. The economic independence of America is being eroded as individuals, corporations, and the Federal Government live beyond their means.

SSB's will yield 95 percent of the 5-year Treasury bond rate after being held for 5 years, an increase over the rate currently offered on savings bonds, which is the greater of 6 percent or 85 percent of the 5-year Treasury constant maturity yield.

Importantly, SSB's introduce fairness in savings for all income ranges. As it stands now, savings bond purchases through payroll deductions yield only 85 percent of the 5-year Treasury bond rate. This means foreign investors who can afford to purchase U.S. Treasury bonds in large denominations get a much larger return on their investment. SSB's will correct this inequity by allowing the small investor to purchase bonds in small denominations with a 95-percent yield and encourage a whole new group of savers who would otherwise not be able to save or purchase bonds.

It is vitally important to enlist ordinary Americans in the reclaiming of America. Currently, the economy is fueled by institutional investors. Control of the economy has effectively been transferred from Main Street to Wall Street. This legislation sends a clear message to individuals that the Nation puts individual investors on par with institutional investors.

As savings among individuals increase, the purchasing of the Nation's debt by foreign investors will decrease. Currently, U.S. savings bond holders own 3.7 percent of the Federal debt while foreign investors own 12.4 percent of the Federal debt. This legislation will put the Nation's bond purchases back into domestic hands. As the cochair of the congressional competitiveness caucus, I know that it is critical to increase our savings and reduce our debt service to generate domestic investment for education, research, technology, and infrastructure.

I am pleased that the Super Savings Bond Act is a bipartisan, competitiveness caucus initiative. I hope the Congress will move quickly to pass this legislation and make it one part of a national campaign to increase personal, corporate, and government savings. SSB's can go a long way toward instilling a savings ethic among individuals and help our Nation regain its economic independence.

AMERICAN PEOPLE DO NOT WANT MORE LAWS; THEY WANT BETTER AND STRONGER ENFORCEMENT OF THE LAWS ALREADY ON THE BOOKS

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

Mr. DUNCAN. Mr. Speaker, I served for 7½ years as a criminal court judge before coming to Congress. I tried primarily felony cases, the most serious cases.

The most basic civil right of all is the right for a person to be safe in his home and on the streets. Protection from crime is the most basic, the most fundamental of governmental functions. The people of this Nation want us to be tougher on convicted criminals.

While I support many things in the crime bill we will take up today, to be honest I do not believe the people of this Nation really want more laws. They want better and stronger enforcement of the laws already on the books. They want tougher judges. They want less lenient parole. If a criminal is convicted, they want him to serve his sentence and not be back out on the streets after 60 or 90 days.

They want to stop endless, frivolous, expensive appeals. They believe in the right to appeal, but not over, and over, and over again.

Especially, I believe, they want prosecutors who will go after real criminals, violent criminals, and not just seek headlines and publicity, spending all their time trying to advance their own careers by prosecuting only the high-profile defendants like Oliver North and others.

LEGISLATION TO CONSOLIDATE GOVERNMENT'S REAL ESTATE INVENTORY

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

Mr. McMILLEN of Maryland. Mr. Speaker, the savings and loan fiasco, HUD mismanagement, and other debacles of the administration have resulted in the Federal Government becoming the reluctant owner of between $25 and $35 billion in repossessed real estate. No one really knows the exact amount—and there are 15 different agencies conducting uncoordinated liquidations throughout the country. I rise today to introduce legislation to remedy the situation. It will: consolidate the inventory, develop a governmentwide policy, and speed up the disposition process. Most of the agencies holding the properties were established to carry out some very important social programs and, at best, are ill-equipped to dispose of the vast inventory of Government-owned real estate. The result has been an ever-increasing inventory and escalating costs. The Government has an obligation to the taxpayers to dispose of these properties in the most efficient manner possible—not to remain a landlord with the bill for holding the real estate going to the taxpayers. I urge my colleagues to cosponsor this important legislation.

□ 1040

TAXPAYERS' ACTION

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

Mr. GOSS. Mr. Speaker, some say if we stacked enough dollar bills on top of each other to equal the national debt, mankind would achieve the dream of reaching Mars. At the rate we're going, even Saturn doesn't seem far away. The fiscal chaos this represents is tearing our country apart. Not a day goes by that I don't hear from my constituents who are fed up. This weekend, at over 300 rallies across the country, the American people will take to the streets in honor of taxpayers action day. Their outrage is legitimate, and it's time Congress paid attention. Look at the numbers:

For every dollar raised in tax revenue, Congress spends $1.58.

The Tax Foundation estimates that Americans work an average of 125 days to pay his or her total tax bill.

Today, a median income family of four pays 24 percent of its annual gross earnings to the Federal Government—32 percent when you figure in State and local taxes.

And for what? Our Federal deficit has risen from $200 to $350 billion. No wonder the American people are angry. It is time to stop wasteful spending in Congress.

REFORM THE SUPREME COURT CONFIRMATION PROCESS

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

Mr. COLEMAN of Missouri. Mr. Speaker, Judge Clarence Thomas has been confirmed to serve as an Associate Justice on the Supreme Court after what undoubtedly was the ugliest confirmation battle in the history of the Republic. Instead of a judicious and deliberate examination of the merits of the nominee, the American people were confronted with a 107-day-long media sideshow of rumor, innuendo, and falsehoods.

While part of this sorry spectacle was the product of pure politics, much more of it was the product of relentless and ruthless campaigns by well-heeled special interest groups whose activities were hidden by current law, which casts a legal veil over their activities.

Grassroots participation in any political process in our democracy is desirable. But does the political activity that blocked Judge Robert Bork's nomination, and which attempted to do the same to Judge Clarence Thomas, represent public participation or manipulation of the judicial process by special interest groups.

Mr. Speaker, the blatantly political motives of these special interests, and their gutter tactics, have degraded the confirmation process and the Court's very independent stature.

Even the Senators who have the constitutional responsibility to confirm

judicial nominations do not know who is contributing to and staging these campaigns for or against Supreme Court nominees. Unlike those who support and finance other public officials in the executive and legislative branches, there is no requirement that those financing elaborate campaigns to block the nomination of a Supreme Court justice disclose their identity.

While blatant political lobbying for or against a Supreme Court nominee is not prohibited, it has never been an accepted part of the confirmation process until recently, and it has degraded the Court's independent stature.

Mr. Speaker, I have introduced legislation H.R. 3226 that would require all individuals and organizations spending money to support or oppose a Supreme Court nominee, to file Federal financial disclosure forms similar to those required of congressional and Presidential campaigns. Failure to disclose financial sources would carry severe penalties, including a fine up to $5,000 and/or a prison sentence up to 1 year. Repeat offenders would be fined up to $10,000 and/or imprisoned for up to 5 years.

This legislation will allow both the public and the Senate to know precisely who the special interests embroiled in the confirmation process are and where they get their money to wage costly public relations campaigns.

Mr. Speaker, I urge my colleagues to support this bill to take an important step toward ending the lobbying frenzy that has so degraded the confirmation process for nominees to the Supreme Court.

CRIME BILL OFFERS MORE PROTECTION FOR CRIMINALS THAN LAW-ABIDING CITIZENS

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

Mr. SMITH of Texas. Mr. Speaker, America has more crimes per capita than any other developed country. Police, prosecutors, and the courts need a tough, practical crime bill.

Despite the pleas of the President on March 6 for Congress to enact his tough crime bill within 100 days—we are now at day 224—finally a crime bill is in sight, but it's not the tough, substantive anticrime bill that citizens want.

This bill contains more protections for the criminal than for the law-abiding citizen.

Many of the so-called anticrime bill provisions represent grants that duplicate programs that are already funded. More studies are not what our police and law-abiding citizens need or want.

We need to reduce crime and guarantee punishment of criminals. Instead, we have a bill that increases grants and ignores victims.

CRIME IN AMERICA

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

Mr. BILIRAKIS. Mr. Speaker, what we will be debating here on the floor today is fear. We will be considering the Omnibus Crime Control Act, but fear is the issue.

That is the way America's citizens look at it. They don't want to fear walking the streets of their neighborhoods. They don't want to fear for their children's safety. They don't want to fear losing their communities' identity to ruthless drug lords and criminal gangs.

In the United States, someone is murdered every 24 minutes, a woman is raped every 6 minutes, someone is robbed every 55 seconds, and someone is assaulted every 33 seconds. It is incredible that this can go on in our country; America's citizens want, and expect, help from us today.

When we finish with this legislation, Mr. Speaker, we must be able to look these people in the eye and say, "here is help." We must make this a tough, anticrime bill—it's time to give our constituents what they want and expect.

It's time to take away the fear.

TWO THINGS THAT NEED TO BE CHANGED IN THIS COUNTRY

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

Mr. CAMPBELL of California. Mr. Speaker, today we have the chance to do something right for the American people on the crime bill. We have the chance to change two things that really are in need of changing in this country.

No. 1, when a police officer gathers evidence of a crime, and that police officer has done nothing wrong, it is crazy that frequently we find that evidence excluded, and a criminal goes free, because, through no fault of the police officer, some legal technicality was not followed.

Now we recently had an example of that where 1,200 pounds of cocaine were collected, but the police officer called in the wrong license plate. If it had not been for that particular law in that particular circuit, if it had been a different part of the country, that criminal would have gone free to sell more cocaine on the street.

Mr. Speaker, I think today we have a chance to stand up for what is right, and that is for the police officers who gather information; it should be available to be used and not thrown out for a technicality.

No. 2: the death penalty. It is appropriate, it should be enforced, and it should be certain. Right now one never knows if it is going to be applied or not. Appeals go on endlessly.

Today stand up for what is right, and send a message: Serious criminals will have to face the most serious punishment.

Mr. Speaker, those are two things we can do today to improve fairness to the law enforcement officers for whom we all have so much respect and to protect those of us who find ourselves the victims of crime.

CRIME BILL AMENDMENTS TO ALLOW A JURY TO IMPOSE THE DEATH PENALTY

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

Mr. GEKAS. Mr. Speaker, Members of the House, the Democratic crime bill that will come before us is a slap in the face to the America people. The American people for a long time have expressed their willingness to accept the death penalty in those serious, and vicious and heinous cases that we read about too often, yet the Democratic crime bill that will come before us makes it almost impossible for the jury to have the option to impose such a death penalty, and so it is a bill that wraps its arms around a convicted murderer.

Mr. Speaker, this convicted murderer has just shot someone, killed someone. It destroyed an American citizen, a fellow American citizen. He receives a murder in the first degree verdict from a jury, and then this bill says we are going to protect him from a jury that might want to impose the death penalty.

We want to change that with our amendments to make sure that the jury has the full option in those tragic, violent, murderous cases to allow that jury to bring in the death penalty.

Further, this Democratic bill says that even if he is convicted, even if he does receive the death penalty, we are going to make sure through this bill that with endless appeals that individual will stay on for a lifetime on death row failing appeal after appeal.

Mr. Speaker, we want to try to curtail those appeals and bring swift and certain judgment to the convicted cold-blooded killer where a jury has already found him guilty of murder in the first degree, and he deserves no more consideration than the option on the jury's part on whether or not to impose the death penalty.

ABORTION—THE MOTIVATOR OF VOTES IN THE OTHER CHAMBER LAST NIGHT

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

Mr. DORNAN of California. Mr. Speaker, last night on national television I said that the unseen specter at the entire ghastly banquet of character assassinations that went on over the last week was the specter of abortion. It was the main driving issue during all of the hearings, spoken and unspoken, and it was the main motivator behind most, certainly not all, most of the votes in the other distinguished Chamber last night.

□ 1050

Mr. Speaker, 132 years ago this very October 16 John Brown captured the Federal Armory up in Harper's Ferry, VA, later to be West Virginia because of the Civil War that followed. It cost him his life and the lives of all of his sons, and he was the motivation for an army hymn, the Battle Hyman of the Republic. It begins, "Mine eyes have seen the glory of the coming of the Lord."

This abortion issue is not going to go away any more than slavery did 75 years ago. On this same day Margaret Sanger started the first Planned Parenthood clinic in Boston. She was an unashamed, loathsome racist who said that all people of color should be controlled by birth control, that they were subhuman. Adoph Hitler later quoted Margaret Sanger.

It is fascinating that today an intelligent, distinguished black lady, Faye Wattleton, heads up this group founded 75 years ago by a racist, a clear-out, evil racist, Margaret Sanger.

Mr. Speaker, this abortion issue tears this country apart and will until we resolve it, hopefully in favor of the sanctity of human life.

SADDAM HUSSEIN SAYS SANCTIONS WON'T WORK

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

Mr. STEARNS. Mr. Speaker, we have all read with horror how Saddam Hussein was closer than any of us imagined to building a nuclear bomb.

Before the gulf war, U.S. intelligence set the estimate at 5 to 10 years. Now that has been revised down 2. In short, the gulf crisis may have been closer and better timed than any of us imagined.

Just last weekend Saddam Hussein was quoted saying his country can survive economic sanctions for at least 20 years. That says something about the effectiveness of economic sanctions that so many Members of this body argued passionately for.

Let me take this opportunity to once again praise President Bush for his superb leadership and handling of the gulf war. Let me also commend those Members of Congress who had the courage and foresight to vote for the use of force resolution last January. They realized that economic sanctions would not work.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 210

Mr. SARPALIUS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 210.

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

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1992

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2521), making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. MCDADE

Mr. MCDADE. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. MCDADE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2521 be instructed to insist on the House position on the amendment of the Senate numbered 46.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MCDADE].

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

Mr. Speaker, as we head to the conference with the Senate, there is a very substantial issue involving the question of environmental restoration. As we speak today, because of years of not just neglect but also indeed ignorance about how to shepherd the resources of the Nation, some 17,000 sites at 1,800 bases across this Nation contain some form of hazardous material, some of it very toxic waste.

Under the leadership of my friend, the gentleman from Pennsylvania, we have been working very hard to rid those bases of those sites, particularly as we begin to sequence into a system whereby more bases are being made available for public usage in one form or another. Obviously those sites cannot be turned over until that problem is addressed. That is why the House conferees have unanimously agreed to attack this problem more aggressively than the Senate. Indeed we are $1 billion above the Senate figure, and we are offering this motion in order to further support the decision of the House that what we need to do is to stick with the House position. It is an overall problem of probably $13 or $14 billion. If we continue to treat it as a minor problem, we will be solving it for years.

Mr. Speaker, we want to get at the problem and get this done properly, so I urge the House to adopt the motion I have offered.

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

Mr. MCDADE. Mr. Speaker, for purposes of debate only, I yield 10 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding this time to me. I am out of breath running over here. I wanted to make a couple of comments and perhaps ask the chairman of the subcommittee a question or two.

It is important for this body to know and for the American public to know that in this bill from the Senate side there is $32 million put in for an unauthorized project—and I stress the words, "unauthorized project"—contravening and going against the Select Committee on Intelligence of the House, which would begin a downpayment for the most expensive Government relocation in the history of the country. This would be done for $1.2 billion. That is billion, b-i-l-l-i-o-n dollars to begin the relocation of the CIA, portions of it, to West Virginia.

The body should know that the CIA retained Legg Mason as a consultant to look at the relocation of the CIA. Legg Mason looked at over 200 sites. Then they narrowed it down to 65 recommendations, and not 1 site was in West Virginia. Then I will tell the Members of this body they narrowed it down to 10, and not 1 site of those 10 was in West Virgina. Then they narrowed it down to four, and the CIA, with a handshake and a nod, bypassing the entire House of Representatives, neglecting the Select Committee on Intelligence of the House, and neglecting the Republican leadership and the Democratic leadership, made a decision and told Legg Mason to put West Virginia back in. Legg Mason, being retained by the CIA, did that.

Then when they put it back in, Legg Mason determined that this was not in the best interest of the employees nor was it in the best interest of the agency, and recommended against it. So now we have Legg Mason, with thousands of dollars of Federal money, recommending against this site, and lo

and behold, with a handshake and a nod, one night the CIA, in conjunction with a Member of the other body, decides that it will go there.

Now, I want to be sure about this, and I wanted to ask the chairman of the subcommittee if my rights would be protected in the House so that we could be sure that we will get a rollcall vote ont this issue. I have an article from yesterday's Newsweek by George Will, where he says:

The argument about consolidating 3,000 Washington area jobs in Byrd's State may seem like merely a parochial fact, but it exemplifies what is done day in and day out in Washington in your name and with your money.

He goes on to say that—

Considering the hijacking of the CIA jobs, the consulting firm hired to advise the CIA did not include the West Virginia site among the top 10 sites, or the top 65, or the top 200.

But suddenly the CIA, tugging at its forelock and bowing deeply to the chairman, asked that the site be included in the final four. Wonder of wonders, it won.

□ 1100

When the House Committee on Intelligence held hearings on this matter, 4 hours of hearings, Judge Webster and the people testifying could not answer any of the questions. Literally every member, from the chairman, Mr. MCCURDY, the gentleman from California [Mr. DORNAN], the gentleman from Pennsylvania [Mr. SHUSTER], and the gentleman from California [Mr. DELLUMS], across the board, raised serious concerns. Since this is not authorized by the House Committee on Intelligence and contravenes the laws of the House and the rules of the House, and since our conferees are going to conference with the Senate, I would hope and ask the gentleman from Pennsylvania [Mr. MURTHA], if he would protect my rights to make sure that we can have an up-or-down vote on this issue, whereby the House can work its will?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, we always try to be fair, and we certainly will take a close look at the recommendations of the gentleman from Virginia [Mr. WOLF] when we go to conference. As the gentleman knows, there are a lot of issues, and this is one of the issues we are going to take a close look at. We appreciate the recommendations and advice of the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I appreciate the statement of the gentleman from Pennsylvania [Mr. MURTHA], but I really want to urge that the rights of the House be protected.

Mr. Speaker, I want to choose my words very carefully. The project will not get an award for procurement integrity. I want to stress again, this CIA relocation will not receive an award for integrity in procurement.

Mr. Speaker, this body, time after time has spoken out about defense procurement fraud and many other things like that. It is absolutely incumbent that every Member of this body, whether they are for or against it, deserves and has an obligation to get a vote, because what we have basically seen is that the process of locating an agency has been, I believe, corrupted. The process has been corrupted.

Mr. Speaker, the General Services Administration has been set up by the Congress to go in and to search and find out the best deal for the Federal Government, the best arrangement, what is best for the Central Intelligence Agency and other agencies.

I would also say the name of the Central Intelligence Agency is the Central Intelligence Agency. It is not the Decentralized Intelligence Agency.

Mr. Speaker, Members should know that this is the most expensive relocation in the history of the entire country, $1.2 billion.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. MURTHA] for the opportunity to have a vote, and strongly urge Members, when this issue comes before Congress, that they read the material. I will furnish all the material. No longer can we have decisions that are going to cost the taxpayer $1.2 billion made with a handshake and a nod, contravening and neglecting the entire House of Representatives.

Mr. Speaker, when this issue comes up for a vote, I would urge Members to look at these issues and then say no to the CIA and no to the other body. That we believe in procurement integrity and we believe that this should go back to the General Services Administration, that they should bid it out, postpone this for a year, and do what is in the best interest of the entire country, and not just one or two individuals.

Mr. MORAN. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Speaker, I would like to underscore the remarks of the gentleman from Virginia [Mr. WOLF]. What we are talking about here is a decision that was not made on any grounds but political grounds. There is no justification for the CIA moving to West Virginia as has been recommended by the Senate.

Mr. Speaker, there has been an objective analysis done of every possible alternative site, and the site that was chosen was not included in any of the acceptable alternative sites.

We are talking about the most expensive Federal building ever built. We are talking about breaking up an agency that of all agencies it would seem ought to be able to work together.

Mr. Speaker, there are no programmatic grounds, there are no fiscal grounds, there are no rational grounds for the CIA to move. Yet they are moving because of politics.

This is where we have to take our stand. I know we will get the support of this side of the aisle and the side of the aisle of the gentleman from Virginia [Mr. WOLF]. We strongly urge that this be represented as an issue on which the House is prepared to and will take a stand.

Mr. Speaker, I know that our chairman is going to represent those issues. I have complete confidence that we will have the opportunity to take a vote on this issue when it comes back to us.

Mr. WOLF. Mr. Speaker, reclaiming my time, I thank the gentleman from Virginia [Mr. MORAN]. I will not take the time of Members, but I will make available the transcripts of the hearings.

Mr. Speaker, the gentleman from Pennsylvania [Mr. SHUSTER] called this activity outrageous, disgraceful, and scandalous.

The gentleman from New York [Mr. MARTIN] said:

It seems to me that if this were not so pathetic, it would probably be funny. It would be like when the Baltimore Colts snuck out of town on the back of a truck years ago.

The gentlewoman from Connecticut [Mrs. KENNELLY] said:

I am really looking at the situation and seeing what has developed. I think what has happened makes a mockery of our traditional process and system that has kept this whole legislative body going forward in the profession in over 200 years.

The Chairman [Mr. MCCURDY] said:

We are not talking about a covert action here; we are talking about a $1.3 billion—$1.2 billion, whatever the numbers are—consolidation of real estate that obviously is not an emergency. It is not—it may be urgent in your mind, but as far as having an effective policy in order to get the most—the wisest decision. This decision is going to affect the future of the agency, perhaps as no other construction decision made, because you are going to affect the lives and well-being of your personnel.

Mr. MCDADE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Pennsylvania [Mr. MCDADE].

The motion was agreed to.

A motion to reconsider was laid on the table.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. MURTHA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MURTHA moves, pursuant to rule XXVIII, clause 6(a) of the House Rules, that

the conference committee meetings between the House and the Senate on H.R. 2521, the Department of Defense appropriations bill for the fiscal year ending September 30, 1992, and for other purposes, be closed to the public at such times as classified national security information is under consideration; *Provided, however*, That any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

On this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 307]

YEAS—422

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—11

Boxer
Callahan
Edwards (OK)
Ford (TN)
Holloway
Hopkins
Lewis (CA)
Michel
Russo
Savage
Slaughter (VA)

□ 1128

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCNULTY). The Speaker will appoint conferees upon his return to the chair.

□ 1130

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mr. FISH. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Resolution 194.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. NAGLE. Mr. Speaker, on Thursday, October 3, 1991, I was unable to participate in the vote because of illness.

Had I been able to vote, I would have voted "aye" on rollcall No. 291.

MOTION TO INSTRUCT CONFEREES ON H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. DANNEMEYER. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DANNEMEYER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill, H.R. 2686, be instructed to agree to the provisions contained in amendment numbered 212 of the Senate amendments.

MOTION TO TABLE OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion to table.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. YATES moves to lay on the table the motion offered by the gentleman from California.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Illinois [Mr. YATES].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, nays 243, not voting 9, as follows:

[Roll No. 308]

AYES—181

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Bellenson
Berman
Boehlert
Bonior
Borski
Boucher
Boxer
Brown
Bustamante
Campbell (CO)
Cardin
Carr
Clay

Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (IL)
Coyne
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Grandy
Green
Hall (OH)
Hatcher
Hayes (IL)
Hertel
Horn
Horton
Houghton
Hoyer
Hughes
Jefferson
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McDade
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moran
Morella
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Pickle
Rangel
Reed
Richardson
Roe
Rostenkowski
Russo
Sabo
Sanders
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates

NOES—243

Allard
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Byron
Camp
Campbell (CA)
Carper
Chandler
Chapman
Clement
Coble
Coleman (MO)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Dickinson
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (SD)
Johnson (TX)
Kasich
Kleczka
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Lent
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Marlenee
Martin
McCandless
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morrison
Murphy
Myers
Neal (NC)
Nichols
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—9

Callahan
de la Garza
Edwards (OK)
Holloway
Hopkins
Lewis (CA)
Roybal
Savage
Slaughter (VA)

□ 1152

Messrs. DORGAN of North Dakota, WILSON, HOAGLAND, KLECZKA, MOODY, TRAFICANT, FROST, McCURDY, SISISKY, BROOKS, and McCLOSKEY changed their vote from "aye" to "no."

Messrs. JONES of North Carolina, HALL of Ohio, and ABERCROMBIE changed their vote from "no" to "aye."

So the motion to table was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from California [Mr. DANNEMEYER] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, the Nation has just witnessed an intense debate in the Senate on the confirmation of Justice Thomas to the U.S. Supreme Court. My congratulations to him. The controversy between Professor Hill and Mr. Thomas was between those two people. Claims were made that certain statements were made, and the American people, I doubt, will ever know with certainty who said what to whom.

However, Mr. Speaker, on this issue today that I bring before the House we know precisely what has been written, what has been said and, in this instance, has been done with taxpayers' money. There is no question about the contents of the material that we will discuss today on the floor of the House.

This body considered this matter about 3 weeks ago, but at that time it was on a motion to defeat the previous question, which was procedural in nature, so we did not get a clear up or down vote on the substance. Today we are going to have a clear up or down vote on the substance as to whether or not the House is going to adopt language that was approved in the Senate by a vote of 66 to 28 that I believe is necessary in order to get the attention of the people running the National Endowment for the Arts. There are standards that exist in this country that the American taxpayer is going to insist be followed as a means of our providing proper stewardship over what we do with taxpayers' money.

Mr. Speaker, in 1989, language was placed into the interior appropriations bill that said that none of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate or produce materials which in the judgment of either of them may be considered obscene, including, but not limited to, depictions of sadomasochism, homoeroticism, the sexual exploitation of children or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political or scientific value.

Notwithstanding that language, Mr. Speaker, these are some of the projects that were funded with taxpayers' money:

The NEA gave $8,000 to help produce a show about homosexuality titled "Tongue United." The NEA also provides $250,000 of the $1.1 million budget for PBS's "Point of View" which aired the show. The program includes scenes of two men sodomizing each other in bed and a narration that included the expletive: "motherf—— ——," and the phrase, "anoint me with coconut oil and cum." In a reference to AIDS, the narrator repeats the refrain, "now we think * * * as we f——."

Second, the NEA gave a $15,000 grant to Illinois State University Gallery in Normal, IL, for an exhibit titled "David Wojnarowice: Tongues of Flame." The exhibit contained photographs of men performing oral sex, anal sex, oral-anal sex, and masturbation.

The third item funded with that restriction is that NEA is a regulator contributor to LACE, the Los Angeles Contemporary Exhibitions Center. Here is how a homosexual magazine describes one of LACE's more interesting pieces of art:

"The bleeding naked man leapt into the audience as the drag queen speedmetal band backing him thrashed to disjointed climax," and so on.

The fourth, is the NEA gave an unspecific amount of money to Chicago

film makers which put on a militant feminist show called "Rattle Your Cage," featuring the display "Sister Serpents * * *" and so on.

Mr. Speaker, currently there is language in the NEA authorization which is the law today that says that artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

Now some of the projects that have been funded by the NEA under these guidelines included a $15,000 grant to Ms. Holly Hughes, a self-described lesbian performer, to produce a show titled "No Trace of the Blond," The production revolves around two pubescent girls around 12 years old who, as the application reads, investigate the gothic image of vampires as an expression of irrepressible sexuality.

Second, a group named "Frameline" received $12,000 to help defray the costs of the 1991 San Francisco International Lesbian and Gay Film Festival. Featured films include "Queers Bash Back," "S&M Sex and Music," "Multiple Orgasm," "Yearning for Sodom," and "Portraits of Lesbian and Gay Youth."

Third, the NEA funded the Maryland Art Place that recently sponsored a performance of Annie Sprinkle. The performance is the same as usual, "Nurse Annie's Sex Education Class."

And fourth, on March 8, 1991, the NEA sponsored a forum on art and AIDS. Only after inquiries of a local think tank was this invitation-only, closed-door meeting opened to one individual outside the arts community or selected press. According to the Washington Post, the forum included slide and video presentations that showed members of the same sex together in various stages of undress. Additionally, the Post reports one presentation contained homoerotic photographs and political messages aimed at the President using explicit language.

Well, if these projects can be funded under the existing law, I think it points up very clearly the need for the language that is involved in this motion to instruct conferees now pending before the House. It very simply says that notwithstanding any other provision of law none of the funds made available to the National Endowment for the Arts under this act may be used to promote, disseminate or produce materials that depict or describe in a patently offensive way sexual or excretory activities or organs.

I ask for your "aye" vote.

□ 1200

Mr. YATES. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, let me say at the outset that the gentleman has cited a list of grants that he says were made by NEA. Several of those have not been funded by NEA. Several are from years gone by. A few of them have been funded by NEA, and of those few, several have received critical acclaim.

But what this dispute is all about today is language. What kind of language can be drafted to give the artists a chance to express themselves and still protect those who say that the work the artist is coming out with is depraved?

We have tried for years to find the appropriate language. The gentleman from California has sought to do that. A few years ago the gentleman from Texas [Mr. ARMEY] came to see me. He was offended by the Mapplethorpe show, he was offended by the Serrano show, by the Serrano photograph, and he came to see me because of the fact that I was chairman of the Subcommittee on the Department of the Interior and related agencies of the Appropiations Committee, and he wondered whether appropriate language could be written that would prevent such artifacts from being shown to the public with NEA grants.

I said to him, "You draw the language. Let me see it. Let's see if it is good enough to put into the bill."

He said, "I can't do it." He said, "It's too difficult a job to find that kind of language." He said, "Why don't you do it, Congressman YATES?"

I said, "I can't do it because it is so difficult. I can't do it."

Both of us asked the then-director of the NEA to draft the appropriate language that would serve this purpose. He came back with language that neither the gentleman from Texas [Mr. ARMEY] nor I thought was appropriate for the bill.

I see my friend, the gentleman from Montana [Mr. WILLIAMS] is on the House floor. Last year he was chairman of the subcommittee that worked 3 years on appropriate language, and that language was finally agreed upon. The House voted for it, and the Senate voted for it. That language is now the law. We knew that the language would never have pleased everyone involved. We knew the language would not appeal to those who wanted total freedom for the artists who were getting grants from NEA. We knew it would not be approved by those who wanted greater restrictions. But it was a compromise we all accepted as being appropriate at the time.

We now have the same kind of a fight taking place over language that has been offered by the Senator from North Carolina [Mr. HELMS]. His language has the effect of vitiating or wiping out for a period of 1 year the work of the legislative committee last year. That will happen because his amendment begins like this:

> Notwithstanding any other provision of law, none of the funds in this act may be used by NEA to depict sexual activity or excretory organs in a patently offensive way.

But the language of the gentleman from North Carolina is not necessary. We can compare his language, the language of the Helms amendment, with what is already in the law, and let me read to the Members what is already in the law. In the law that we enacted last year and which became the law, it says this:

> The term obscene for this purpose, means that * * * the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;
>
> (2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way;

How does that differ from the language that the gentleman from California wants this House to instruct this committee? It does not differ in any material way. As a matter of fact, the Senator from North Carolina uses the phrase, "patently offensive way," in the language that was accepted by the other body.

I continue with item No. 3—

> Such project, production, workshop, or program, when taken as a whole, lacks serious literary, artistic, political, or scientific value.

The language that was used last year also says this: It recognizes no grant shall be made that does not—

> Recognize that obscenity is without artistic merit, is not protected speech, and shall not be funded; and * * * ensure that projects, workshops, productions, and programs that are determined to be obscene shall receive no funds under this act.

What else can we say that is not included under that language that will achieve the goal that the gentleman from California wants? How many times must Congress consider amendments to the National Endowment for the Arts to try to surround obscenity and pornography in such a way that no grants will be given to any artifact that is obscene?

What happens is that every time there is a senatorial campaign there is an attack on pornography. It has a long history that goes back to the famous or infamous Smoot-Hawley tariff of the 1920's. The "Smoot" of that tariff was Senator Reed Smoot of Utah. His tariff had an antipornography amendment in it that said nothing obscene could be imported into this country, like James Joyce's "Ulysses." That was banned by Customs officials and was only permitted to come into this country when a Federal judge ruled that it was not obscene. Customs officials held up art; Customs officials held up tremendous numbers of other items that they said were obscene.

Indeed at that time Ogden Nash composed a poem directed at Senator Smoot. This is the way it went:

> Smite smut, Smoot, rough and tough.
> Smut when smitten is first-page stuff.

So we have an amendment in the Senate which the gentleman from Cali-

fornia [Mr. DANNEMEYER] wants the House to accept. The Smoot smut amendment was the law 70 years ago, and now we have the gentleman from California [Mr. DANNEMEYER] offering the same kind of language again.

Mr. Speaker, I hope the House will not vote for this language. I hope the House will sustain the authorizing committee, which last year, after 3 years of hard work on finding appropriate language, submitted a law that was approved by both the House and the Senate and is now the law of the land. I hope the House will not instruct conferees and wipe out for 1 year the language that was accepted last year.

□ 1210

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman from Illinois [Mr. YATES] for reading the current law of the land into the RECORD. I want to emphasize the words of the gentleman by assuring Members in the House that when the House and the Senate changed the law affecting the National Endowment of the Arts in the last Congress, we did so in a very significant and major way. We found, correctly, that pornography is not free speech and is not protected by the Constitution of the United States, and we reaffirmed the congressional position that the funding of pornography through the use of taxpayer money was illegal. Today, it remains illegal.

The question is should the courts decide through the normal process what is pornography, or should this House decide it? The gentleman from California [Mr. DANNEMEYER] would have this House determine what is pornography. The gentleman from Illinois [Mr. YATES] would prefer to stick with the language which Congress adopted in the last Congress, language which requires that pornography is not protected speech, is illegal, and that Federal money cannot be used for it, but allows the courts to determine on a case-by-case basis that which is pornography.

Mr. Speaker, the position of the gentleman from Illinois [Mr. YATES] is precisely correct, and I commend the gentleman for it.

Mr. YATES. Mr. Speaker, reclaiming my time, I thank the gentleman from Montana [Mr. WILLIAMS] for his contribution.

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

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. YATES. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from Illinois [Mr. YATES] has stated that they worked hard with the language, that there is a law, and that it took 3 years of hard work to establish that language. But what we are talking about here is accountability.

Mr. Speaker, the captain of a ship has got accountability, Members of Congress have got accountability, and I think the NEA needs to have accountability. When it does not, it needs to be punished.

We still have pornography being released at taxpayer dollars. The courts, it is very difficult to get anything through. The House does need to state a position to stop it, if that is what it takes.

Mr. Speaker, I supported the original NEA vote. We have things like the Old Globe in San Diego that is supported by the NEA. We have the symphony. We have a lot of very good things. We have the university play which was put on, Brigadoon, and West Side Story, and those are good.

Mr. Speaker, in the military budget we have bad items and we try to take those things out. The agriculture budget, we try to take bad things out. I think this House owes it to the American people to take out bad things from NEA, when they exist, whatever language we have to draft, even if it takes 3 more years.

Mr. Speaker, this Nation was mesmerized when a quiet, intelligent young woman alleged verbal pornography against a judge. Mr. Speaker, our Government is sponsoring and paying for pornography 10 times worse than was ever uttered by Ms. Hill. We need to stop that, whatever it takes.

Mr. Speaker, many Members want to support the NEA, for the good that it does in the field of education and the humanities, but we need to stop some of the things that are going on. I would ask conservative Members on the other side of the aisle, I would ask liberal Members on the other side of the aisle, to support the gentleman from California [Mr. DANNEMEYER].

Mr. Speaker, the gentleman from Illinois [Mr. YATES] comes from the Jewish faith. I come from the Christian faith. I think both of our value systems in the church, the Judeo-Christian values, do not support pornography. I do not think the gentleman does either. I do believe that additional language would help send the message that we do not support such things in the Congress.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman from California [Mr. CUNNINGHAM] is, of course, aware of the Helms language in the Senate. How does that differ, may I ask the gentleman, from the language which is now in the law that says that the term "obscene" means such project, production, workshop or program that depicts or describes sexual conduct in a patently offensive way?

Mr. CUNNINGHAM. Mr. Speaker, whatever message it sends, if we have to send the same thing 100 times, the question is right now pornography is being committed over and over and over again. If the House has to send the same exact message again, then that is what we should do, whatever it takes to stop it.

Mr. YATES. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, let me read the Helms language. May I say to the gentleman from California [Mr. CUNNINGHAM], it says "Notwithstanding any other provision of law."

Mr. Speaker, do you know the effect of that phrase? The effect of that phrase, which is the beginning of the Helms amendment, is to wipe out the language of last year's bill that the House and Senate enacted.

If the gentleman from California [Mr. DANNEMEYER] prevails, the Helms language will not become the standard. None of the other standards that are in the law would apply. It becomes the sole, single standard for judging what the basis for granting applications are for the National Endowment for the Arts.

Mr. Speaker, is that what the gentleman wants? Does the gentleman want to erase from the books for the period of this appropriations bill, which is 1 year, that standard? Is that what the gentleman wants?

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I would say again to my friend from Illinois [Mr. YATES], whatever it takes. I do not think that the gentleman believes that such things as "Queers Bash Back," "S&M Sex," and "Yearning Sodom," are appropriate. Would the gentleman from Illinois [Mr. YATES] work with us to stop obscene art?

Mr. YATES. Mr. Speaker, reclaiming my time, I would ask, did the gentleman hear my statement?

Mr. CUNNINGHAM. Yes, sir.

Mr. YATES. Mr. Speaker, I tried 3 years ago to work with the gentleman from Texas [Mr. ARMEY] and the gentleman from Texas [Mr. DELAY] to find appropriate language. I said I could not write it, the gentleman from Texas [Mr. ARMEY] said he could not write it, and the gentleman from Texas is a talented guy.

We turned it over to the then Director, the then Chairman of the NEA. He came back with language that neither of us wanted.

The House committee last year worked for 3 years trying to find that language. It is a very, very tough thing. I do not think that the Helms language does it. That is why I am op-

posed to it. I think that the language and the sections of the law that were approved last year go much closer toward achieving what the gentleman wants and what I want.

Mr. CUNNINGHAM. Mr. Speaker, if the gentleman will yield further, we know some of the things that have been sponsored by the NEA at taxpayer expense are considered obscene. Would the gentleman from Illinois [Mr. YATES] move to restrict the funding of those particular films, art work, and plays?

Mr. YATES. Mr. Speaker, reclaiming my time, what the gentleman from California [Mr. CUNNINGHAM] is saying is that he does not approve of the way John Frohnmayer, the Chairman of the Endowment, is doing his job. If I understand correctly, what the gentleman is saying is Frohnmayer has approved those grants. They are bad grants. Therefore, Frohnmayer is not doing a correct job.

If I understand what the gentleman from California [Mr. CUNNINGHAM] wants, he wants Frohnmayer replaced, rather than changing the law. That is the only way you will get your complaint remedied or rectified.

Mr. CUNNINGHAM. Mr. Speaker, if the gentleman will yield further, does the gentleman from Illinois [Mr. YATES] think that such things as "Queers Bash Back" is not pornography? Does the gentleman think some of the plays and films that I just mentioned should be presented to the American public at taxpayer dollars? If Mr. Frohnmayer is making those judgments, and evidently the same type of pornography is coming out, then we need to remove that.

□ 1220

Mr. YATES. Mr. Speaker, if the gentleman would permit me to reclaim my time, I do not know the particular artifacts the gentleman mentioned, the dramas. I do know that when I made inquiry of NEA concerning the eight artifacts that the gentleman from California [Mr. DANNEMEYER] listed last time, two of then had not yet been written. Three of them were done before 1991, and before Mr. Frohnmayer took the job.

Two of them, they said, were approved by the NEA and both of them had received critical acclaim.

So that when the gentleman asks me, and I do not know what is in them, when the gentleman asks me do I approve of that, I am only repeating to the gentleman what Mr. Frohnmayer told me.

Mr. DANNEMEYER. Mr. Speaker, I yield 9 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, if we run from this, we are engaged in a cowardly exercise in this great legislative body. I say to my colleagues on both sides of the aisle, in the best spirit of healing, the kind of healing that soon to be sworn in Associate Justice Clarence Thomas was talking about last night, the kind of healing that I am sure Prof. Anita Hill is talking about in Norman, OK today, my colleagues, "Don't you get it, why the American people hold us in such low esteem?"

Do we not get it in this House that the American people would not care a bit about floated checks in our soon to be closed cooperative bank or the tabs down in the restaurant. They would not care about those things if they thought we really represented their interests across this country.

But when they see us fund with their tax dollars this type of depraved, filthy gutter material and call it art, they get utterly disgusted with this Chamber and the other house.

The American people have had it up to here. They used to put us down with garbage men, an honorable profession, because we all put out garbage. They used to say we were below used car salesmen. I had that job for a while when my wife and I had five children under 10. There is nothing to compare us to now. There is not a profession in this country that does not rate miles above the Congress of the United States.

It is because of issues like this. I am not going to stand in this well and read what was funded, as the gentleman from Illinois [Mr. YATES] my good friend says is old stuff. Last year and the year before is not that old.

Under the language that we tried to come up with in this House, Mr. Frohnmayer, who should be replaced tomorrow by the President of the United States and, brace yourselves, I mean this suggestion of his replacement with all seriousness, he ought to be replaced with Prof. Anita Hill. There is a healing move.

If the President wants to consider it. I read in the White House that my friend, Chief of Staff John Sununu, and the President himself have had it with Frohnmayer, but nobody seems to have the guts to take the action to remove this man who sat in the office of the gentleman from Illinois, PHIL CRANE, our colleague, a few weeks before he was confirmed and said he was going to stop this gutter nonsense. He lied to us.

There were about 10 Republican Members in the office of the gentleman from Illinois [Mr. CRANE] and John Frohnmayer lied.

Then after he started this nonsense, his brother lost a race for Governor, I think in Oregon, a part of the fallout of his brother who lied to the country and then proceeded to fund this garbage under the old language here of 2 years ago, which came out of this House.

Then we came up with new language a year later. Here are the words of the new language:

Artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

Diverse beliefs, of course, includes sadomasochists, child pedophiles, child abusers, bondage discipline, all the garbage that is out there across America. That is diverse. So what does John Frohnmayer do at the National Endowment for the Arts? He funds Holly Hughes again, on a stage inviting people to come up with a flashlight and probe all of her body cavities. I am cleaning up the language here. No. 2, Frameline, another $12,000 for the film titles that Mr. CUNNINGHAM was trying to get across to the gentleman from Illinois [Mr. YATES]. Portraits of lesbian and gay youth. There is that word "youth" again; queers bash back, sadism and masochism sex and music.

Here is another one, Maryland Art Palace, Annie Sprinkle lying on a stage with a flashlight, again inviting the audience up. Here is one on March 8, NEA sponsored a forum on art and AIDS. It was, of course, invitation only, closed door meeting, what we call around here executive session.

They let one outside person in and he writes, here is all the homophobic erotic photographs again, people on the stage, various stages of undress.

Here is what gets me, Mr. Speaker. We cannot address anybody in the executive branch through this microphone, or from this floor, but I think it is clear what I am saying. Here is President Bush in filthy so-called art on all the walls being derided with explicit language, and it is paid for by NEA money under John Frohnmayer to attack the President of the United States. It is not just Cardinal O'Connor that has taken these blows and strikes now. This is not what American taxpayers want to fund.

I, like the gentleman from California [Mr. CUNNINGHAM], have had worthy projects in my southern California district, native art projects, little school projects, Shakespearean little theater taking over a closed movie theater. I would like to support this.

I tell my colleagues what this nonsense debate has done to me on this floor. It has made a libertarian out of this conservative. I do not see why I should send a nickel to public broadcasting to go through an NEA grant to watch a bunch of what Gov. Pete Wilson would call them now our fascist demonstrators desecrating St. Patricks Cathedral where my parents were married and I was baptized. That was my parish church for the first 10 years of my life.

I am to the point now where I cannot determine why any money for the most worthy project, which is 95 percent of them, should go to any artistic endeavor in this country when people ought to have a right as taxpayers to say, "I

don't care how minuscule the garbage is."

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman said 95 percent of the projects of the NEA.

Mr. DORNAN of California. Mr. Speaker, I will up it to 99.

Mr. YATES. If the gentleman will continue to yield, it is 99¾.

Mr. DORNAN of California. I will up it to that.

Mr. YATES. Ninety-nine and forty-four one-hundredths.

Mr. DORNAN of California. I will go with that, pure as Ivory soap. But the American taxpayers, I say to the gentleman again, the check scandal brings about an anger based on us funding one-millionth of 1 percent of child abuse, so-called erotic garbage with their tax dollars, mine and decent American people all across this country, one-millionth of 1 percent is an insult to the people of this country, and it causes them to hold the gentleman and me and 433 other Members in low repute.

Did we not hear Anita Hill? Did we not hear the verbal—relating in her mind—her allegations of what pornography is?

The gentleman says we cannot come up with a definition in this House. I may not be able to. And JESSE HELMS did not write that language. It was written by legal scholars like the great Alexander Bickel.

Mr. YATES. If the gentleman will continue to yield, why has he not written it?

Mr. DORNAN of California. Mr. Speaker, I already have the language written. For 3½ years I traveled throughout this country.

Mr. YATES. Mr. Speaker, where is that language? Did the gentleman submit that language?

Mr. DORNAN of California. I only missed Alaska. I traveled around this country from 1973 to when I was elected in 1976, and I am not a lawyer. But I became a good guardhouse lawyer based on the eight Milner decisions. I was able to take that definition. I had it memorized then, and I was able to explain to people all across this country why no Supreme Court in the history of our land, Potter Stewart notwithstanding, has ever said pornography was constitutionally protected free speech.

I alone in this Chamber, with unanimous consent, got the Post Office Service an amendment that declared pornography contraband.

Do my colleagues know what was happening up to then, to the ACLU? The one issue where Michael Dukakis, during the presidential race, separated himself from the ACLU. He said, "I don't think child pornography once produced is protected by free speech."

□ 1230

Do you know the power that the Dornan amendment gave the Postal Service? It was to go to a child pornographer and say, "Where did you develop this film? Where did you transport this from?"

"In my home or my car."

Good, then we own your car and we own your home, and the U.S. Postal Service is taking all of this contraband from one unanimous-consent amendment on this House floor.

We are gutless in this Chamber about pornography, and that is why no Senator had the guts to bring that up to Clarence Thomas, because the liberals on the right side facing them, they knew that the liberal philosophy, and the gentleman from Illinois can wave his hand all he wants to, the liberal philosophy has drenched, soaked our country in child pornography along the lines of Long John Silver and other street names for the male genitalia inserted, and that is why Congressman and Senators are held down in the gutter by the American people, because of the innate stupidity of blocking good language like this to protect the young of our country and to protect the mothers, the grandmothers, the sisters, the daughters. I do not care what people who do not want children feel about that. But that is what Americans want.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Members should avoid such references to the other body.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Florida, [Mr. STEARNS].

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

Mr. Speaker, I think the crux of the argument here which can be brought to bear on a comment that the gentleman from Illinois [Mr. YATES] said "why not let the courts decide." I would say to the gentleman from Illinois, that is what he said. The language is there, "why not let the courts decide."

Mr. YATES. If the gentleman will yield, it is not what I said, but it is what I believe.

Mr. STEARNS. It is what you believe, and I think implied in your conversation, that we should let the courts decide.

I think on this side of the aisle what we are trying to say is this: let us make a strong attempt to define it and not have the courts decide, because if we can get a decision by Mr. Frohnmayer on the NEA granting a project early on to not fund the kind of projects that are embarrassing the Members of Congress, then we can prioritize our money and we will not be funding these things. Better than going to the courts later, because once we go to the courts that is going to tie up the decision forever and a day. It can go on and on and on. This way the American people are sure their dollars are going for something that is in the mainstream of what they all believe.

So I think the crux of our argument here today on this side is that we do not want the courts to decide. We want to be able to have Mr. Frohnmayer feel comfortable in granting something that mainstream America will accept, and for that reason we do not want to have all of this money tied up in court cases. Their comes a point when we in Congress have to prioritize the money that is being spent. All of us feel that the NEA has certain very commendable projects. But there are those few projects that even you, Mr. YATES, admit we do not want to see go to the courts. Therefore, we want to see use of this language to stop that funding which end up in the courts.

Mr. YATES. If the gentleman will yield, I will tell the gentleman that if he is supporting Mr. DANNEMEYER, he is going contra to the purposes that he says he wants, because what will happen as a result of the adoption of the Dannemeyer language, the gentleman's language is that you will have the Helms language as a single standard for the grants.

Let me read what the law is now that would be vitiated by Helms.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. STEARNS] has expired.

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

The gentleman wanted the average person's wishes considered, and this is what the law says:

> The term obscene means that the average person applying contemporary community standards would find that such project, production, workshop, program, when taken as a whole appealed to the purient interests.

Is that not what the gentleman wants?

Mr. STEARNS. If the gentleman will yield, I like the Helms language better. That is why I am supporting the amendment.

Mr. YATES. There is no use talking to a closed mind.

Mr. STEARNS. If the gentleman will yield, will he not say though that the intent, what we are trying to do is to not have it go to litigation?

Mr. YATES. Who does the gentleman want to judge it then?

Mr. STEARNS. I think we should make the guidelines specific enough so that it does not go to litigation.

Mr. YATES. You do not do that with Helms.

Mr. STEARNS. I think over on this side we feel that it would stop those projects that are debatable, and we would prioritize taxpayers' money.

Mr. YATES. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I am sure that the people who observe the busi-

ness of this Chamber note that on a semiannual basis the House of Representatives engages in a debate which has gone on for decades if not centuries as to what is obscene. I think it is fair to say that regardless of your partisan stripe on the floor, most if not every Member of Congress objects to the Federal funding, taxpayer funding of obscene material. Whether you are a Democrat or a Republican, you agree with that conclusion.

Second, though one might note that we have some differences of opinion as to what obscenity really is, I would suggest that people in good faith have tried to define this term for many years, including justices of the Supreme Court, with limited success. But the House of Representatives is never daunted in their approach to trying to come up with a new definition, one that is so inclusive, as the previous speaker said, that there can be no doubt in anyone's mind that if something is put before them it is either obscene or it is not obscene. So each year we engage in this debate, redefining the term, trying to get so specific there will never, ever possibly be an exception.

I think everyone realizes that this is a futile effort. Obscenity still is going to be in the eyes of the beholder, and ultimately the decision will have to be made on funding this material when some human takes a look at the work of another human and decides whether or not it fits the definition.

The gentleman from California [Mr. DANNEMEYER] thinks he has a better definition this year. Let me say what I think this gets down to. It is not a question of a definition; it is a question of who is making the judgment. The judgment in this case by the NEA is being made by Mr. Frohnmayer, who I have not met and do not know personally, and those other people who work for the National Endowment for the Arts.

Make no mistake, these people are not appointed by Congress. These people are appointed to this task by the President of the United States, George Bush. They are political appointees of the President. These men and women who decide what is obscene and what will be funded are the choices of the President or their surrogates. They are not the choices of the Democratic leaders in Congress, nor are they the choices of the House of Representatives or the other body. These are in fact the President's appointees who take the language and apply it, and I would suggest that the current language in the authorizing bill is as comprehensive as we can make it. It makes it clear that they are not to approve projects which describe sexual conduct in a patently offensive way. It makes it clear they are not to approve obscenity, but ultimately Mr. Frohnmayer and the other Bush appointees will take this language and apply it to a play, to a book, to a film, to some stage production or whatever it happens to be, and then and there is where the process has broken down. We do not agree with their judgment.

But frankly, let us not try to sit here and redefine obscenity every 6 months or every year. Let us say that the buck must stop in the White House where the appointments are made and the people actually make the decision as to what is obscene and what is not.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Montana, [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, there are a number of questions that have been raised here, and one of the questions that I have is why should I and our wage earners have to pay for offensive material produced with taxpayers' dollars? Why should I have to go to court in order to stop them from using my taxpayer dollars?

With the argument and the attitude that they have, that is Frohnmayer and the, "So sue me", crowd, it looks like it is going to cost our taxpayers more money, and it will come out of their own pockets.

And who decides? Who is going to decide what is obscene material?

In an attempt to service my constituents I thought perhaps a certain number of them would like to see the Mapplethorpe photographs. But before I sent them out, I was wise enough to contact the Postmaster General. I asked him if I could send these materials through the U.S. mail without being brought up for litigation because I was distributing pornographic, obscene material. The response from William Johnson was:

> I would recommend that you contact the Department of Justice for an opinion on whether that agency believes the photographs might constitute a violation of Federal or postal laws.

In other words, the U.S. Postal Department would not tell me if I could send the Mapplethorpe photographs that were funded by taxpayers' dollars through the U.S. mail.

So I contacted the Attorney General. I contacted that Department of Justice. Could they give me an answer? Could they make the decision? Could they clear the way, pave the way for me to send this material through the U.S. mail?

□ 1240

I was seeking an answer so I could serve my constituents. "The Department of Justice cannot provide private legal advice." I did not know that my advice was private legal advice, although I did seek to abide by the law and not violate it, and I did not want to be charged, "While the Department of Justice cannot provide private legal advice of the type you request, that is, advising you of the legality of such a mailing—the Federal codes—criminalize the knowing use of the mails to send or receive obscene materials and child pornography, respectively."

In other words, they could not tell me that I had the clearance to mail this material through the U.S. mail.

Mr. Speaker, the legacy of shame will continue until someday the decent family-oriented people of the United States of America will rip the plaque of liberalism from the walls of the U.S. Congress. They will say, "Stop the doubletalk and our sponsorship of the obscene."

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, this fight really is not just about content restriction of works of art sponsored or subsidized by the NEA. What this really is all about is the elimination of the NEA.

There are small-minded people in and out of Congress who cannot and will not see the benefits that art and culture provide to this great Nation of ours and want to eliminate Federal support of it by eliminating the NEA.

The people of this country know what the NEA has done in its some 25 years of existence; art in every aspect, dance, opera, theater, you name it, has burgeoned in communities large and small throughout this country, but the opponents of the NEA, for reasons small minded at best, want to eliminate it. They fly in the face of the very freedom of expression guaranteed by the first amendment to the Constitution.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield before I take a point of personal privilege?

Mr. WEISS. I am pleased to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I know that small minded is not that heavy a word or an insult. I guess my brain is 3 pounds like yours. Victor Hugo and Lord Byron are the only people I know with 5-pound brains. Einstein was a 3-pounder. So I am about 48 ounces.

Mr. WEISS. Is this coming out of your time or mine?

Mr. DORNAN of California. I know what you meant was view and scope, but I will tell you, I do not think you are small minded, and I think you missed my point. Find out why America hates this Congress. It is because of issues like this, Mr. WEISS. I still like you.

Mr. WEISS. Mr. Speaker, let me get to the point where this legislation differs from last year's. The authorization bill adopted last year had the saving grace of vesting in the courts the power to determine that the material is pornographic.

But in this instance, you would be required to create art content police under JESSE HELMS or WILLIAM DANNEMEYER or somebody, because ultimately somebody has to make a judgment as to what is or is not pornographic. For me, I would rather the courts do it than Mr. HELMS or Mr. DANNEMEYER. The fact is that our society's standards of what is pornographic, what is obscene have changed regularly throughout the years.

In my lifetime and yours, "Ulysses" was banned. It is now accepted classic literature. Obscenity and pornography should not be determined by the politicians.

Stick with the courts.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, this is an agonizing issue. Everybody in this body supports the Constitution.

When you look at these issues, you basically have to interpret the Constitution and the purpose of the Constitution. There is no question that the Constitution assures the rights of freedom of expression and freedom of speech, but one thing for sure the Constitution does not mandate is that the Government should subsidize and pay for one individual's freedom of speech perspective.

Now, we have come down to some issues: Pictures of a crucifix submerged in urine, photographs of women naked spread-eagle, homosexuals engaged in explicit sexual acts, children photographed in erotic sex positions.

What does it come to, folks? The American people are saying maybe we have gone overboard.

Now, we can still debate the fine line of what is the constitutional right of free speech, assembly, and expression, but you cannot deny the issue here, that the taxpayers do not have to pay for this garbage. Very simple to me.

I think I have been all over this issue, and I think I have finally settled in my mind, at least, what my vote from here on out will be. I will continue to abide by and preserve those rights of Americans to have free speech and free expression, but I will be damned if I am going to commit one more penny from my district to pay for this garbage.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am puzzled when Members say that the controversial or objectionable activities that have been funded reflect on the Congress.

I do not think any Member of this body has ever voted on a grant. No Member of this body, to my knowledge, has been responsible for any funding decision. The National Endowment for the Arts, since many years ago, was controlled first by appointees of Ronald Reagan and now by appointees of George Bush, so the issue before us is not whether or not the Endowment has a perfect record.

The gentleman from California and the gentleman from Illinois, in a colloquy, agreed it has about a 99.5 percent perfect record.

There is agreement that some of what they do is inappropriate. I agree with part of what the gentleman from Ohio said. Free speech is one thing, but you do not have a right to have funded everything that you have a right to say.

The question we have is not whether the National Endowment for the Arts is perfect but whether or not the best way to handle it is for Congress to intervene in its day-to-day affairs.

Some of us feel that these difficult decisions are best left to George Bush's appointees, and that is who makes the decision.

People said they are angry at Congress because of these grants. No one in Congress has made a grant. Ronald Reagan appointed people, and they made grants. Then George Bush appointed people, and they made grants. This is a wholly executive decision.

My colleagues on the other side are very angry at the President of their party in this particular instance, and I congratulate them on their nonpartisanship. I think it is admirable that they are prepared to use such harsh language about decisions made by appointees of their Presidents. Mr. Speaker, I caution them in their anger at the decisions made by these Reagan and Bush appointees, in the scorn which they pour on the disregard the Reagan and Bush appointees have shown for their sensibilities in this instance, they should not deviate from good administrative practice.

They have often been the ones who warn us against micromanaging. The issue here is not whether this or that grant is correct, but whether or not Congress must seize control from the Bush administration of this agency, and I do not think they have done that bad a job.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Speaker, I hope that the conferees are not instructed.

This amendment is an amendment that would be impossible to enforce. It suggests the National Endowment for the Arts cannot fund anything that depicts anything in a patently offensive way. It is an absolutely absurd and unconstitutional standard.

The real question is the National Endowment for the Arts which has functioned so well, has been such an important part of our economy, such an important part of the enormous export of American arts and American leadership in the arts, whether decisions about grants will be made by 535 Members of Congress or whether they will be made by a panel of experts appointed by the President of the United States.

If I were to suggest a group of people who were perhaps the most unsuited by temperament, by training to make decisions about what is art and what is not and what is pornography and what is not and what is artistic expression and what is not, it would be the Members of the Congress.

□ 1250

We have a lot of important things to do. Making these determinations is not one of them. It is time to stop the nonsense, to leave the decisions in the hands of the National Endowment for the Arts and in the President's appointees and to get on to the real issues that face us, the real concerns about education, about getting our economy started again, but doing the things to make sure that America is preeminent in the world, in our economy and in our standard of living.

This debate is a waste of time. This effort is an effort to have us meddle in an area where we have no ability to make judgments.

Mr. YATES. Mr. Speaker, in the time remaining I should only like to point out to those who have declaimed against the NEA for grants that it has made and have indicated they propose to support the gentleman from California because they think that he offers greater hope that there will no longer be any approval of obscene materials, let me point out what the effect of the Helms language is again.

Let me first say that like the gentleman from Ohio [Mr. TRAFICANT], I despise the obscene works that occasionally crop up in the theater, in the museums and in the paintings and in the photographs.

The question we have to look at, I say to the gentleman from Ohio [Mr. TRAFICANT], is language, as I pointed out before. Which language will reach the result that the gentleman wants and that I want. Will it be the Helms language or will it be last year's language that the authorizing committee submitted to the Congress and which the Congress approved.

Let me read the Helms language. This vitiates the language of last year because it says: "Notwithstanding any other provision of law," it does away with the laws that are on the books. It may even do away with the laws on child pornography. I am not sure of that. But it does away with last year's language.

It says:

> Notwithstanding any other provision of law, none of the funds made available to the National Endowment for the Arts under this Act may be used to promote, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs.

Is there anything else that is offensive, other than sexual or excretory ac-

tivities? If there are, the Helms language does not stop them from being the subject of grants by the NEA. It is a very limited field.

Contrast that with the language that is in the law now. It says:

We recognize that obscenity is without artistic merit, is not protected speech and shall not be funded.

That is done away with.

Insure that projects, workshop productions and programs which are determined to be obscene shall receive no funds under this Act.

That is done away with. That is in the present law.

It goes on and says:

The term obscenity means that the average person applying contemporary community standards would find that such project, production, workshop or program when taken as a whole appeals to prurient interests.

That is done away with.

2. Such project, production, workshop or program depicts or describes sexual conduct in a patently offensive way.

I do not know how Helms is different than that, but that is done away with, too. That is what the effect of the Helms language is.

So that if you want what you said you want, you are not going to support Dannemeyer. You are going to support Yates.

Mr. DANNEMEYER. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, the problem that we have with the necessity of revisiting this issue again today is because the existing law, although it defines obscenity in the classic Miller definition, also then goes on to provide what the NEA shall use by way of a standard when it acts upon grants that come to it.

The language that is the wiggle room that authorizes those running the NEA is what will be repealed by this motion to instruct that is now pending before the body, and I will read it to be specific.

Artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

This language that I have just read is the wiggle room whereby under the existing standard the NEA feels they are justified in authorizing and funding the projects that have been able to slip through the prohibition existing in the current law. That is the reason for the necessity of putting this language in the law.

And may I add to my colleague that the phrase, "patently offensive" has been used by the Supreme Court in every major obscenity case decided since 1966. The phrase is in full accord with whatever legal precedent on issues of obscenity and indecency for more than a quarter of a century.

This specific language has been sustained by the U.S. Supreme Court in the case of FCC versus Pacifica, upholding the power of the FCC to enforce its definition of indecency.

I think we should understand where we are. It is one thing for a citizen in this country to produce written material and seek to distribute it on their own nickel, and if they do and if it is obscene they must meet the definition that would be faced in a criminal prosecution; but in the FCC versus Pacifica case that we were talking about, the ability of the Government to regulate indecent language when it is over the radio network that is regulated by the Federal Government, and here we are talking about expending taxpayers' money.

Now, Mr. Frohnmayer, in my judgment, has committed serious errors of judgment heading the NEA, and he ought to be fired; but in our system, even though he is an appointee of President Bush, the buck stops here. We are the stewards of the taxpayers' money in this country. We decide what is to be funded, and I admit there are many serious problems facing this country that we should be debating, but this matter of what is decent in our society is just as important as any other issue facing the American people.

I believe that we will come back to this issue and come back to it until we get it right, namely, that none of the taxpayers' money is going to be used to fund this trash. That is what this whole debate is all about. We are going to have a vote up or down on whether or not we are going to use the language that was adopted in the Senate. It significantly narrows the definition so that hopefully the people running the NEA are going to get the message to cut it out.

So, Mr. Speaker, I ask for an aye vote.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 135, not voting 12, as follows:

[Roll No. 309]

YEAS—286

Alexander
Allard
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Camp
Campbell (CO)
Carper
Chandler
Chapman
Clement
Coble
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cramer
Cunningham
Dannemeyer
Darden
Davis
DeLay
Dickinson
Dicks
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Dwyer
Early
Edwards (TX)
Emerson
English
Erdreich
Espy
Ewing
Fawell
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Horn
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Lehman (CA)
Lent
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Marlenee
Martin
Mavroules
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morrison
Murphy
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Olin
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—135

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Aspin
Atkins
AuCoin
Bacchus

Beilenson	Grandy	Olver
Berman	Green	Owens (NY)
Boehlert	Hayes (IL)	Owens (UT)
Bonior	Hertel	Panetta
Boxer	Horton	Pastor
Brown	Houghton	Payne (NJ)
Campbell (CA)	Hoyer	Pease
Cardin	Hughes	Pelosi
Carr	Jefferson	Rangel
Clay	Johnston	Reed
Clinger	Jones (GA)	Richardson
Coleman (MO)	Kildee	Roybal
Collins (IL)	Kopetski	Sabo
Collins (MI)	Kostmayer	Sanders
Conyers	LaFalce	Sawyer
Cox (IL)	LaRocco	Scheuer
Coyne	Leach	Schroeder
DeFazio	Lehman (FL)	Schumer
DeLauro	Levin (MI)	Serrano
Dellums	Levine (CA)	Sikorski
Derrick	Lewis (GA)	Skaggs
Dingell	Lowey (NY)	Slaughter (NY)
Dixon	Machtley	Smith (FL)
Downey	Manton	Smith (IA)
Durbin	Markey	Solarz
Dymally	Martinez	Stark
Eckart	Matsui	Stokes
Edwards (CA)	Mazzoli	Studds
Engel	McDermott	Swift
Evans	McHugh	Synar
Fascell	Mfume	Torres
Fazio	Miller (CA)	Towns
Feighan	Mineta	Unsoeld
Fish	Mink	Vento
Flake	Moran	Washington
Foglietta	Morella	Waters
Ford (MI)	Mrazek	Waxman
Ford (TN)	Murtha	Weiss
Frank (MA)	Nagle	Williams
Gejdenson	Nowak	Wolpe
Gilman	Oakar	Wyden
Gonzalez	Oberstar	Yates

NOT VOTING—12

Callahan	Hatcher	Obey
Crane	Holloway	Pickett
de la Garza	Hopkins	Savage
Edwards (OK)	Lewis (CA)	Slaughter (VA)

□ 1319

Messrs. PAYNE of New Jersey, MARKEY, and DERRICK changed their vote from "yea" to "nay."

Messrs. ESPY, JONTZ, and DICKS changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1320

PARLIAMENTARY INQUIRY

Mr. GINGRICH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from Georgia will state his parliamentary inquiry.

Mr. GINGRICH. Mr. Speaker, I wanted to report to the Chair that at 12:36 p.m. the other body sustained the President's veto on unemployment, and I wanted to inquire of the Chair if it would be willing to ask the Rules Committee today to meet and make in order a signable unemployment bill which we would be able to pass this week.

The SPEAKER pro tempore. The Chair will state that that is not a parliamentary inquiry.

REQUEST FOR CONSIDERATION OF THE DOLE-MICHEL UNEMPLOYMENT BILL

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent to bring up the Dole-Michel unemployment bill at this time.

The SPEAKER pro tempore. Under the Speaker's announced guidelines, the Chair will not entertain that request.

PROVIDING FOR CONSIDERATION OF H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 247 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 247

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3371) to control and prevent crime, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on the Judiciary, as modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except those printed in part 2 of the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report of the Committee on Rules. Where the report specifies consideration of amendments en bloc, then said amendments shall be so considered, and such amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order at any time for the chairman of the Committee on the Judiciary to offer amendments en bloc consisting of amendments, and modifications in the text of any amendment which are germane thereto, printed in part 2 of the report of the Committee on Rules. Such amendments en block shall be considered as having been read and shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before disposition of the amendments en bloc. Such amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments in the report of the Committee on Rules are hereby waived. If both amendments numbered 9 and 10 are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. In the preparation of the engrossment of H.R. 3371, the Clerk of the House of Representatives is authorized and directed to insert as a new title at the end thereof the text of H.R. 7 as passed by the House on May 8, 1991.

SEC. 3. Upon adoption of this resolution, House Resolution 246 is hereby laid on the table.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During the consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 247 is a modified open rule providing for the consideration of the Omnibus Crime Control Act of 1991.

The rule waives all points of order against consideration of the bill and provides for 2 hours of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The rule makes in order the Judiciary Committee amendment in the nature of a substitute, as modified by the Ways and Means Committee amendments printed in part 1 of the report of the Committee on Rules, as an original bill for the purposes of amendment under the 5-minute rule. The substitute, as modified, shall be considered as read and all points of order against the substitute, as modified, are waived.

The rule makes in order only the amendments printed in part 2 of the report of the Committee on Rules. The amendments are to be considered only in the order and the manner specified in the report and are considered as read. All points of order against the amendments in the report are waived.

The amendments printed in part 2 of the report are debatable for the period specified in the report, equally divided and controlled by the proponent and opponent. These amendments are not subject to amendment except as specified in the report.

The rule further specifies that amendments numbered 9 and 10, the amendments to be offered by Representatives HYDE and BRYANT relating to funding for habeas corpus litigation, will be considered under king-of-the-hill procedures. Under the king-of-the-hill procedure provided in this rule, both amendments may be considered. If both amendments are adopted, only the last amendment adopted will be reported back to the House.

The rule also makes in order amendments en bloc, if offered by Chairman BROOKS, consisting of amendments printed in part 2 of the report and germane modifications. The en bloc amendments shall be considered as read and are debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. All points of order against the amendments en bloc are waived and the original proponents of the amendments included in an en bloc amendment may insert statements in the CONGRESSIONAL RECORD to appear immediately before the vote on the en bloc amendments. In addition, the en bloc amendments shall not be subject to amendment or to a demand for a division.

At the conclusion of the bill, any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute. The rule also provides one motion to recommit with or without instructions.

The rule also authorizes and directs the Clerk of the House to insert a new title, during the engrossment of H.R. 3371, consisting of the text of House-passed H.R. 7.

Finally, section 3 of the rule lays on the table House Resolution 246, the rule we reported out last Thursday night.

Mr. Speaker, the Omnibus Crime Control Act of 1991 authorizes $1.2 billion in funding for programs aimed at curbing crime. The bill covers a wide range of anticrime initiatives, with emphasis on drug treatment in prisons, community police patrols, and other provisions that deal with harsher penalties and programs aimed at stopping crimes before they occur.

The bill prohibits the possession or transfer of 13 assault-style semiautomatic weapons and large capacity ammunition feeding devices. In addition, the bill authorizes $100.5 million for the Drug Enforcement Agency as well as $45 million for Border Patrol personnel and $25 million for domestic violence grants.

The bill also reforms Federal habeas corpus and responds to criticisms voiced with respect to the habeas corpus proposals considered in the 101st Congress.

Specifically, the bill establishes a 1-year deadline within which death row petitioners must file habeas corpus petitions in Federal court. The bill also provides for an automatic stay of execution to permit the Federal courts to consider claims in capital cases and to avoid 11-hour petitions to stay executions. In addition, the bill prohibits virtually all second and successive habeas corpus applications in capital cases and removes the current requirement that prisoners under sentence of death obtain a certificate of probable cause in order to appeal from an unfavorable judgement.

Finally, the bill specifies the law to be applied in habeas corpus cases and requires the States to provide competent counsel to indigent prisoners at all stages of capital litigation in State courts.

The habeas corpus language in the bill reflects various recommendations made by the Judicial Conference of the United States, the Powell Committee, the American Bar Association, the National District Attorneys Association, the National Association of Attorneys General, as well as distinguished Federal and State judges.

Mr. Speaker, House Resolution 247 is a fair rule that will expedite consideration of this very important legislation. I urge my colleagues to support the rule and the bill.

□ 1330

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, it is with some reluctance that I must forcefully oppose this rule.

I say that because I think the chairman of the Rules Committee, in his dealings with me, and the leadership on both sides, made a good-faith effort to negotiate a fair rule.

But while that effort made significant progress, it came up short. This rule is less than fair.

And that is extremely unfortunate because I would rather avoid these procedural confrontations.

Mr. Speaker, our Republican leader and I both wrote to the chairman of the Rules Committee, and we both submitted statements to the committee urging an open rule.

I moved such a rule and it was predictably rejected on a party line vote.

But we both realized our chances for an open rule were dim given the Rules Committee's request that amendments be filed in advance of our hearing.

And so, as a fallback position, we asked that, at a minimum, amendments be allowed on all the major issues considered in the Judiciary Committee, and beyond that, that Republicans be treated equitably with Democrats, with regard to other amendments made in order.

How did the Rules Committee measure up on these minimal standards? They flunked.

First, on the 10 top priority amendments we submitted to the Rules Committee—an 11th having been taken care of by a Ways and Means Committee amendment—the committee made in order 6 amendments, only 6 of the 11 major issue amendments requested by the President of the United States.

These include the amendments—by Representative HYDE on habeas corpus reform; by Representative GEKAS on the death penalty; three by Representative MCCOLLUM on the exclusionary rule, an Equal Justice Act, and the death penalty for drug kingpins; and one by myself on drug testing in State criminal justice systems.

But even then, the committee decided once again this year, to give unequal treatment to the Hyde habeas corpus reform amendment. My colleagues may recall that last year on the crime bill, this House defeated the first rule on an overwhelming vote of 166 to 258.

That was because the rule was too restrictive, and among other things, denied a vote on the Hyde habeas corpus reform amendment.

The Rules Committee came back with a new rule that finally included the Hyde amendment and the rule easily passed by voice vote. The Hyde amendment went on to pass the House by a resounding margin of 285 to 146, and the House worked its will, as it should.

This year the Rules Committee did not make the same mistake in attempting to torpedo the Hyde habeas corpus reform amendment.

No, this year it made a new and different mistake by first trying to divide the question on the Hyde amendment and thereby force two separate votes.

But not satisfied with that, the Rules Committee went back into session yesterday to report a new rule that would split the Hyde amendment into three separate amendments, offered at different parts of the bill, subject to three separate votes.

The Rules Committee has moved from last year's failed tactic of deny and delete, to this year's tactic of divide and defeat. Well, my colleagues, this kind of subterfuge should not be allowed to stand.

Oh, our colleagues on the majority side will try to tell us that this triple-split ploy was done because the Hyde amendment goes to different parts of the bill.

But that kind of rationalization just doesn't hold water when you look closely at this rule. The fact is that there are seven other amendments which also go to different parts of the bill, and they are not subject to a division of the question.

And not too surprisingly, six of those indivisible amendments are by Democrats, namely, Representatives WAXMAN, STAGGERS, DINGELL, FORD of Michigan, and VOLKMER in two instances.

But then the majority counters that the Hyde amendment is objectionable because it goes to more than one title of the bill.

Well, the same is true of the en bloc amendments of Representatives WAXMAN, STAGGERS and FORD, and GEKAS. So that objection has no validity either.

No, Mr. Speaker, there is no rational or objective reason for denying the Hyde amendment which deals solely with the subject of habeas corpus, from being indivisible. There remains only one explanation, and that is blatant partisan politics.

Mr. Speaker, this rule is also unfair because it does not permit the offering of 4 of our top 10 priority amendments.

All four of those amendments were offered in the Judiciary Committee.

And conservative and moderate Democrats should listen carefully.

These include the McCollum-Schiff amendment on coerced confessions; the gallegly amendment on drug sales to minors; the Gekas Anti-Corruption Act amendment; and the Molinari prior history amendment relating to evidence in sexual assault and child molestation cases.

These are all major issue areas, all important amendments considered in the Judiciary Committee. And yet all are denied consideration under this rule for no apparent reason.

Again, Mr. Speaker, this kind of treatment of the minority and of the President is unfair. These 4 additional amendments from our top 10 priority list, must be included in a new rule.

Finally, Mr. Speaker, we asked that the minority be treated equitably on other amendments compared to the majority.

By that, we did not mean we should have an equal number of amendments, but, that they should be roughly proportionate to the number of amendments offered by both sides of the aisle, but, Mr. Speaker, we were not treated equitably.

This rule makes in order 46 amendments, only 13 or 28 percent by Republicans. The other 33 amendments made in order, or 72 percent, are by Democrats.

This is hard to swallow from a party that is trying to wrap itself in the mantle of fairness in its national political campaigns.

Mr. Speaker, I indicated at the outset that the chairman of the Rules Committee, my good friend for whom I have the greatest of admiration and respect, did make a good-faith effort to negotiate a fair rule with us on the Republican side.

I again want to commend him on making an honorable effort in that direction. But I can only conclude that the effort has fallen far short of anyone's definition of fairness.

And it is on that basis that I must respectfully, yet forcefully, urge the defeat of this rule so that we can come back today with one that makes at least 5 changes—and again, conservative and moderate Democrats should listen carefully—first: The Hyde habeas corpus reform amendment must be restored as one, indivisible amendment, as the 7 other en bloc amendments in this rule are; and second, we must make in order the 4 remaining amendments from our top 10 priority list: McCollum on coerced confessions; Gallegly on drug sales of minors; Gekas on anticorruption; and Molinari on prior history evidence in sexual assault and child molestation cases.

In conclusion, Mr. Speaker, this rule and this bill have been a long time coming. It would be a crime at this point if we did not get things right by failing to provide a fair amendment process on this floor.

The President challenged us back on March 6, to send his violent crime control bill to his desk in 100 days. That was 223 days ago.

And instead of the tough bill the President recommended, we have been presented with something of a wet noodle without full opportunity to change the bill from a pro criminal bill to an effective anti criminal bill that protects the victims of violent crime.

Last year we managed to get a good bill through the House after the first rule was defeated and additional amendments were made in order. But that measure was sent to conference as a tiger shark and came back as an anemic guppy.

That's why we are back here today, just 1 year later, trying to get things right this time. Let's not repeat the failings of the past. Vote down this rule, so that we can learn and build on those mistakes, and send the President that tough antiviolent crime bill he has asked for and which the American people demand.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank our distinguished minority leader on the Committee on Rules for his analysis of this rule. I just want to ask him a question because the gentleman from Illinois [Mr. HYDE] is not here today because of pressing personal matters to advance his amendment. But I think that amendment, as the gentleman said, is very important to every neighborhood in America because its habeas corpus reform is going to keep the jail doors from swinging open and spewing robbers, rapists, and murderers back into the community.

I just want to ask the gentleman if what I heard, if what I think I heard is correct, in that what we have done with the very popular Hyde amendment that the American people want to reform habeas corpus is, the Democratic leadership has divided it now into three parts that are found in three separate sections of the bill, so that they have the habeas corpus itself, the habeas corpus provisions in one section. They have funding for prosecutors in another one, and they have the striking of the Berman language in yet another section, so that they have divided this very, very important provision up in a way that it cannot be coherently debated and voted on with a single vote.

I ask the gentleman, is that right?

Mr. SOLOMON. Mr. Speaker, not only that, but the third part that the gentleman mentioned is subject to a king-of-the-hill operation which means the third part of the Hyde amendment could pass with 300 votes and yet be followed by a Bryant amendment that would supersede it with only 218 votes. That is how bad this rule is.

Mr. HUNTER. Mr. Speaker, if the gentleman would continue to yield, I am reminded of what Scoop Jackson once said with respect to foreign policy, "The best policy in foreign policy is no politics."

I want to remind my friends on the Democratic side of the aisle that while we had young people fighting in the Persian Gulf, we were losing more young people in America, in fact in this city, struck down by gunfire and by criminal acts. It is absolutely imperative to the American people that we have no politics in this bill.

The only way we can achieve a fair bill that is fairly developed and fairly debated is to beat this rule.

I think the gentleman from New York has stated it excellently.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his comments.

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

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

The gentleman from New York is certainly correct in that the Hyde amendment was split up three ways. But the sum of the totals still goes back to the sum of the whole. It is the same amendment. It is only split up in three parts, as it properly should be, to give the Members of this body an opportunity to concentrate as they vote and as they speak on one issue at a time, and not to bog the whole thing down with three different issues.

Mr. Speaker, I yield 5 minutes and 30 seconds to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in opposition to the rule.

There are a number of features of the bill that I find unsatisfactory, unfair, and not in the interest of producing the best product for the House to move into conference with the other body on this all-important legislation.

Among these bad features of the rule are the fact that it does not permit us to debate and vote on one of the most critical issues in contemporary Federal criminal justice. That issue is mandatory minimum sentences.

The Federal judiciary strongly feels that mandatory minimums are fundamentally inconsistent with the sentencing guideline system which we adopted with much fanfare and acclaim just a few years ago, and which is still being fine tuned. The Sentencing Commission, which the Congress established to carry out the new system, agrees.

Many experts, in all three branches of Government, believe we should declare a moratorium on all new mandatory minimums until a fuller study and analysis can be done of the value and effectiveness of the many mandatory minimum sentences which we have enacted in the past few years. The rule does not make in order amendments I offered to let us make a judgment on such a moratorium.

Similarly, the rule does not allow us to offer amendments to improve the habeas corpus reform provisions in the bill. Our only choices is an up-or-down, head-to-head, choice between the provisions of the bill as reported and a radical substitute which would destroy habeas corpus as a redress for Federal constitutional violations in the course of State criminal proceedings.

Important as these issues are, these provisions of the rule, standing alone, would not lead me to vote against the rule.

The matter that does, though far less important from a substantive viewpoint, represents such an outrageous violation of normal rules of parliamentary procedure, not to mention fundamental fairness, that I cannot support the rule.

While the crime bill was being developed in committee, I successfully offered an amendment designed to address the problem of illegal diversion of licit narcotic material into illicit drug traffic.

Under a current Department of Justice [DEA] administrative regulation, U.S. drug-manufacturing firms must acquire 80 percent of their opiate raw materials from either India or Turkey. According to United States State Department and DEA reports, India continues to leak like a sieve—anywhere from 10 to 50 percent of their legal opium production is being diverted to illegal drug traffic, some no doubt bound for our borders.

India refuses to deal with the problem, and our DEA refuses to even begin a formal examination which might lead to eliminating or reducing this reward to India for conduct which should be criticized, not rewarded.

The provision which our committee included in the bill addresses this inaction by directing the Attorney General to reduce the guaranteed share for India. It does not—I repeat, does not—change in any manner or degree the amount of raw materials being imported—this is dictated by demand for the finished product.

An amendment was offered to the Rules Committee by a member of the Committee on Foreign Affairs to strike this provision of our bill. We would have no problem with this amendment being made in order, and I would concede that the Committee on Foreign Affairs shares jurisdiction with us on this matter.

However, the rule does not make in order an amendment to strike.

The rule adopts a self-executing amendment by the Ways and Means Committee to strike our provision. Our provision is stricken by the rule itself, with no opportunity to vote against the amendment to strike, or to offer an amendment to restore the provision in some form.

Under the rule, the Ways and Means Committee not only exercises joint jurisdiction over an internal rule of the Drug Enforcement Administration of the Department of Justice, but exclusive jurisdiction. Even in the case of provisions of a reported bill which are within the exclusive jurisdiction of another committee, the normal and fair practice is to allow an amendment to strike, not a dictatorial, self-executing unilateral elimination of the provision by the rule itself.

For these reasons, I will vote to reject the rule.

Mr. DERRICK. Mr. Speaker, let me just say in response to the gentleman in the well that the Ways and Means provision struck all revenue provisions, and the amendment of the gentleman from New Jersey [Mr. HUGHES] was a revenue provision, and that is why it was struck.

Mr. HUGHES. If the gentleman will yield just briefly, I talked to the Parliamentarian and he tells me that that was remote, that was remote.

Mr. DERRICK. The Senate Finance Committee flagged it as well as the Ways and Means Committee. That is all I can tell the gentleman.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I rise in opposition to the rule for consideration of H.R. 3371, the omnibus crime bill.

This bill is a budget buster. It disregards the need to be conscious of Government spending. Fighting crime is important, but throwing money at our problems doesn't solve them.

There are ways to devise effective programs at lesser costs. We know the problems. We don't need to create any more commissions, conduct any more studies, or devise grant programs where existing programs already fit the need.

I had offered an amendment to the Rules Committee which would have allowed States and localities to use closed military bases and surplus equipment for prison boot camps. It would have provided needed assistance to States at very little cost to the Federal Government.

Instead of this cost-effective program, the bill provides $200 million in grants in 1992, $200 million in 1993, and another $200 million in 1994 for correctional grants to States to establish boot camps. That's $600 million for what could be accomplished for a few million.

I sit on the Appropriations Subcommittee with jurisdiction over the Department of Justice. With the programs authorized in this bill, I see no way that we will be able to fund them next year.

We are making promises to the American people in this bill which we cannot fulfill. We are creating new programs and raising authorization levels for existing programs which we cannot fund. I urge my colleagues to vote against the rule.

Mr. SOLOMON. Mr. Speaker, I yield 3½ minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I rise in strong opposition to the rule and urge my colleagues to vote against it. We have just gotten some very good ammunition as to parts of this bill, and I assure my friend from New Jersey that we are in the process of drafting amendments to be made in order by the rule to be offered by the minority.

Mr. Speaker, the rule before us today fails to allow some very important amendments offered by Republicans during the consideration of H.R. 3371 by the Committee on the Judiciary.

Crime legislation is a top priority for all of us. It is also, understandably, a matter of great concern to all of our constituents.

Crime legislation is always, by its very nature, controversial. This year's crime bill is no exception. Among those issues which are controversial are habeas corpus, coerced confessions, racial fairness in the imposition of the death penalty, death penalty procedures, new death penalty crimes, and firearms bans. These issues are important to us, to our constituents, to law enforcement officers, to prosecutors and defense attorneys and to President Bush.

Mr. Speaker, controversy is not settled by prohibiting the opportunity to vote for alternative provisions. As you will remember, the modified closed rule for last year's crime bill was defeated on the House floor by a vote of 166 to 258 due to its omission of several key amendments.

This House should be permitted to work its will on this important legislation. To do so requires a new rule, a rule making in order amendments offered by Republicans during consideration in the Committee on the Judiciary. The Members who labored in subcommittee and full committee to bring this bill before us.

The rule before us fails to provide for a single vote on my colleague, Mr.

HYDE's amendment on habeas corpus and instead divides it into three parts—the divide and conquer approach. Also, it did not allow the McCollum-Schiff amendment which seeks a study by the Attorney General on the effect of the Arizona versus Fulminante case involving the erroneous admission of an involuntary statement by the defendant.

The amendment submitted by Mr. GALLEGLY, originally offered by Mr. RAMSTAD before the Judiciary Committee, increases the prison sentences for drug sales to minors, should be made in order, as should be Mr. RAMSTAD's amendment which requires a mandatory life imprisonment sentence for criminals who are convicted for a third time of a violent crime.

Other important, yet omitted, amendments include Mr. GEKAS' amendment expanding Federal jurisdiction over State and local political corruption and voter fraud; Mr. MOORHEAD's amendment treating State drug offenses as qualifying for the Federal armed career criminal statute if that offense would have been punishable by 10 years or more had it been federally prosecuted; Mr. SCHIFF's two funding amendments, one permitting the Bureau of Judicial Assistance to provide grants to Federal agencies and one requiring that at least 25 percent of the special forfeiture fund moneys be dedicated to community-based drug treatment programs. Mr. Speaker, these are provisions that the majority of Americans support.

Mr. Speaker, while the rule does include some key Republican amendments, it does not go far enough. The rule before the body provides for 33 amendments by the majority and only 13 by the minority.

I urge my colleagues to vote to defeat this rule and to require a new rule making in order all Republican amendments previously offered at the Judiciary Committee.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I thank the distinguished gentleman from South Carolina for yielding time to me.

Mr. Speaker, I rise in support of the rule and of the Volkmer amendment.

There is no question, Mr. Speaker, we have a serious crime problem. Banning certain types of guns, however, not only will not solve that problem, but restricting civilian access to certain firearms might actually impede our own police officers' ability to fight crime.

Our domestic firearms manufacturers invest millions of dollars into research and development for example to create accurate weapons that have the lowest potential to harm innocent bystanders. Olympic Firearms developed a special AR-15 which uses .11 caliber bullets that will not penetrate walls, thus protecting individuals in adjacent rooms during a drug raid. The innocent deserve the best protection our American ingenuity can provide. Without a healthy domestic market, Olympic Firearms would not have had the capital to make that investment.

Does this House really want to make our military and law enforcement dependent upon foreign manufacturers?

Ultimately, to curb the scourge of violence, we will have to address the breakdown of the American family, our value system, and how we educate our young. We must fight crime by recognizing that our society has undergone profound economic and demographic change, and that our social and educational institutions haven't kept pace. Unless we act swiftly, we jeopardize America's place as a free and prosperous society and condemn much of a new generation to lives of poverty, despair, and violence.

In this year that we celebrate the 200th anniversary of the signing of the Bill of Rights, let us not dismiss this Nation's freedoms, including the right of law abiding citizens to keep and bear firearms. If we weaken one of the amendments, the whole package is in jeopardy. Passing feel-good legislation at the expense of our Bill of Rights is not something I can do—even in the name of fighting crime.

Mr. Speaker, I urge support of the rule and Mr. VOLKMER'S amendment.

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

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

Mr. Speaker, sometimes Members of this body wonder why the American people become nauseated when they watch Congress at work. This is a good example of why they are worried about what is happening in their Congress.

They are concerned about crime and Congress is trying to figure out ways in which to protect criminals. And this is a good example of it. What we have before us today is a bill and a rule crafted by the liberal antigun, soft-on-crime crowd that has already made it unsafe to walk America's streets. Let me give an example of what is going on here.

I hear, and I will say that it is strictly rumor at this point, but I hear, and the gentleman from New York I think is aware of this, that in order to pass this rule a deal was cut with the liberals that would have somehow a process that will assure that language now in the bill will be stripped out, language which now says that police and military would be limited to seven rounds in their clips. And somehow that language is going to be stripped out so that the Volkmer amendment will have less of a chance of passing. Is that something the gentleman has also heard?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

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

Mr. SOLOMON. Mr. Speaker, I am just hearing that rumor right now, and if that happens, that means that the Volkmer amendment has no chance of passing the House. That means that any Member who represents gunowners, like I do in the Adirondack and the Catskill Mountains, are going to get stuck today if they vote for this rule. That rumor is going around.

Mr. WALKER. What I am a little bit confused by is just exactly how they are going to do that too. When I read through the rule, the only way they can do that is probably with the consent of the chairman of the Judiciary Committee who would have to include it in his en bloc amendments. So I assume that this deal has been cut with the Speaker, that it has been cut with the liberals, that it has been cut with the people who are supposedly carrying the gunowners' position on the floor, and what we are going to have here is a sellout that was a deal cut behind closed doors but now is going to be endorsed under this rule. Is that the gentleman's impression?

Mr. SOLOMON. I will say to the gentleman that is absolutely correct. And the worst part is the Speaker and the chairman of the Rules Committee gave their word that there would be no chicanery in playing around with this issue. It is terribly upsetting to this Member of Congress, I will tell the gentleman.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume just to make a remark before I yield to the next speaker. I remember when I practiced law that folks would come to me that got in trouble and say they fell in with the wrong crowd. It was always that. It kind of reminds me of the way we hear "liberal" thrown around. If they cannot think of anything to blame it on, they blame it on the "liberals." It is kind of running around with the wrong crowd.

□ 1400

Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, one other thing, I might say that I have been authorized to say that the gentleman from Missouri [Mr. VOLKMER] is going to support the rule in case there is some question about that.

Mr. SCHUMER. Mr. Speaker, I rise in support of the rule.

Doing a crime bill is a very difficult thing to do, particularly when we seem

to have a situation where everything is politicized. The issue to many on that side of the aisle is not making the streets safer but is, rather, having a political issue. We found that on every single issue that we have dealt with.

I think the Committee on Rules has tried to deal fairly with the rule by and large. It is a difficult job, no question about it, and not everyone's amendments are in order, but basically they have tried their best, and I think at least to this Member's satisfaction.

I would like to just talk about the situation brought up by the gentleman from New York and the gentleman from Pennsylvania. Very simply, does anyone in this body believe that clips ought to be limited? No. I do not, to the military and to the police. I do not. I do not think there is a Member on this side of the aisle that does, and I do not think there is a Member on that side of the aisle that does.

And so because the committee and the chairman of this committee want to make ironclad sure, and I think it was sure before, but they want to make sure in an ironclad way that our police are protected, that our armed services are protected, what do the gentleman from Pennsylvania and the gentleman from New York say? They say they should not do it. That is not debating the issues on the merits.

If I have ever seen a situation where politics has prevailed, this is the situation.

Again, does anyone in this body believe that we should limit the military in terms of the number of clips that they have, that we should limit the number of police in terms of the clips they have? No. They have an amendment to make that crystal clear, which is now opposed by the other side.

If we want to debate these issues on the merits, we should. If we care about preventing the little old lady from being hit over the head, then we should have a rule that allows a clear debate on the rule.

My point is simply that there is a great debate in this Chamber over whether we should ban 13 assault weapons or not. That deserves to be heard on the merits. That deserves to be heard so that people who are for banning these assault weapons can vote yes, and people who are against banning assault weapons should vote no.

What the gentleman from New York and the gentleman from Pennsylvania are saying is they do not want a clear vote on that, that they rather want to let the police and military be pawns in their game so that they will not have an up-or-down vote.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, my reading of the bill where you wrote the assault weapons provision indicates that your bill does provide the limitation on the clips to the police and the military.

Does the gentleman not think he should admit he made a mistake?

Mr. SCHUMER. Reclaiming my time, the way I read the bill, it does not limit police and does not limit the military. But some on the other side claim that it did and, therefore, all we are doing is making it crystal clear. Stop using the police, stop using the military, stop using our law enforcement as a pawn in your very Machiavellian game.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, we have just heard a tirade from someone who is running full-speed reverse from provisions that he wrote in his own bill, and because his own bill will not withstand the scrutiny of what it covers and who it applies to, now, he is trying to wiggle out of what he did by blaming us for his support of the modification.

If that is not twisted logic and twisted reasoning, I do not know what it is, and it is beneath the dignity of the House of Representatives.

All too often, a vote on procedure dictates the outcome of substance, and this is clearly true in the case of this rule. If this rule is adopted, as it has been submitted by the Committee on Rules, there will not be clear up-or-down votes on the issue of whether the police and the military are exempt from the assault-weapons clip ban, on habeas corpus, on the exclusionary rule, on the use of prior confessions and all of the other major issues.

All we are asking for is to give us a clear up-or-down vote so that we can debate the issue, make a reasoned judgment, and stand on our voting records to the American people.

An "aye" vote on this rule prevents those kinds of votes from taking place. That is why this rule ought to be defeated.

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

Mr. Speaker, I want to say once again that the gentleman from Missouri [Mr. VOLKMER] is going to vote for the rule, in case anyone did not hear me the first time.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I want to command the gentleman from South Carolina. He is now one of the leaders of the Democrat Party. I think that he offers a ray of hope with his stand on tax and trade, but he also shows something as a leader when he gives a Democrat who opposes the rule an opportunity to say why.

I was told earlier here that as a sheriff, even though I had some amendments, does not necessarily mean that a sheriff should be writing the crime bill.

Let me say this to the Members: One of the problems in America is we have had crime bills written by lawyers, with lawyers, of lawyers, for lawyers, and that is one of the reasons the country is going to hell.

The gentleman from Illinois [Mr. HYDE], whether we agree with him or not, has been a leader on a very important issue in this Congress. The wisdom should have been to let the gentleman from Illinois [Mr. HYDE] come forward, place his issue before the American people, debate that issue, and vote on it up or down, not play around.

I am upset with this bill because this bill supposedly deals with the death penalty, capital punishment. But there is not one provision in here to help mom and dad at home.

This bill leaves it up to the States once again, leaves it in the hands of bleeding-heart liberals who have basically passed open season on innocent victims in many of our States.

I had an amendment that said. "Look, let us reduce some of those law enforcement funds to those States that do not enact the death penalty for first-degree murder," protecting mom and dad, but, no, we cannot do that. I said, "Well, let us make it a capital offense, a Federal crime, and expand the statute for first-degree murder, put a new division in in each district court with a prosecutor to handle capital cases, a judge to handle capital cases," but no.

Then we have another element in this bill that is sickening to me as a sheriff. Many of these felons are being released from prison, and when they get convicted, they look right at a witness and say, "When I get out of here, I am going to kill you," and when they are released, they go and kill them.

I wanted a provision that would cause for a notice to be made to interested parties, witnesses, people who testified against these felons. "Cannot do that."

Mr. Speaker, the bottom line is we have got a hell of a mess on our hands.

□ 1410

In my opinion, the Congress cannot pass a bill because the Congress is not dealing yet with the issues, and the American people are fed up with us. They are not worried about the bank. They are not worried about the restaurant. They do not know what they are worried about. They are just upset with the way we are governing.

Let me say this as far as the gentleman from Illinois [Mr. HYDE] is concerned, the way I feel today Congress cannot govern by suppression. This should be word to the wise around here.

When you have Democrats as well as Republicans question the way this place is run, important bills of the House should be brought out under an open rule.

Let me say one thing. I have great respect for all the chairmen, then when I offered my Buy American bill with a criminal penalty for affixing a fraudulent label on an import, I was told, "That's Ways and Means."

Well, damn it, if the gentleman from Florida [Mr. GIBBONS] and the gentleman from Illinois [Mr. ROSTENKOWSKI] are going to write all the laws, you are going to support it, I am not.

I am tired of saying that it is Ways and Means jurisdiction. Then when I go to Ways and Means, they say, "It's the crime committee's jurisdiction."

This is a Democrat that is upset, damn it. I am opposed to the rule. I want the rule defeated. I would like to see it go back and be brought back out on the floor and get everybody's initiative a chance to be voted on.

Mr. SOLOMON. Mr. Speaker, we have heard from a number of irate Democrats who were gagged by this rule. Let me yield to another irate Democrat who was gagged by this rule.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, this is the first time in 9 years I have ever risen to speak against a rule in this House. I do it because I offered an amendment to this crime bill which I considered to be very important, to make it a Federal crime to possess or discharge an illegal firearm in a Federal housing project.

Why did I offer this amendment? Because the mayor of Chicago came to meet with the Illinois delegation and said, and I quote him, "The worst slums in the city of Chicago are owned by the Federal Government."

Let me tell you what the statistics are. In the city of Chicago in Federal public housing projects, one innocent person is shot at every day. One innocent person is injured by a firearm every week, and one innocent person is killed by a firearm every month, and it is not just a big-city problem. It is not just New York and Chicago. It is Evergreen Terrace in Springfield, IL, and it is a problem across the Nation.

If we do not rid our Federal housing projects of these gun-wielding gangs, we condemn the innocent people living there to a life of terror and violence.

Now, I do not know who decided this amendment was not important enough to be debated, whether it was the Rules Committee, the Judiciary Committee, or the gun lobby, but I will tell you this: If Congress does not have the time or the inclination to clean up crime in Federal housing projects that we own, we have no reason to believe we can pass a law which will reduce crime across the Nation.

Mr. DERRICK. Let me say, Mr. Speaker, the reason, although the amendment of the gentleman from Illinois [Mr. DURBIN] is certainly very meritorious, this is a crime bill. It is not a gun bill. The Rules Committee tried its best not to load it down with all these amendments; not to say that it is not meritorious, but that is why it was not made in order.

Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, it is customary when speaking on a rule bringing a major bill to the floor to thank the Committee on Rules for taking this action. In the case of this rule, however, the Committee on Rules and its chairman, Mr. MOAKLEY, deserve special credit. H.R. 3371, the Omnibus Crime Control Act of 1991, is a complex and multifaceted piece of legislation which embodies some of the most emotional—and yet most essential—issues to come before this body during this session of Congress for this reason, it is not surprising that over 100 proposed amendments were presented to the Committee on Rules for its consideration.

Mr. Speaker, I am particularly grateful to the Rules Committee for bringing forward this rule because it skillfully balances two goals: First, it provides the Members ample opportunity to debate and work their will on all of the major issues contained within this legislation. Nobody is being foreclosed from being heard on a major point of contention, and nobody's rights on these major issues are being violated. There will be votes on these issues; and in some cases there will be multiple opportunities for the Members to shape the final product by making their collective judgment known.

At the same time, the rule before us also serves the goal of allowing us to proceed through consideration of H.R. 3371 expeditiously. It incorporates authority for the consideration of minor or noncontroversial amendments en bloc. This provision, coupled with a collective agreement by the Members to move at a steady pace through this bill's many provisions, will enable us to advance this worthwhile piece of legislation and get on with other pressing issues coming before this body.

I commend the committee for their hard and judicious work, and urge support for the rule.

Mr. SOLOMON. Mr. Speaker, the gentleman from South Carolina just said this is not a gun bill. Here are 20 pages of this bill dealing with firearms, with 22 sections, and the gentleman himself is amending 1 section of this gun bill.

Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF], a former district attorney.

Mr. SCHIFF. Mr. Speaker, it is with some reluctance, certainly, that I say I oppose the rule.

I have an amendment allowed under the rule which permits me to address the Bureau of Justice Assistance grants to State and local governments. Under the bill, the Federal Government would be locked in forever at a 75-percent share of all seed-money grants. My bill would keep 75 percent, but under the current law, which is a temporary measure so Congress could look at whether it can afford to grant 75 percent.

I offered two other amendments which deal with the Justice Department which were not accepted by the Rules Committee, and although I think they are important I would not oppose the rule simply because my proposed amendments were not accepted by the Rules Committee. I do understand they cannot accept everything.

Nevertheless, I introduced a fourth amendment which will not be debated on the House floor during this bill, which I think should be.

Specifically, the bill, as written, overrules the U.S. Supreme Court in the Fulminante decision. The U.S. Supreme Court recently ruled that if a statement by a defendant was admitted in error, that the same rule of law would apply to that error as applies to all other errors; that is, a review would be made to determine whether a new trial had to be ordered or whether evidence was so overwhelming of guilt that there was no reason to order a new trial. That is the same standard as every other error that I know of.

Now, the point is that the bill sets another standard. The bill chooses a different standard for a new trial than has been determined by the U.S. Supreme Court.

Mr. Speaker, in my judgment, overruling the U.S. Supreme Court is such a grave and important matter, that the House of Representatives should examine that individually, to determine if the House thinks it knows more about criminal procedure than the U.S. Supreme Court knows.

Because that is not allowed, Mr. Speaker, I urge the rule be rejected.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in opposition to the rule on H.R. 3371, the Omnibus Crime Control Act. I do so because many, many anticrime amendments were not made in order, including the one I had offered. The Barton amendment would have required every Member of the House of Representatives to be randomly tested for illegal drugs.

More and more Americans are being tested for illegal drugs in their workplace. In fact, the last Congress passed drug-free workplace legislation that mandates every company contracting with the Federal Government to establish a drug-free workplace environment.

It is my opinion that the U.S. House of Representatives should set a positive example in the area of drug testing. Every Member will agree that this Congress needs to reestablish

some credibility with the American people, and a drug testing program for the House would be a fair step in that direction.

To my knowledge, I am the only Member of the House that currently has a mandatory drug testing program in place for myself and my staff. It has been in place for over a year, and is paid for out of my personal funds. I might add that no check of mine has bounced in paying for the program. The program has been very successful; I can state without reservation that my office and my staff is totally drug free.

The Barton amendment would require that 10 percent of the House each month be randomly tested for illegal drugs. The test results would be made available to the Member tested and the House Committee on Standards of Official Conduct. Once each Congress, in October of the second session, a public report would be released detailing the results of all tests during that Congress.

Every opinion poll I have seen supports drug testing. Specific polls I have conducted in my district support drug testing for Members of Congress by over 90 percent. The Houston Post conducted a poll of their readers on the Barton amendment, and it was supported by 94 percent of the respondents.

This Congress has voted to require drug testing for millions of American workers. Recently, the House voted to require drug and alcohol tests for an additional 6 million transportation workers. I believe it is time for the House of Representatives to practice what it preaches, and also test overselves.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

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

Mr. Speaker, I also rise to oppose this rule—because I, like many others, am being gagged, not being able to offer an amendment which is very important.

□ 1420

And I must oppose this not only because my amendment is not being offered but also other amendments that have been mentioned before.

In Texas we have a revolving-door prison system caused, in large part, by a Federal judge who is micromanaging our prison system. He dictates how many prisoners per cell, how many feet per cell, cable TV, how many TV sets, temperatures, quality of food, exercise facilities, and so forth and so on. In fact, it is so good in Texas that Henry Lee Lucas, a mass murderer, said in a Houston Chronicle story on October 10 of this year, "It is nice to be in Texas."

Now I would like to come to this floor today and offer several amendments. I would like to offer an amendment that puts prisoners in tents just like our soldiers, or at least allow us to use abandoned Army barracks. But I did not do that. I came with a simple amendment that does a simple thing; that is, it requires States to impose a mandatory work requirement for able-bodied prisoners, otherwise lose Federal funds if they do not impose that type of an amendment.

Correctional officers report that the No. 1 problem they must combat is idleness, which gives inmates time to construct plans of mischief.

The Bureau of Prisons reports that their No. 1 management tool, the best way to combat idleness, is the requirement to work.

If you look at some of the precedents, criminal history records, implemented in 1988 and enforced in 1992, States must be computerizing records of criminal histories by 1992; HIV tests for arrestees, administrative revocation of licenses and so forth and so on.

So there are plenty of precedents. But I say to my colleagues this rule should be defeated. I say particularly to my colleagues from Texas, if you vote for this rule you are voting against a mandatory work requirement that begins to put common sense back into the Texas prison system.

Mr. SOLOMON. Mr. Speaker, the next speaker is a young woman who was denied one of the most important amendments to be offered on this floor, the gentlewoman from New York, Ms. SUSAN MOLINARI, from Staten Island. Mr. Speaker, I yield 2½ minutes to the gentlewoman from New York.

Ms. MOLINARI. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, we were in a courtroom in New York when the following evidence was presented: In the case of People versus Sanchez, the defendant began taking photos of his first victim. When she refused to permit him to photo her in the nude, he forced her into a bathtub where he raped her and where he sodomized her.

Then he forced her to sign a consent form used by professional photographers.

It was also considered relevant, in that courtroom in New York, to explain that the defendant was also charged with approaching a second victim on the street, telling her that he was a professional photographer. He accompanied her to her house, ordered her to disrobe in the bathroom, threatening to kill her if she did not succumb to rape and sodomy.

She threw rubbing alcohol in his face and she got away. The defendant's conviction of rape and sodomy, in the first case, was reversed because of the introduction of evidence of the second attempted rape, considered prejudicial by the appellate court.

The court, functioning under current statute, ruled that the cases were not similar enough to allow for the introduction of the second charge.

Current statute has served to place criminals back on the streets to rape again, in the name of protecting the criminal, not the rights of the victims, not the rights of the future victims. Under current statute, many of these victims are children because this statute also applies to child molestation.

My amendment would change the presumption for Federal rules of evidence so that when a defendant is on trial for sexual assault or child molestation, evidence that the defendants may have committed other offenses with similar circumstances would be admissible.

Why not, my colleagues? It would still be up to a judge to rule that it would be relevant.

Why not, my colleagues? Only in these two charges would we extend these Federal rules of evidence, two charges, where there are no witnesses and no corroboration and where there is a record of repeat offending.

The National Institute of Mental Health says child molesters molest children 117 times in their lifetime. How could you not?

This Nation has been riveted to their TV's as the other Chamber deliberated the charges of sexual harassment. My colleagues were appropriately concerned that this issue had not been aired enough.

Mr. Speaker, how do you then come before this floor and say that the issues of sexual abuse and child molestation are not even important enough to debate in this well?

Mr. SOLOMON. Mr. Speaker, I yield the remaining time to the gentleman most hurt by this rule, a man who would make a great Supreme Court justice himself, the gentleman from Illinois, the Honorable HENRY HYDE.

The SPEAKER Pro tempore (Mr. MCNULTY). The gentleman from Illinois [Mr. HYDE] is recognized for up to 2½ minutes.

Mr. HYDE. I thank the Speaker, and I thank my dear friend from New York. Mr. Speaker, the prospect of going through a confirmation hearing is chilling, I must say, I decline the honor, but I thank you for nominating me.

My friends, if you were to ask your folks back home what are the two or three biggest issues confronting them, crime would surely be one. It is really appealling, and I say this more in sorrow than in anger, that we are capsulizing into such a short time discussions, debate, and determinations of so many important issues.

Habeas corpus reform, something that I am interested in, under this rule they have generously given us 30 minutes. That is 15 minutes per side to talk about Teague versus Lane, the Batson case, deference to State judgments, the whole process of habeas corpus up and down the State system, direct appeal, collateral appeal, Federal appeal; 15 minutes to discuss a major reform on the issue of crime.

I cannot escape the notion that Mr. TRAFICANT had it exactly right. I identify and relate to what Mr. TRAFICANT

said and the way he said it. I think this is really outrageous. This is a seminal, critical issue, and it is being trivialized by being encapsulated into just 15 minutes. I am just speaking about habeas corpus.

There are other issues; the Berman amendment, really, would take half a day to discuss properly. The Racial Justice Act, or whatever this week's title is for that, the notion that you can apportion the death penalty by statistics. We cannot do that in a few minutes. And yet the chairman wants to finish by tomorrow evening for some reason or other. Well, whatever it is, I am sure it is a good one. But this subject takes time to discuss properly, and we should not deal with this as a triviality, as something we can just race through and hope that we have solved the problems.

Let me just say, finally, what happens on the floor is important, but, folks, watch the conference committee, where the real action will be.

Last year we passed a strong crime bill. When it got to the conference, it came back eviscerated, emasculated. It was, as I said, that it left here as Arnold Schwarzenegger and came back as Woody Allen. I am trying to think of some other names to use this year when it happens again, but, watch the conference committee.

Mr. SOLOMON. Mr. Speaker, in yielding back the balance of my time, let me note that we are going to be here until Christmas; let us vote down the rule and we will have plenty of time to debate these important issues.

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

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for up to 3½ minutes.

Mr. DERRICK. Mr. Speaker, I was interested in the gentleman from Illinois' [Mr. HYDE] comment about Arnold Schwarzenegger. I think that that is possibly part of what the problem is here today, that there are a lot of people out there who think they are Arnold Schwarzenegger, think they are Terminator No. 1, 2, or 3. You know, most of the streets in this country today make the "Gun Fight at O.K. Corral" or Dodge City back in the last century look rather tame.

What I cannot figure out is why we think people, the average guy in this country, needs an assault weapon. You know, I, like everyone, just about, in this House, support the ownership of firearms for protection, the ownership for sporting purposes, but why we need assault weapons is beyond me.

We are the most violent country in the world. Assault weapons have become almost the weapon of choice in this country for committing crimes. They overpower our police officers. They have better equipment than our police officers do.

One of the former speakers was certainly correct when they said there were some 20 pages in the bill dealing with firearms. But I might suggest to you that about 90 percent of those 20 pages came directly from the White House on the arms business.

□ 1430

But anyway, be that as it may, habeas corpus is one thing that I have heard, and I say to the gentleman from Illinois [Mr. HYDE], "I'm sure you have, Mr. HYDE, for most of your career," that people are disgusted with the length of time that appeals take; as my colleagues know, 8 or 10 years. I mean it is ridiculous, and what we have done, tried to do, in the bill that is before the House is to limit that time substantially by putting provisions in, the limitation of the number of petitions, and the time the statute runs, and so forth and so on, and I think it is very positive. And I think that this bill that is before the House is not everything I want. Obviously it is not everything my colleagues want. But it is certainly a good middle course to start in the direction that we both would like.

Now, as to the matter of this rule and to the fairness of it, let me tell my colleagues that the Committee on Rules made 46 amendments in order. We had presented to us 110 amendments, and we made 48 amendments in order.

I regret to tell the gentleman from Texas [Mr. BROOKS] that I doubt very seriously we are going to get through with this bill tomorrow night because in this rule there are 13 hours of voting time—13 hours of voting time. That is how much time we are going to be on this floor just to accommodate the amount of time needed for votes.

Mr. Speaker, as far as I am concerned, and there may be those who disagree, I think that most major amendments to this bill were made in order by the Committee on Rules. I understand that maybe there are a few in the House that do not think it was proper that we split up the amendment of the gentleman from Illinois [Mr. HYDE], but our position on that and my position on that is that we really define the issues much closer by splitting that up on the Hyde amendment than we would have done if we had just left it in one large amendment to go, and we would not have given the Members of this body an opportunity to focus on the three different issues that came forth in the Hyde amendment.

Mr. Speaker, this is a good rule. There is no one that is going to ever agree with a rule completely or a bill completely that is this controversial and covers this wide a range of subjects, but I want to remind my colleagues, when they say this rule is unfair, that we had 48 amendments that were made in order by the Committee on Rules, and I ask my colleagues to support this rule.

Mr. MICHEL. Mr. Speaker, I rise in opposition of the rule on the crime bill.

I do so on behalf of the millions of American citizens who desire tough efficient action on crime, not tender, loving care for criminals.

If Republicans were in control of this body, the crime bill would be considered under an open rule with days of debate instead of hours.

We wouldn't have self-executing rules.

We wouldn't protect all amendments from divisions save the most important, the Hyde amendment.

This rule is too clever by half. It is the latest in a long line of rules to protect the majority party from tough votes but leave the American public with a weak bill.

The power to craft a rule is the legislative power to destroy free and open debate. The majority has clearly abused that power in this case.

A Republican crime bill rule would allow all amendments: the McCollum-Schiff amendment on coerced confessions; the Gekas amendment on anticorruption; the Molinari amendment on prior history of sexual abuse or child molestation; the Barton amendment on drug testing for Members; and the Gallegly amendment on drug sales to minors.

Mr. Speaker, fraud is defined as "intentional perversion of truth" in order to gain a desired end.

Under such a definition, any crime bill that lacks some of these Republican provisions is a fraud.

A weak crime bill will be like sending law enforcement officials into the mean streets with blanks in their weapon, broken handcuffs, and fancy liberal rhetoric to combat hardened criminals.

A weak crime bill will turn its back on the victims of crimes and their families.

Mr. Speaker, the American people are dialing 911—let's answer the call.

I urge defeat of this rule.

Mr. RAMSTAD. Mr. Speaker, I rise in opposition to the rule.

Last week, I testified before the Rules Committee in support of the three time loser amendment, which would target repeat offenders of violent crimes—the 6 percent of criminals who commit 70 percent of all crimes in America. I was sorely disappointed that this committee of 13 individuals did not see the need for my amendment.

Mr. Speaker, as a result of lenient sentencing, American prisons are becoming temporary way stations for violent criminals. A study by the Bureau of Justice Statistics reveals that, of 108,580 persons released from prisons in 1983, 63 percent were rearrested for a felony or serious misdemeanor, 47 percent were reconvicted, and 41 percent were returned to prison within a period of 3 years.

What's worse is the fact that these repeat offenders are among the most violent and dangerous criminals around. For example, released rapists were 11 times more likely than other offenders to be rearrested for rape, and released murderers were 5 times more likely than other offenders to be rearrested for homicide.

These statistics make one thing clear: Our criminal justice system needs to target violent recidivist offenders. Currently, the U.S. Code

provides the sentence—life imprisonment without release—for those who are convicted three times for a serious drug offense. Surprisingly, however, there is no such sentence for those who commit crimes of violence.

That is where my amendment came in. It would have included crimes of violence, which we narrowly defined as those crimes which use, attempt to use, or threaten to use physical force against another person, or involve a substantial risk that physical force against another person may be used. In addition, such crimes would have to carry a term of imprisonment of 10 years or more under Federal or State law. So, you can see this amendment would have applied only to the most serious crimes of violence by three-time repeat offenders.

Because of the urgent need for my amendment, I was disappointed that the rules committee would not allow me to offer it on the floor. After all, I did offer the amendment in committee and revised it to meet the concerns of some committee members, a similar amendment with language vaguer than mine was included in the Senate crime bill, and, as we speak, rapists, murderers, and other violent criminals are committing more and more serious offenses.

I have found that I am not alone. The rule omits a number of vital amendments offered by Republicans, including a study on the impact of coerced confession decisions, increased prison sentences for drug sales to minors, the use of prior history into evidence in sexual assault and child molestation cases, and others.

Crime affects all Americans, and it shouldn't be made into a partisan issue. But that is what the majority on the rules committee has done, and for that reason, I will vote against the rule and urge my colleagues to do the same.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 233, nays 193, not voting 7, as follows:

[Roll No. 310]

YEAS—233

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (IL)
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sarpalius
Sawyer
Scheuer
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—193

Allard
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Browder
Bunning
Burton
Byron
Camp
Campbell (CA)
Campbell (CO)
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Durbin
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Horton
Houghton
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Murphy
Myers
Nichols
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Callahan
Goodling
Holloway
Hopkins
Lewis (CA)
Savage
Slaughter (VA)

□ 1452

Mr. HAYES of Louisiana and Mrs. BYRON changed their vote from "yea" to "nay."

Mr. YATES changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DERRICK. 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 House Resolution 247.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

OMNIBUS CRIME CONTROL ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 247 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3371.

□ 1455

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House

on the State of the Union for the consideration of the bill (H.R. 3371) to control and prevent crime, with Mr. SKAGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 1 hour, and the gentleman from Illinois [Mr. HYDE] will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

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

Mr. Chairman, no duty of government is more fundamental to the preservation of a civilized society than is the criminal justice system. Just as it is a primary responsibility of government to protect us from foreign aggressors, it is no less essential for government to assure our citizens that they will be safe in their communities, homes, schools, and their streets.

Historically, the role of the Federal Government has been to deal directly with those aspects of criminal activity interstate or international in character, and to provide a support role in those matters that were local in character. This we have done in 1984, 1986, 1988, and 1990. This is the fifth major crime bill in 7 years. In turn, the front line troops in combating day-to-day crime have traditionally been the criminal justice units of our State and local governments—law enforcement officers, the judiciary, and corrections officials. This division of responsibility is as appropriate as it is practical, for the units of government best able to respond to criminal activity are those closest to the people.

Mr. Chairman, H.R. 3371, the Omnibus Crime Control Act of 1991, remains faithful to the federalist principle developed over the years while ushering in a new era of developing innovative responses to the criminal activities that plague our Nation.

During this Congress alone, the committee's subcommittees held 20 days of hearings on matters which eventually were incorporated as provisions of H.R. 3371. At markup, some 106 amendments were considered; and of those, 60 were adopted.

A great deal of the credit for this bill belongs to the chairman of the Crime and Criminal Justice Subcommittee, the gentleman from New York [Mr. SCHUMER], who has looked for responsive and innovative solutions to make a new and real beginning in stemming crime. Other valuable contributions have been made by the Subcommittee on Civil and Constitutional Rights, chaired by the gentleman from California, [Mr. EDWARDS] and the Subcommittee on Intellectual Property and Judicial Administration, chaired by the gentleman from New Jersey, [Mr. HUGHES]. My subcommittee also considered matters which were included in this bill. This bill also has been shaped by the spirited debate and substantive contributions of all the members of the committee.

H.R. 3371 contains major new initiatives both to fight and prevent the kinds of crime that most directly affect our constituents in their daily lives. This is what Americans are clamoring for—and not just the biennial rhetoric coming from the Congress that we are being "tougher on crime." I would like briefly to mention several of those initiatives:

The bill would authorize Federal support we need to put more policemen back on the beat, where they can serve as a link to the community and a visible demonstration of the community's law enforcement effort.

The bill provides assistance to local school districts that are most severly impacted by crime and violence, in order to make those schools real environments for learning, and to reduce drug- and gang-related activities in the schools.

The bill also strikes out at the plague of new crimes by repeat offenders by developing mandatory drug treatment for prisoners. It will assure that by 1995 every Federal prisoner with a substance abuse problem will have the opportunity to receive treatment.

The bill also takes steps to assist the victims of crime, and rightly so. It amends the Victims of Crime Act of 1984 to, among other things, more efficiently distribute resources to crime victims and provide for steady increases in the amounts available to crime victim compensation programs.

The bill makes a multipronged attack on white collar crime and includes a comprehensive insurance fraud provision.

In addition to these new steps—which do not appear in either the President's bill or the Senate-Passed bill—H.R. 3371 also makes several other fundamental changes: The bill significantly expands the number of Federal crimes punishable by death. The bill makes sure that the longstanding rule against coerced confessions will not be subverted. The bill includes the Habeas Corpus Revision Act of 1991, streamlining, reforming, and limiting current habeas corpus procedures in order to eliminate unnecessary delay between the imposition of a sentence of death and the administration of that sentence.

Mr. Chairman, all of us in this body are united in our desire to seek the most effective Federal response to the onslaught of crime that afflicts our streets and neighborhoods, no less than our corporate boardrooms. As this debate continues, it is my hope that the Members will proceed with confidence in the good faith and sincerity of those who hold views different from their own. If we can achieve that, we will, in the end, fashion a crime bill that will serve our citizens well.

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

□ 1500

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

Mr. Chairman, according to a majority of the chief legal and law enforcement officers of this country, any crime reform effort will be incomplete unless it includes meaningful reform of the Federal habeas corpus process. The reform that is endorsed by a majority of the State Attorneys General of the United States is the habeas corpus amendment that I will offer in due course.

The unnecessary delay and repetitious litigation that is permitted under current law and the need for meaningful Federal habeas corpus reform is best illustrated by examining the case of Robert Alton Harris and the effect that the bill of the Committee on the Judiciary would have on his situation.

The facts of the case are as follows: On July 5, 1978, as part of a planned bank robbery in California, Robert Alton Harris and his brother commandeered a green Ford LTD in which two high school sophomores, John Mayeski, age 15, and Michael Baker, age 16, were eating hamburgers in a parking lot. They were going to use this car in a planned robbery. Harris forced the boys to drive to a deserted canyon and then he brutally shot both teenagers several times. He purposely chased one of the boys down, shooting him four times as the teenager crouched and screamed.

After leaving the scene of the murder, Harris finished devouring the boys' half-eaten hamburgers and laughed at his brother for not having the nerve to join him in the murders.

In 1979 Alton was convicted and sentenced to death for the brutal murders of two California teenagers. His conviction and sentence became final October 5, 1981.

Under current law—current law—despite the fact that Harris has confessed seven times, filed eight State habeas petitions, three Federal habeas petitions, he is still able to challenge his conviction and sentence through Federal habeas petitions. And under the Judiciary bill, the one that is offered by the majority party and chairman, here is what Alton would be entitled to.

First, he is entitled to bring one or more claims under the Berman amendment, whether or not any of the claims have been previously raised or litigated in State court. For example, although Harris have never raised a claim under Batson versus Kentucky, concerning the exclusion of jurors, he would be given 1 year to raise a new challenge or challenges to his sentence.

In order to rebut a Batson type claim, the prosecutor would be forced to remember 12 years after the fact why he struck certain members of the jury for racial or for invidious reasons. Any not only the jury, the grand jury too, before that, were there any invidious racial motives in striking certain members of the jury?

Needless to say with the passage of time and the absence or decay of evidence, it is more than likely that Harris and other convicted murderers on death row would have their sentences vacated, not because they could prevail on the merits but because the evidence to rebut the claim is not available anymore.

Second, he would be entitled to bring an additional claim under the Fairness in Death Sentencing Act. Even though Harris already brought this claim and lost, he would be able to raise it again under the act. The last time this issue was litigated in California, it took 3 years, cost over $1 million. The issue was resolved by the Supreme Court's ruling in McCleskey versus Kemp, that statistical studies are incapable of proving race bias due to the infinite number of important variables in the capital sentencing process. But the bill presented to us by the Committee on the Judiciary reverses this and says in effect. "You can prove race bias by statistics alone."

Third, Mr. Alton Harris would be entitled to bring an additional claim for the application of judicially created new rules to his case. The Edwards habeas proposal overturns the Supreme Court case of Teague versus Lane, which is currently the law of the land.

I repeat, the bill that we are being offered by the majority party reverses the case of Teague versus Lane, which is currently the law to allow a person like Harris to get additional rounds of Federal litigation based on rules that would not be applied under current law and were not even in existence at the time he originally litigated his case.

If habeas reform means shorten the delays, we are going in the other direction with the majority bill.

Fourth, he would be entitled to bring new claims based on the failure of his attorneys to adequately represent him in his case, even though he had two of the finest criminal defense lawyers in California. Under the majority proposal, which I call the Edwards proposal, he would still be entitled to litigate the issue of competency of counsel. If he argued that the attorneys representing him failed to meet standards established by statute in the criminal defense bar, the State court findings would be thrown out and the entire process started anew in the Federal court.

I am not through under the majority bill. Fifth, he would be entitled to bring new claims to challenge the validity of the sentence. He could repeatedly raise any new claim to challenge the validity of his sentence which rejects the central reform of the Powell committee, set up by the Justices to study this problem that successive petitions be limited to the guilt or innocence of the defendant.

The Committee on the Judiciary bill would entitle this convicted murderer to a minimum of five new claims, probably more, to challenge his conviction and sentence. The Committee on the Judiciary bill which includes the Edwards habeas title, the Berman amendment, and the Fairness in Death Sentencing Act is weaker than current law. It is simply antideath penalty legislation masquerading as habeas reform.

□ 1510

One has to ask who is the real victim here, is it Robert Alton Harris, the convicted murderer sitting on death row and eagerly awaiting the passage of this bill, or is it the families and the victims of his brutal murders? How long do we have to keep the families of the victims waiting for justice to be done? Thirteen years after this ruthless crime was committed, there is still no end in sight, and if the majority bill becomes law, there is no telling how much longer these abuses are going to continue.

With every additional round of added litigation, the families of the victims of these inhuman killings relive their suffering and their loss.

There is another part of the amendment that I am going to offer which is real habeas corpus reform and which is supported by the attorneys general and most of the States attorneys in a bipartisan fashion around the country. That is the full and fair adjudication standard of review. This provision has been the subject of all kinds of disinformation and misinformation. It is very simply a rule of deference. It merely avoids relitigation where a State court has reasonably and fairly determined the matter.

When the State has not done so, for example, a disregard of Supreme Court precedent, the Federal court can set the State court ruling aside. This is absolutely not a standard to foreclose Federal review, although all of the "Dear Colleague" letters say so. But it is carefully crafted to preserve Federal review.

My amendment, which will be offered in due course, and for which we have 15 minutes to discuss, provides for deference in Federal habeas corpus proceedings to State court adjudications of prisoners' claims where the Federal habeas court determined that the State court used both constitutionally adequate procedures and reached a substantively reasonable resolution of the crime.

Language was added to the amendment as it passed the Senate to clearly define the full and fair adjudication standard as including a determination of procedural fairness as well as requiring determination on the merits. That is a reasonable application of Federal constitutional law, and this decision, this ruling is made by the Federal court. So we do not foreclose Federal jurisdiction. You bring your habeas petition to the Federal court, but the Federal court decides whether to give deference to the State court's findings of law and fact and procedure, if they were full and fair. The Federal judge makes that decision.

There are so many other things that I could say about the bill and really there is not time. The majority bill allows convicted murderers on death row to delay for a full year the time for applying for Federal habeas corpus, double the 6 months or 180-day limit approved by this House last year in H.R. 5269. It also allows prisoners in noncapital cases to apply for Federal habeas corpus without any limitation of time. The retroactivity is set aside. The majority bill, the Brooks bill, the Edwards bill is a step backward from existing law. It adds further delay, further confusion, and compounds an already dangerously absurd situation.

Real habeas reform will be found in the Hyde amendment supported by the overwhelming majority of the law enforcement and attorneys general and State attorneys in this country, and I am sure you have heard from them, and I hope Members will give it their full consideration.

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

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS], chairman of the subcommittee.

Mr. EDWARDS of California. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, the gentleman from Illinois, the ranking minority member of my subcommittee, and a very cooperative member, failed to point out that very few responsible organizations or people support the concept of "full and fair adjudication," which is the heart of the Hyde proposal for habeas corpus.

He also failed to say that the real purpose of the Hyde amendment is to destroy habeas corpus, to take away this venerable right of America that was in English law long before the Magna Carta, and which is embedded in our Constitution.

The heart of the Hyde amendment is "full and fair adjudication," and there is no precedent for saying that it means anything but procedural compliance. A Federal judge cannot accept under the Hyde amendment a petition in habeas corpus if the State proceeding was "full and fair." But full and fair means only procedural fairness.

More importantly, and we are going to debate all three of these important

items and vote on each one, I do not quite understand why the gentleman from Illinois [Mr. HYDE], wants to lump them all together. But the only right way is the way the Rules Committee arranged it so that we are going to have a debate and a vote on each of the three controversial issues that the gentleman from Illinois [Mr. HYDE] describes.

However, he sort of slipped over one thing. He said this Hyde amendment has so much support. It does not have any support to speak of, except the Department of Justice and a few prosecutors back home who really do not want to have their work reviewed by anybody. A recent study indicates that 40 percent of these appeals to a Federal court from a State court in habeas corpus are found faulty, and they have to go back for reexamination.

Last, the gentleman from Illinois said that this amendment of his has so much support. The Judicial Conference of the United States, and that is a pretty distinguished group of people, already voted against full and fair, which is the heart of the Hyde amendment. Justice Rehnquist, and there is a kneejerk liberal for you, he made it very clear in his May 1990 speech that full and fair is something that he does not want any part of. Current and former State court justices and State bar associations have come out for what the gentleman from Illinois describes as the Edwards proposal, the American Bar Association proposal, actually, and State bars in California, Colorado, Florida, Illinois, Mr. HYDE, your own State bar, rejects the Hyde proposal, rejects it, as do numerous other State bar associations as well.

Mr. HYDE. Mr. Chairman, I yield myself 1½ minutes just to respond to my friend from California, and he is my friend, but he just says so many things that are not so.

It is true that the Judicial Conference was unhappy with the full and fair standard until we offered an amendment which covers more than just procedural reasonableness, as the gentleman said. I am surprised he does not know that the amendment that we are offering not only includes a procedural requirement that the Federal law was constitutionally applied, but the law cannot be arbitrarily or unreasonably interpreted or applied, and the facts cannot be arbitrarily or unreasonably determined, as well as the procedure must be reasonable. So the gentleman is wrong in that regard.

He made another categorical statement, and I am surprised again at my friend. I have in my hand, famous last words, a letter in support of my amendment signed by 30 attorneys general across our country. So when the gentleman says nobody supports it, he has just obliterated the legal departments of 30 States.

I agree that my own attorney general does not, but he is a liberal Democrat. He is on your side, and more is the pity. But do not say nobody supports it when the majority of attorneys general across our country do.

Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, the bill that the Judiciary Committee fashioned through its overleaning majority bears no resemblance to the work that has been done by the last several Congresses.

For example, the Senate of the United States recently passed a comprehensive crime bill which included substantially those provisions which the President offered with respect to habeas corpus, the death penalty and other salient provisions of such a comprehensive bill.

□ 1520

But the bill that was fashioned by the Democratic majority in the Committee on the Judiciary leans heavily toward the protection of the individual who is convicted of murder.

Let me give the Members some examples: First of all, the original bill, as fashioned by the President and which we want to bring back to the consciousness of the House through the amendments that we want to offer, is totally different than the substantive notions upon which the death penalty can be set.

For instance, the bill that is before us says that the death penalty by and large must be relegated to only those killings which come about with an intent to kill, but we say, of course, an intent to kill should give the jury the right to impose the death penalty.

But we also say that when an actor, a defendant, acts with reckless disregard or with reckless indifference to life in the actions that he takes like a drive-by killing where an automobile zooms by a particular corner and somebody starts shooting out the window of that car pellmell into a crowd standing on that corner and one or more persons are killed, we believe even though that defendant can say, "I did not intend to kill anybody; I just shot into a crowd. I did not intend to kill anyone"; we believe that that should be dismissed by a jury and if he acted in reckless disregard of life, then that individual should be just as subject to the possibility of the death penalty than one who pointed the gun at a specific target and shot to kill.

That is an outstanding difference that we have between the bill as it is presented and the notion that we want to carry with the amendments that we are going to offer at a later point.

Why is that substantial? Because last year's bill rested on that very same point, and the majority then, the same Democratic liberally controlled majority and the Committee on the Judiciary, put up a bill without this reckless disregard quotient about which I speak. We then fought the entire battle last year on that point. We prevailed.

The majority of the House, as did the Senate, felt that the age-old concept of reckless behavior that amounts practically to intentional killing should be included as an option for a jury when they are determining whether or not to apply the death penalty.

Here we are again, but here is a significant difference that proves our point by the exception that the majority put in their bill. They knew that we on our side last year stressed this drive-by killing which I just described to you. So what did they do?

As a sop to us, to say that they are thinking the same way we are, they put in a provision that says a drive-by killing that results in a death should be considered by a jury as to whether or not the death penalty should be inflicted.

What does that mean? It means they drew it so narrowly in order to say, "See, we are thinking like you are," that if the individual who is driving that car steps out of that car, parks the car, steps a few feet from the car and then fires into this crowd, he would not be subject to the death penalty under the provisions that the majority Democrats in the Committee on the Judiciary imposed on this bill.

So the answer is to impose our standard. Our standard is that when an individual does act in reckless disregard of life and shoots indiscriminately or does other things in reckless disregard of life, then the jury shall have the option under the proper guidelines for bringing in the death penalty in those cases. That is a substantial difference.

If for any reason you feel that the majority bill is adequate, you should reject it on that basis alone. That is an important element of what we are trying to demonstrate should be included in any capital punishment legislation.

I ask the Members to support, when the time comes, the Gekas amendment which will make that abundantly clear and bring justice to the death penalty in Federal prosecutions.

Mr. BROOKS. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER], the chairman of the Subcommittee on Crime.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding me this time.

First, Mr. Chairman, I want to salute the chairman of our full committee and my colleague, the gentleman from California [Mr. EDWARDS], as well as the gentleman from New Jersey [Mr. HUGHES] and so many others who worked so hard on this bill.

It is a bill we can be proud of. It is a tough bill. It is a strong bill. It is a bill that really tries to deal with the issue of crime rather than the issue of political posturing.

For a long time, Mr. Chairman, we have focused on punishing the crimi-

nal, and that is correct. We now have very tough penalties on the books.

This bill augments some of them, but we have not focused on preventing the crime from happening, not way back in the sociological depths, but preventing that little old lady from being hit over the head, preventing the kid from being assaulted, preventing the automobile from being stolen. We have done very little of that, and the public knows it.

We have had a tough Republican administration for now since 1980. The crime rate has risen up and up and up, so there must be something wrong with what we are doing. What we are trying to do in this bill is reverse Federal policy to some extent, a process that I hope will continue over the future years.

Because, Mr. Chairman, I feel, we all feel, the anguish of our constituents about crime. They are crying out to us, "Do something. Do something real." They are tired of the ideological debates.

They know that exclusionary rule, habeas corpus, and Federal death penalty affect only 3 percent of Federal crimes and do nothing at the State and local levels where the vast majority of crimes occur. They know that the idea of whether an appeal can be limited to 1 year or 90 days, it has some merit way up there in the heavens, but it does not make a darn bit of difference to making our streets safer. They know that there are real things that can be done. Perhaps they are not ideological. Perhaps they do not make a good 30-second commercial in a Presidential campaign, but they do the real job.

In our bill we have numerous provisions for the first time that do that. We are going to aid localities to put the cop back on the street where he and she belong, get them out of those patrol cars, and let them walk the beat or go on the beats in scooters so they can really prevent crime.

We are going to mandate drug treatment in the prisons so that, indeed, when prisoners get out of prison they do not commit another crime again because, finally, they are drug-free.

We had good programs that do this in little corners of America. This bill spreads them around and lets them work.

We are going to deal with intermediate sanctions so that juveniles who destroy property and hurt people are not just brushed off by the criminal justice system because it is too busy with the adult criminals, but, instead, are given real punishment so that they know that the system has teeth.

These are measures, my colleagues, that prevent crime. We are not going to hear much debate on them today. They are not those hot-button issues that we hear about in all the debates, but they will do a lot more than habeas corpus, death penalty, and exclusionary rule, the three pillars of the President's bill.

On those provisions, I would say that we have crafted a tough bill. We have written death-penalty provisions. I am for the death penalty. So are a majority of our committee. We think certainly we want to make sure you do not want to make a mistake in this, the ultimate punishment, but we have a very tough and strong death-penalty provision.

Again, we go through the game of one-up-manship. "Well, you have this, so we have that." That is not the real issue here. You know it, and I know it, my colleagues.

The issue is: Are we doing something real to end crime? The issue is: Are we going to allow people to have a campaign statement, or are we finally going to reduce the anguish of our citizens in doing something that Democrats and Republicans feel alike is government's legitimate purpose?

This bill goes a long way to doing that. Members can vote for this crime bill and have the opportunity to say that they voted for a tough anticrime package for politics' sake, but that they also voted for a tough anticrime package on substance's sake so that they can sincerely answer that anguish of their constituents about the spiraling crime rate.

Mr. Chairman, this is a good bill. It is a tough, tough bill. It is a strong bill that any Member can be proud of.

Please, let us forget the politics right now and finally roll up our sleeves and get on to the business of actually making our citizens safer instead of scoring political points for the 1992 campaign.

□ 1520

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, yesterday I had the opportunity to attend a ceremony in which President Bush dedicated the National Law Enforcement Officers Memorial just a few short blocks from here where 12,561 names appear on the wall of granite honoring those fallen officers, both male and female, since the inception of this country who paid the ultimate price in protecting us against felons throughout this country.

I was moved, as I think all of us were, with the words that President Bush said when he talked to the survivors of those police officers, the children, the widows, the parents of those who had lost their lives. He made the point about a strong crime bill, not a procrime bill of the kind that came out of the Judiciary Committee, but a strong crime bill that included habeas corpus reform, included a strong death penalty provision, included the exclusionary rule exception for good faith searches.

He asked those survivors and those police officers who came from 50 States to dedicate that fine memorial, to talk to the Members of Congress who he knew would be debating and voting on this important bill to emphasize how important the memory of these fallen officers is to a strong provision dealing with the crime bill.

I am disappointed, as I think most of us at least on this side of the aisle are, with the product of the Judiciary Committee. Many of these issues have been before this House, many of them have been adopted at one time or another, including the amendment of the gentleman from Illinois [Mr. HYDE] on habeas corpus and that somehow found their way into the trash basket after a conference committee report.

I think we can do better. We can do better with the amendments that are going to be offered. I ask for support of those amendments and for a strong crime bill.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the distinguished gentleman from Texas for yielding this time to me, and congratulate him on his, I think, very substantial contributions, making this a very good initiative, as well as my colleague, the gentleman from New York [Mr. SCHUMER], the chairman of the combined Crime and Criminal Justice Subcommittee, my colleague, the gentleman from California [Mr. EDWARDS], and the gentleman from Michigan [Mr. CONYERS] and others who contributed much to this bill.

The Omnibus Crime Control Act of 1991 deals comprehensively with our crime and drug problem in the United States. It has tough penalty provisions that will deter and punish criminal offenders. It will also provide necessary resources to the law enforcement community and for programs that offer the hope of breaking the vicious cycle of crime. I am confident that the Omnibus Crime Control Act of 1991 will fortify us in our fight against crime and I rise today in support of this legislation which contains many important features.

First, the death penalty will again be available in the federal system to combat crime. The bill expands the use of capital punishment for 48 serious Federal crimes including espionage, treason, contract murder, the slaying of protected witnesses, and for murder of the President, among other offenses.

Because the death penalty is an important deterrent, we must be certain that only those who intend to kill are sentenced to death. I have an amendment to assure that the death penalty serves this intended purpose.

Second, we make major improvements in our habeas corpus procedures. The bill limits the appeals which State prisoners on death row can file and streamlines the habeas corpus process. At the same time, the bill preserves, as

we must, the fundamental right to file a writ of habeas corpus. By contrast, the Hyde amendment substitute would destroy the essential right of death row inmates to have their convictions reviewed by a Federal court, the so-called fair, full, but wrong determination by courts in the State system.

Let me pause here, Mr. Chairman. I do not think there is any provision of the bill more important than habeas corpus, and we need to reform it. It is disgraceful that these appeals go up time and again for 14 or 15 years. You can reform it without destroying it, and that is what we are trying to do in the bill.

Third, the bill provides needed funding for boot camps, intermediate sanctions, drug treatment, antidrug anticrime education, and other programs that will help lead our youth away from a life of crime, drugs, violence, and squander. We face a budget crisis and Federal moneys are scarce. Consequently, I have a proposal to use criminal forfeiture funds to support these important programs.

Fourth, the Judiciary Committee rejected, and thus the bill does not contain, numerous unreasonable mandatory minimum sentences without regard to the Federal sentencing guidelines. A more effective approach is to work within the guidelines. When we find that the guidelines are too low for a particular offense or circumstance, we should legislatively direct the sentencing commission to increase the guidelines, and they will follow our direction.

Finally, the bill respects the critical role of the States in fighting crime. The Federal Government is not all-powerful. It does not prosecute street crime. We can not and should not attempt to take over the crime control functions of the States.

We have all been terrorized by criminals in our society. The Omnibus Crime Control Act will help us take back the streets. I urge my colleagues to support this vital effort.

Mr. Chairman, let me just say something else. Like my colleague, the gentleman from Ohio, I was there yesterday when we dedicated the Law Enforcement Memorial, and let me tell you, I also heard some of the statements that were made about the crime bill. One of the things that was suggested was that the President indicated that we should in fact make it a Federal offense to kill police officers in the line of duty. That is the law of the land when police officers are killed in the line of duty.

The President also indicated to the police officers and the victims and the witnesses who were assembled that we should make a mandatory 10-year prison term for using a semiautomatic weapon, an assault weapon, in the commission of a violent offense or drug-related offense. It is in the bill.

Now, I wish my colleagues would lower the rhetoric and talk about the substance of the bill. Much of what is in this bill came right from the President's crime package, and it is reasonable for us to debate the differences on habeas corpus and the exclusionary rule and all the other hot button items as has been suggested, capital punishment and the rest; but the fact remains that that is not where the battle is going to be won. The provisions in this bill that deal with intermediate sanctions that try to reach young people coming into the system with minor offenses the first time, instead of the fifth time, when they were serious offenses, will make all the difference in the world. I do not ever remember losing a case in the 10 years that I prosecuted cases involving the exclusionary rule.

The bill addresses those provisions. It will make a difference.

Mr. HYDE. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. Chairman, will the gentleman yield briefly to me?

Mr. MOORHEAD. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank my friend for yielding to me.

Mr. Chairman, in response to the distinguished gentleman from New Jersey who just spoke, for whom I have the highest admiration, he said something that I really must take issue with. He talked about the deference on full and fair adjudication which is in my bill and certainly not in the bill that the gentleman supports.

I would just like to read from a letter signed by the attorney general of the gentleman's State of New Jersey. It says:

> (a) a standard of federal court review which defers to full and fair adjudication by state courts and respects the integrity of state court processes.

This is something we support.

> Importantly, the full and fair standard would not bar federal habeas review but would merely avoid federal relitigation of those issues already reasonably and fairly resolved in state court.

So I do not want to emasculate this. We want to keep Federal habeas corpus viable. We want to make it work. We want to reform it, not ruin it, and I thank the gentleman for yielding to me.

Mr. HUGHES. Mr. Chairman, will the gentleman from California yield to me?

Mr. MOORHEAD. I really do not have too much time, if the gentleman will yield further time to me.

Mr. HYDE. Mr. Chairman, I yield another minute and a half to the gentleman from California, if the gentleman will yield to the gentleman from New Jersey.

□ 1540

Mr. HUGHES. Mr. Chairman, I have the greatest respect, let me just say that I have the greatest respect for Bob Del Tufo our attorney general, but he is absolutely wrong. Now let me just tell you that I have a letter from the chief justice.

Mr. HYDE. And the other 29 attorneys general?

Mr. HUGHES. Mr. Chairman, I have a letter from the former chief justice of our court, Richard Hughes, who tells me just diametrically the opposite of what our attorney general suggests. And Chief Justice Hughes indicated to me, and I will be happy to supply it for the record, that a fair and full adjudication would destroy the habeas corpus process.

Mr. MOORHEAD. Mr. Chairman, on a recent weekend there were seven murders right here in the city of Washington, DC. In the paper yesterday it told about a woman less than a mile from the Capitol executed in the street.

In my own district, every time a crack house is closed up, it seems to move only a few doors away and opens up again. As the debate over the crime bill moves forward in this Chamber, it is abundantly clear that we need to enact tough Federal laws to punish more effectively violent criminals and drug traffickers. So far the Congress has not been able to hit the point.

We have passed a law to build, but we have not done anything that effectively stops the drug traffic and crime running rampant in our streets.

I was pleased to be one of the original cosponsors of H.R. 1400, which addresses issues of great significance; habeas corpus procedures, death penalty litigation, alternatives to the exclusionary rule, obstruction of justice, gangs and juvenile offenders, increased penalties for firearms use, sexual violence and child abuse, equal justice for victims rights, deportation proceedings of illegal aliens, increased penalties for immigration document fraud.

Mr. Chairman, the President's crime bill is a reasonable approach.

Now I know the bill that is before us has some of the recommendations of the President's crime bill. But unfortunately it has been watered down too much, so that its effectiveness will just not be there.

There are many amendments that should have been able to be brought up during the debate on this bill that have been closed out, that cannot be, and for that reason we are going to still be continuing with this same problem.

Our prison systems are overburdened, and Federal inmate populations are expected to increase even more. Today the bureau's population is approximately 27 percent non-U.S. citizens, a 600-percent increase since 1980. We have to streamline the deportation process of illegal aliens convicted of felonies, while still retaining procedural due process.

Street gangs are widely recognized as a major element in our Nation's pat-

tern of violent crime. The gang problem in Los Angeles is exacerbated by a loophole. There have been 561 gang-related homicides reported throughout Los Angeles in the past 9 months. In the majority of these instances, the gang members who pulled the trigger had an extensive criminal history record. I wanted an amendment to be adopted here that was supported by the Federal Department of Justice which would make an habitual criminal any person who has had a penalty of three consecutive felony convictions where the penalty in any area could have been 10 years, would give him an extra 30 years and keep him off the streets.

Unfortunately that amendment was not adopted.

Some are saying that that 10-year period is already in the law. But in some States, like California, it will give a 5-year sentence where other places have it at 10. Let us be fair, let us get the law fixed up so that we could take care of the crime problem.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS], a distinguished member of the Committee on the Judiciary and also chairman of the Committee on Government Operations.

Mr. CONYERS. I thank the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], and commend the subcommittee chairman for the work that they have done on a very important and controversial bill.

Mr. Chairman, I come to the well feeling that there is one part of this bill that, if we can preserve and get into the Federal law, that we will be doing as much as we can in 1991 to have an important contribution made, and it is called fairness in death sentencing.

Only yesterday I was able to meet and talk with relatives of a person who was executed 2 weeks ago, Warren McCluskey. His sisters, two of them, were here on Capitol Hill. They were here because he was executed because he is one of the persons that the death sentence was imposed because of the race of the defendant.

Mr. Chairman, we can all agree that no one should be executed under a death sentence imposed because of race. Unfortunately recent studies have confirmed, that in some jurisdictions the single most important factor in determining whether a person receives a death sentence is either the race of the victim or the race of defendant. We cannot allow this situation to continue.

The fairness in death sentencing provision of this crime bill is one of the most important civil rights issues that you will have an opportunity to support in this Congress. This provision would make it unlawful to execute someone whose death sentence is the product of racial discrimination. Contrary to what you will hear during debate on a substitute amendment, it will not end the death penalty.

The fairness in death sentencing provision would merely allow courts to consider statistics of a consistent pattern of racial discriminatory death sentencing in determining whether a defendant's death sentence is influenced by racial factors. This is based on the same premise we have work on in virtually all civil rights bills, that is that discrimination is now sophisticated. Rarely, will prosecutors, judges, and jurors admit purposeful discrimination. Therefore we allow the use of comprehensive statistics to establish a prima facie case of racial discrimination, just as we have done in title VII of the Civil Rights Act of 1964 and in the Voting Rights Act.

If a defendant can meet the heavy burden of demonstrating that at the time the death sentence was imposed, race was statistically a significant factor in imposing the death sentence, than an inference that a sentence was based on race is established. The State then has the opportunity to show that the sentence was the product of nonracial aggravating factors, or that the statistics on pattern to apply to this particular case.

You will hear a number of specious argument by opponents of this provision. The one used most often is that once an inference of racial discrimination has been established, it is virtually impossible for a prosecutor to rebut the inference of discrimination. This is wrong. A State merely has to rebut the evidence by a preponderance of the evidence—as opposed to clear and convincing. Second, the bill does not limit the grounds on which the State may rebut a statistical inference of race discrimination:

First, the State can show that the sentence does not fall within the statistical pattern because of the existence of nonracial factors aggravating factors or prior records of the offenders.

Second, the State could show that the evidence of statewide pattern is irrelevant and that the evidence in the local jurisdiction where the sentence was imposed shows no pattern of racial bias in that locality.

The other argument opponents like to use is that the real aim of this bill is to stop the implementation of all death sentences. In reality this provision does not affect the lawfulness of any sentence of death which does not show racial bias. It prohibits only the execution of those specific death sentences that are the product of racial bias. There are jurisdictions where there is no racial pattern to death sentencing. No death sentence in those jurisdictions would be subject to challenge under the act.

Finally, is opponents use same old race-baiting argument that we heard in the debate on the Civil Rights Act of 1991, that act would encourage death sentencing by quotas. This is simply wrong. This provision requires the comparison of similar cases. This means that an overall balance or imbalance in death sentencing is irrelevant. Achieving a certain number or percentage of white death sentences and a certain number or percentage of black death sentences will not bring a State in compliance with the act; instead, such a charging and sentencing process would violate the provision, since the decision would be based on race and not on legitimate factors.

The fairness in death sentencing provision is strongly supported by every major civil rights organization in this country, as well as the American Bar Association.

Mr. MCCOLLUM will offer amendment No. 14 to replace the fairness and death sentencing provision. This is a mischievous amendment that is misleadingly called the Equal Justice Act. It does not seriously address the problem of racial bias in death penalty sentencing that has been documented in numerous studies, several congressional hearings and an independent evaluation by the General Accounting Office.

Frankly, because no hearings have been held on this proposal. I am not sure that anybody knows what this amendment does or how it would work. None of us on the Judiciary Committee have had an opportunity to hear from any witnesses or to ask questions about how this proposal would respond to the problem of racial bias in the criminal justice system.

We can only speculate about the prohibition in the bill on using statistical tests to achieve a specified racial proportion or racial quotas in executions. Nobody in the civil rights community has argued in favor of racial quotas nor has there been any testimony that such a problem exists. I urge you to vote against this amendment.

Mr. HYDE. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from California [Mr. PACKARD].

Mr. PACKARD. I thank the gentleman for yielding time to me.

Mr. Chairman, today the House takes up the crime bill. H.R. 3371 is a comprehensive piece of legislation, one which proposes many needed reforms. However, the bill does not go far enough. We need to strengthen Federal criminal law, not weaken it; we must eliminate delays which clog the court system; we must strengthen the punishment so that it fits the increasingly violent wave of crime which threatens this Nation.

Americans are tired of living in fear. They will no longer tolerate a system which gives criminals more rights than the victims of crime. As each day passes, our neighborhoods become more and more like communities under

siege. In a struggle for drugs and territory, gangs indiscriminately gun down the innocent caught in their crossfire. Rapists do far too little time in prison for their inexcusable violence against women. Criminals are set free on technicalities that totally ignore the substantive evidence which could convict them.

The judicial system of the United States should assure people that they are protected against those elements of society which choose to disregard the law. Americans should feel safe in their neighborhoods, their homes, and their businesses. They should feel that they have adequate recourse against criminals when they are victimized. Our judicial system must provide them with this protection. Americans should feel that the system is just.

Several key amendments to this legislation will seek to reform the process by which we seek a just remedy when we are wronged. I support efforts to include the Senate-passed restrictions of habeas corpus petitions, in order to decrease the delay in carrying out death sentences as well as to decrease prolonged litigation.

I advocate broadening the existing law with regard to the exclusionary rule. Presently, a conviction can be thrown out for something as simple as a mistake on a search warrant. Criminals are going free because of a loophole exploited by lawyers. I believe the courts should allow admission of evidence by officers if it was obtained in reasonable reliance of a search warrant.

I also support capital punishment for the most serious crimes. During consideration of the 1990 Crime Control Act, I supported a measure to sentence drive-by killers and drug kingpins who are responsible for gangland-style murders to death. As my colleagues know, this is an issue which strikes close to home in California, where these types of crime are on the rise.

I ask that my colleagues support these reforms to strengthen the system and reaffirm American's faith in their judicial process. The Congress must act responsibly to present President Bush with a tough anticrime bill that Americans want and the President will sign.

□ 1550

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman and colleagues, I would like to begin by congratulating the chairmen of the full committee and the subcommittee, and the gentleman from New Jersey [Mr. HUGHES], who was earlier chairman of the subcommittee, in bringing to the committee and to the floor what is truly an excellent and a comprehensive bill, and I hope in the debate on the bill that begins today that people will be fair to this bill and will argue its various provisions with at least some modicum of intellectual integrity. I mean to call this a procrime bill is ridiculous. This is a very tough bill.

Now I recognize that the death penalty and the habeas corpus provisions are going to get most of the attention. With respect to the death penalty let me remind my colleagues that this legislation adds 52 new Federal death penalty offenses, 52, and, with respect to the habeas corpus provisions, this is a major reform in habeas corpus. What the bill provides basically is that a 1-year statute of limitations in which to file a habeas petition begins to run from the time that the State conviction is finalized, with a couple of exceptions, and it also basically limits one to one habeas corpus petition.

Now this is a major, major improvement over current law, and I recognize the gentleman from Illinois [Mr. HYDE] provides a different approach. But let us keep in perspective the fact that we are talking about differences in degree, that this bill, this legislation, contains a major habeas corpus reform.

But most important let us talk about the things that are really going to affect street crime in communities like Omaha and other commnities around the Nation. We understand that 97 percent of street crime is prosecuted in local court, and it is limited with respect to what we here at the Federal level can do. But, as the gentleman from New York [Mr. SCHUMER] and the gentleman from New Jersey [Mr. HUGHES] have indicated, there are a lot of very constructive provisions about this bill that are going to lost, lost in the sound and fury over death penalty and habeas reform, if we are not careful, and let me just mention a couple of those.

One of those provisions is allowing communities to develop programs to test people for drugs upon arrest. Now many, many communities in America, including Omaha, have no program for testing somebody for drugs upon arrest, no program for requiring that abstinence from drug use is a condition of release pending trial, no requirement for making abstinence from drug use a condition of probation. We need test facilities right there in the local court so, when somebody is arrested, we can find out right away if they have a drug problem. The way it works in Omaha right now is somebody can go through the entire system, 5 years, including a year waiting for trial, and 4 years on probation without anyone ever knowing whether they have a drug problem. That does not make sense.

So, there is that and several other very constructive provisions in this bill that are going to help the problem of crime on the streets.

Mr. HYDE. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California [Mr. RIGGS.]

Mr. RIGGS. Mr. Chairman, to my colleagues I rise as one of the few former police officers and a deputy sheriff in this body, having worked the mean streets of California for 6, going on 7, years, having married a female police officer, and having seen my share of violent crime during that time period, and I want to just at the outset say from that perspective, unless we adopt the Hyde and McCollum amendments to H.R. 3371, what we have gotten again is a convoluted, watered-down crime package out of the House Committee on the Judiciary. Allow me, first of all, to share with my colleagues an infamous case from my home State of California and why it establishes the need for sweeping habeas corpus reform.

On July 5, 1978, Robert Alton Harris and his crime partner abducted and brutally murdered two teenagers on the outskirts of San Diego, and then, after accomplishing that crime, proceeded to finish the remainder of the meal that they had purchased at a fast food restaurant, a truly awful crime. Mr. Harris was convicted and sentenced to death in the following year. His conviction on first degree premeditated murder, a capital offense in California, became final in 1981. Yet despite having confessed at least four times to the gruesome murders he committed, Mr. Harris is still able today to challenge his final conviction more than 10 years later, already having filed eight State and three Federal habeas corpus provisions.

Quite simply, the habeas corpus provisions in H.R. 3371 are weak, to say the least. For example, the statute of limitations to file an appeal is twice as long as that contained in the Hyde amendment. H.R. 3371 yields a 12-month period, as opposed to 6. The so-called Fairness in Death Sentencing Act is very misleading. The more one learns about the act, the more one discovers that it is truly one of the greatest possible impediments to meaningful capital punishment reform, and I want to remind my colleagues on the other side of the aisle that once again we stand poised to thwart the will of the American people. Mr. Chairman, over and over national polls have shown us; this is particularly true in California, that the American people support the death penalty. They support the death sentence penalty for a wide variety of capital offenses. In fact, if enacted, this bill would effectively abolish the death penalty because it imposes a burden on the prosecution that is too onerous and places an expense on the taxpayers of this Nation that is too great. Moreover, the Berman amendment to H.R. 3371 would enable death row prisoners to reopen otherwise settled cases by allowing race bias claims to be raised in Federal court.

Mr. Chairman, law-abiding citizens do not care to hear about fairness for murderers coming from this body. What about fairness for victims and the families of crime victims?

I urge my colleagues to support the Hyde and McCollum amendments. I urge my colleagues to show that indeed they are not captives of the liberal special interest groups and stooges for the soft-on-crime crowd.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished subcommittee chairman, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I appeciate the gentleman from Texas [Mr. BROOKS] yielding this time to me, and let me commend him and the gentleman from New York [Mr. SCHUMER], the gentleman from New Jersey [Mr. HUGHES], the gentleman from California [Mr. MOORHEAD], the gentleman from Illinois [Mr. HYDE], as well as the gentleman from New York [Mr. FISH], who have helped fashion this legislation. I think it is a good piece of work, and I hope that it passes. Let me just try to briefly describe some aspects of it.

Mr. Chairman, this bill helps us fight crime before the crimes are committed. It restricts the availability of assault weapons, and for those of us who live in Louisville and Jefferson County, KY, we well remember just a year ago when an individual using an AK-47 fired upon his former employees at Standard Gravure, killing eight persons and injuring many more. This bill would restrict the access to those weapons.

In addition, it provides safe school zones. It also puts more cops on the beat in a $150 million program so that they could deter crime.

In addition to stopping crime before crime happens, this bill will help us apprehend criminals. We have DNA research in there. We have more drug assistance administration agents, more immigration agents at the border trained in drug apprehension.

Furthermore, in addition to stopping crime before it happens and in apprehending the criminals who commit crimes, the bill also helps punish crimes sternly.

□ 1600

We penalize those who traffic in drugs or are involved in drug-related offenses. It limits habeas corpus appeals. I could limit them more, but this bill does limit them.

It does provide death penalties. I could go further, but it does have additional death penalties. It does ease the exclusionary rule. I could ease it further. But, the bill does ease the rule.

So essentially we have a balanced, multi-faceted bill which I think would add to our arsenal in the war against crime. Later in the day or perhaps tomorrow there will be an amendment offered by my friend, the gentleman from New Mexico [Mr. SCHIFF], to the committee bill. I hope that the House supports the committee bill which makes permanent the 75-25 percent Federal-local match on law enforcement assistance grants.

Mr. HYDE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I just want to explain again what full and fair means so we get this clear. It seems to me one of the problems with habeas corpus, if we want to make it work, is to avoid relitigating the same questions again and again and again.

Now, how do we do that? Well, how we do it is to give deference to the Federal courts to do what the State courts have done if the State courts—and those are the trial court, the appellate court, and the State supreme court—have dealt with the law, with the facts, and with procedure in a full and a fair way. So if the State courts have handled it properly, fully and fairly, then the Federal court, when it moves over on Federal habeas, gives deference to courts' rulings rather than relitigating them.

The people who oppose full and fair want to relitigate the issues again and again and again. That is wrong. That is not reform. The Federal court looks at full and fair. The Federal court makes the determination whether the State court has fully and fairly dealt with the law, the facts, and the procedure, so they do not emasculate Federal habeas corpus, but they let the State courts have credit for what they have done fairly and fully. That is sensible reform of habeas corpus. If you eschew that and you want to relitigate those issues, you may do so, but do not go home and say you are for reform of the criminal process; you are helping the criminals, not the victims.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise in support of the passage of the 1991 omnibus crime bill.

We have a crisis in this country and we have an opportunity today to solve this problem.

H.R. 3371 is a tough anticrime bill. It provides for increased penalties for the use of a firearm in commission of a drug-related crime, and tougher, fairer, and more timely sentencing procedures.

The bill also authorizes funds for a variety of crime prevention programs at the State and local levels. The bill further seeks increased oversight of our police forces to stop patterns of unconstitutional conduct or police brutality. Make no mistake, it is tough.

The crime bill includes sections dealing with crimes committed against children, and doubles the penalties for recurring sex offenders.

One of the provisions of the 1991 omnibus crime bill that is especially important to me and to the people I represent is the section relating to criminal street gang activity. I worked very closely with Congressman MEL LEVINE and Chairman CHARLES SCHUMER of the Judiciary Committee to come up with a bill that will send a clear message to criminal street gang members: "You do the crime, you'll do the time!" We have to show these young people that criminal gang activity leads to one of two places, either you end up in jail or you end up in the morgue.

Each year more and more lives are being lost in gang warfare. Even more tragic are the many innocent lives sacrificed in this no-win situation. Every day I pick up the paper or read a letter from one of my constituents, detailing the death of another bystander caught in the crossfire between gangs. So far this year, in Los Angeles County, there have been over 840 drive-by shootings according to the Los Angeles Police Department.

Just in the past month, in my district in California, a schoolbus was rifled with bullets from a drive-by shooting and two girls inside the bus were injured. In other gang-related shootings, 12-year-old Ricardo Escobar died while riding his bike near his home after being shot in the head by a gang member with an assault rifle, and 13-year-old Marco Velasquez was killed after being shot in the back while trying to run away from gang members.

In June of this year another constituent of mine, 19-year-old Army Pvt. Cesar Gardea, who had just come home from serving his country in the Persian Gulf, was killed in a gang-related, drive-by shooting. He was shot at his own homecoming party. It was his first night home, and his last night home. Cesar survived a foreign war, but was killed by the one here, on the home front.

Mr. Chairman, gang violence is not limited to California or New York. You can pick up any paper and read about gang-related crimes in your own state.

The University of Chicago concluded that criminal youth gangs are found in almost all 50 states, including Alaska and Hawaii, and in the District of Columbia and Puerto Rico. Two of the more powerful street gangs, the Crips and Bloods, have spread gang life and violence to other parts of the country in search of fresh drug trafficking markets.

Gangs have turned our neighborhoods and streets into war zones. Before the gulf war, the U.S. Army would send its surgeons and medical teams to train in hospital emergency rooms in Los Angeles, because there the doctors could get 24-hour-a-day experience treating the kind of gunshot wounds normally seen only in battle.

The streets of America should not have to be the training ground for combat doctors. I am tired, and so are my constituents, of these killings. Private Gardea, Ricardo Escobar, and Marco Velasquez all had meaningful lives, but died meaningless deaths.

I know law enforcement is not the complete answer in detering crime, that is why the passage of this crime

bill is so crucial. The bill authorizes additional funds for a variety of grant programs that are targeted especially for high-at-risk youth.

Successful grant programs such as DARE, the safe school project, and the Midnight Basketball League would receive additional money under this bill.

But for the tough, hardened gang members, who could care less about whatever innocent individual got in the way, they must be shown, that they are going to pay for their crimes. State and local law enforcement are swamped, overcome by the sheer numbers of the situation.

Mr. Chairman, I urge my fellow colleagues to pass the Omnibus Crime Act of 1991.

Mr. HYDE. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I think the best description of this bill is that it is a feel-good bill, a feel-good bill full of empty promises and little if any real reform of the criminal justice system to put teeth in our law and get criminals in jail.

Within the text of this bill, there is $1.2 billion of authorizations for various kinds of criminal justice programs, some good, some not so good. But we all know that under the budget agreement that was passed, to fund these programs we will have to take money out of other discretionary spending, and that is not going to happen in a month of Sundays.

So those who support this piece of legislation will go around the country saying that we have taken care of this problem and taken care of that problem, but they know full well that when the vote comes on the budget next year, there will not be the money to actually send to the communities for things like safe schools, cops on the beat, and what have you. I think that is dishonest because it seems to me that if we are going to be making these promises in the context of this bill, we ought to be prepared to back it up with money, and we know we do not have the money under the budget agreement and the Deficit Reduction Act.

Second, there are very few provisions in this bill that actually improve our criminal justice system, to represent the interests of society rather than the interests of criminal defendants.

We have talked at some lengths and we will talk at greater lengths on issues such as habeas corpus, the exclusionary rule, and the death penalty and the Fulminante decision. In each of these cases the committee bill does not provide the teeth in the system to earn the support of the criminal justice community, our district attorneys, our State attorneys general, our police officers out on the beat, and our deputy sheriffs. I think that is the most ringing indictment, that this bill is really nothing more than a fraud. There are provisions in this bill that attempt to tie the hands of the Supreme Court, something about which my friends on the majority side of the aisle are in increasing disagreement.

On the exclusionary rule, for the first time there will be a move to try to statutorily define what the exclusionary rule is. My friends on the other side of the aisle are against that. The death penalty procedures, as explained by the gentleman from Pennsylvania [Mr. GEKAS] really make it more difficult to execute someone who deserves execution than leaving the law alone, and that is wrong, too.

□ 1610

That is wrong, too. In summation, this bill is merely a continuation of the failed congressional programs since the Omnibus Crime and Safe Streets Act was passed in 1968. It attempts to deal with the problem of crime by throwing money at it rather than changing our criminal justice system so that there is more balance between the rights of criminal defendants and the rights of society and victims on the other side.

We have a chance during the amending process to make this bill a good bill. If we fail to take that chance, to grasp that opportunity, then we will perpetrate another fraud on the American people, just like we did in 1990.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY], the assistant majority whip, recently elected and widely acclaimed.

Mrs. KENNELLY. Mr. Chairman, I rise in support of H.R. 3371, the Omnibus Crime Control Act of 1991. I want to draw the attention of my colleagues to section 1706 of the bill which concerns a matter within the jurisdiction of both the Committee on the Judiciary and the Permanent Select Committee on Intelligence.

Section 1706 represents a very narrow and carefully drawn expansion of the Federal Bureau of Investigation's authority to utilize the "national security letter" under the Electronic Communications Privacy Act [ECPA].

ECPA was enacted in 1986 to provide privacy protection to telephone subscriber information and toll billing records. In general, government entities may only have access to this information, without the subscriber's consent, pursuant to a subpoena, court order or search warrant, and only if the information is relevant to a legitimate law enforcement inquiry. ECPA provides an exception for counterintelligence cases, however, which allows the FBI to obtain subscriber information and toll billing records where the FBI certifies in writing to the telephone company that the information sought is relevant to an authorized foreign counterintelligence investigation and the subscriber is believed to be a foreign power or agent of a foreign power.

A national security letter is an extraordinary device which allows the FBI to compel the production of information without the judicial review and association with a criminal investigation normally required by law. Expansion of the reach of the national security letter is not to be undertaken lightly.

Nevertheless, the FBI has made a compelling case to the Judiciarly Subcommittee on Civil and Constitutional Law and to the Intelligence Subcommittee on Legislation which I chair, that the national security letter should be available in cases in which individuals contact suspected foreign intelligence officers or suspected terrorists, or where the substance of the conversation concerns international terrorism or clandestine intelligence activities that may involve spying or an offer of sensitive information protected by law. These conservations in which individuals volunteer to commit espionage are not now covered by the national security letter exception. In fact, the FBI argues it might have been able to prevent the compromise of highly sensitive information given to the Soviets by Ronald Pelton, a former employee of the National Security Agency, if it had had this expanded authority.

The Subcommittee on Legislation has held hearings for the past 2 years on this issue. The FBI did not, however, make a persuasive case that its proposed legislative solution, which would have required phone companies to identify all persons who had been in touch with foreign powers or suspected agents of foreign powers, should be adopted. In my judgment, the FBI's language was too broad and not narrowly focused on its demonstrable needs.

We have worked closely with the Subcommittee on Civil and Constitutional Law to fashion an amendment to ECPA that would addess the legitimate concerns of the FBI in a way that is sensitive to the dangers inherent in the national security letter exception. Chairman EDWARDS and his staff are to be congratulated on their leadership on this issue and their persistence through protracted negotiations over several years.

Section 1706 amends ECPA to allow the FBI to request the name, address, and length of service of a telephone subscriber where the FBI certifies in writing to the telephone company that the telephone service has been used to contact a suspected foreign intelligence officer or suspected terrorist or the circumstances surrounding the conversation indicated that the conversation involved international terrorism or an offer to spy.

Section 1706 is a delicate balance between our desire to give the FBI the means to fight terrorism and espionage and our responsibility to protect indi-

viduals from unreasonable intrusion by the government. I assure my colleagues that the Intelligence Committee will continue vigorous oversight of the FBI's use of national security letters.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, while I am pleased that we are finally considering a bill dealing with violent crime, unfortunately, H.R. 3371 will do little to prevent violence, and may, in fact, cause considerable problems for those on the front lines of the war on crime.

I recently contacted the U.S. district attorney of Arizona, Linda Akers, to ask her opinion of the impact of H.R. 3371 on prosecution of cases in the district of Arizona. Besides the normal Federal jurisdiction, the U.S. attorney in Arizona is also responsible for prosecuting offenses occurring on 17 Indian reservations and crimes occurring along the international border between the United States and Mexico. I am including her response to me in the RECORD, because I believe it is especially important that we consider the impact of so-called crime legislation on the real life efforts of law enforcement officials to fight crime where it occurs in our districts.

I recommend Ms. Akers' letter to my colleagues. She presents very compelling arguments against three provisions of H.R. 3371, including title IX, coerced confessions; title XI, habeas corpus; and title XVII, exclusionary rule. For example, instead of the provisions recommended in H.R. 3371 regarding coerced confessions, she supports the Supreme Court's decision in Arizona versus Fulminante, which holds that a conviction should not be reversed on the basis of a constitutional error if it appears beyond a reasonable doubt that the error had no effect on the outcome of the proceedings.

Ms. Akers also endorses much needed reform of the use of the writ of habeas corpus—reform that would limit delay and abuse of the judicial process by convicted felons. I quote from her letter as follows:

Section 1104 of Title XI adopts a new retroactivity standard in both state and federal cases. As you correctly point out, this new standard would allow offenders to challenge convictions imposed in full conformity with existing law. It will essentially eliminate finality of decisions. This potential for endless litigation will, I believe unduly undermine confidence in our judicial system.

And I will include her entire letter for the RECORD.

Finally, she supports the amendments offered by Mr. MCCOLLUM which would establish a good faith exception to the exclusionary rule, under which a court would admit evidence if it determined that the conduct of law enforcement officers obtaining the evidence was objectively reasonable. As Ms. Akers points out in her letter, describing circumstances involving border agents:

Agents are required in a split second to make a decision that may be debated through the courts for years. If the agents act in objectively reasonable good faith, what more can we ask of him or her?

Mr. Chairman, in the debate on anticrime legislation, let us not lose sight of the ultimate goal, stopping crime. We must enact legislation which helps, not hinders, our local law enforcement officials in their work towards this goal. I urge my colleagues to support the amendments offered by Mr. HYDE, Mr. MCCOLLUM, and Mr. GEKAS and oppose the amendment of Mr. BERMAN.

U.S. ATTORNEY,
DISTRICT OF ARIZONA,
Phoenix, AZ, October 16, 1991.

Hon. JON KYL,
U.S. Representative, Washington, DC.

DEAR CONGRESSMAN KYL: This letter is in response to your request for the impact of three particular provisions of the Crime Bill on cases in the District of Arizona. I will address each issue in the order of your letter.

As you know, the U.S. Attorney in the District of Arizona prosecutes felony offenses occurring on the 17 Indian Reservations within the state as well as crimes occurring along the international border. In this respect, our case load resembles that of a typical county or district attorney's office rather than a typical U.S. Attorney's office. I make this distinction only to emphasize the impact of the Crime Bill provisions on the work of this District.

First, the Crime Bill reported by the House Judiciary Committee contains a provision that admission of a coerced confession shall not be considered harmless error, where a "coerced" confession is defined as any confession elicited in violation of the Fifth or Fourteenth Amendments. As you correctly point out, this provision effectively overturns the Supreme Court's decision in *Arizona v. Fulminante* and applies a different standard of harmless error to involuntary statements than that applied to other claims of constitutional error. Under normal harmless error standards, a conviction is not reversed on the basis of constitutional error if it appears beyond a reasonable doubt that the error has no effect on the outcome of the proceedings. There is no rational reason why a different rule should apply to claims relating to involuntary statements by the defendant.

The practical effect of this "automatic reversal rule" is to overturn the convictions of murderers, child molesters, and drug dealers, among others, even where the independent evidence of guilt is overwhelming, and the Government shows beyond a reasonable doubt that the offender would still have been convicted if the improper admission had not occurred. (Notably, the improper admission is with the approval of the trial judge.) This outcome denies justice to the victims of crime and the innocent public.

In the District of Arizona, our victims and public, include the Indians on our many reservations. Cultural and language differences and a lack of familiarity with the criminal justice system make it difficult for them to understand appellate court reversals. They will be especially perplexed by the idea that the defendant would get a new trial even when the evidence establishes guilt beyond a reasonable doubt and any error could not have affected the outcome. The victim believes that if it is proven that the defendant committed the crime, then a second trial to reestablish guilt is (in their opinion) is a denial of justice. I agree.

You also inquire about the provision in Title XI which would weaken Supreme Court decisions that currently limit delay and abuse of the judicial process by prisoners. Specifically, Section 1102 sets a one-year time limitation for filing habeas corpus petitions in capital cases. As you accurately point out this time frame is more than twice the 180-day period proposed by the Powell Commission and many times greater than that provided for seeking review of criminal judgments in other contexts.

We currently do not have any federal death penalty cases in this District so the impact of these provisions would be felt in Arizona primarily on the state level. I can, however, tell you from personal experience that post conviction review of death penalty cases in the State of Arizona routinely goes on for years and years. During this time, the victim's or victims' surviving family members come to understand the old adage that "justice delayed is justice denied" with painful clarity. Time is jealously considered by survivors as the one thing the defendant by his or her actions denied the victim: time to grow up, time to realize their dreams, time to live and share with their loved ones. As recognized by the Powell Commission, there is no legal reason why errors claimed to have occurred in the trial can not be ferreted out in a much shorter time frame.

Section 1104 of Title XI adopts a new retroactivity standard in both state and federal cases. As you correctly point out, this new standard would allow offenders to challenge convictions imposed in full conformity with existing law. It will essentially eliminate finality of decisions. This potential for endless litigation will, I believe unduly undermine confidence in our judicial system.

The final provision of the Crime Bill that you mention concerns the exclusionary rule in Title XVII. This provision would draw the line at searches involving warrants. As such it would provide a basis for defense arguments that it is impermissible to go any further and that existing decisions recognizing the "good faith" exception in non-warrant cases should accordingly be reconsidered, leading to a narrowing of the admissibility of evidence as compared to current law.

Any narrowing of federal law respecting the exclusionary rule would have a tremendous impact on this District. Motions to exclude evidence are routinely filed in practically every drug case that we prosecute. Many of these cases do not include a warrant, but may include other constitutionally recognized exceptions to the warrant requirement, such as hot pursuit and plain view. If the officer's conduct is objectively reasonable, it should not matter whether he acted pursuant to a warrant or one of the exceptions to the warrant requirement. The rationale expressed in *United States v. Leon*, 468 U.S. 897, 918–20 (1984) applies equally to either situation. Excluding evidence where the officer's conduct is objectively reasonable, "will not further the ends of the exclusionary rule in any appreciable way; for it is painfully apparent that . . . the officer is acting as a reasonable officer would and should act in similar circumstances. Excluding the evidence can in no way affect his future conduct unless it is to make him less willing to do his duty."

An amendment offered by Representative McCollum would establish a general "good faith" exception to the exclusionary rule, under which a Court would admit evidence if it determined that the conduct of officers in

carrying out a search and seizure was objectively reasonable. Limiting the "good faith" exception to searches involving warrants will arbitrarily exclude evidence that is currently admissible. We encourage you to support the amendment.

In this District, we work with local agencies to train border agents to ensure that they are familiar with all developments in the law relating to the Fourth Amendment. Nonetheless, circumstances still occur that are not covered by any prior interpretation of the law. Agents are required in a split second to make a decision that may be debated through the courts for years. If the agent acts in objectively reasonable good faith, what more can we ask of him or her?

Sincerely,

LINDA A. AKERS,
U.S. Attorney, District of Arizona.

Mr. Chairman, I rise today in strong support of the Hyde amendment which strikes the weak habeas corpus provisions of H.R. 3371 and inserts instead the strong habeas reform provisions proposed by the President and recently adopted by the Senate.

Both the attorney general of Arizona and the U.S. district attorney of Arizona have told me that the current provisions of the House bill would promote unnecessary delay in the habeas corpus process and result in repetitious litigation of previously settled claims in Federal court. Additionally, these provisions would cause the repeated raising of disputable new claims, especially in death penalty cases. Allowing the reopening of settled or never-raised claims by habeas corpus writs could reopen virtually all of the 103 cases currently on death row in Arizona.

The Hyde amendment would provide real and effective reform to the habeas corpus process, including a full and fair adjudication standard, which would avoid needless relitigation of issues properly resolved at trial, but would not bar Federal habeas review when there was clear disregard for Federal precedent. Additionally, this amendment would establish time limits for filing habeas petitions. This limit would still allow defendants ample time to seek review following the conclusion of proceedings, but would avoid the acute difficulties of proof that currently arise when habeas corpus is sought by a prisoner years or decades after a trial.

I ask my colleagues here today to join me in supporting the only real reform of the Federal habeas corpus process, the Hyde amendment.

Mr. Chairman, I rise today in strong support of the Volkmer-Sensenbrenner amendment to strike needless and ineffective gun control provisions from H.R. 3371.

This bill, which in its current form can be more accurately described as a criminal protection act rather than a crime control act, would ban the sale and manufacture of 13 categories of firearms defined as assault weapons, and would prohibit the possession or transfer of ammunition feeding devices with a capacity of greater than 7 rounds. This isn't crime control, it's gun control, plain and simple. Such measures will not keep criminals from acquiring guns, legally or illegally, but instead will infringe upon the right of law-abiding citizens to own and use such firearms for legitimate sporting purposes as well as self and family protection.

We need to attack the real problem, criminals who use guns in violent offenses. The best approach to the abuse of weapons is stricter penalties for their criminal use. This is why I support tougher penalties for criminals who use guns illegally, such as those contained in the President's crime bill. Mandatory prison terms for violent crimes committed with firearms will deter future criminal activity and help keep our homes and streets safe.

We don't need to control guns of law abiding citizens; we need to deter violent crime and criminals. Let us pass the Volkmer-Sensenbrenner amendment.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. FEIGHAN], a member of the Committee on the Judiciary.

Mr. FEIGHAN. Mr. Chairman, I am proud to stand up today on behalf of the anticrime bill before us. Crafting a crime bill on the eve of a Presidential election year is always a treacherous and thankless task, and I want to commend Mr. SCHUMER, the chairman of the Crime Subcommittee, and Mr. BROOKS, the distinguished Judiciary Committee chairman.

One of the bill's best provisions is perhaps one of the least known—the Anti-Terrorism Act of 1991. Finally, American victims of terrorism will be able to bring civil suits in American Federal courts. The need for this provision was clearly and dramatically demonstrated by the case of the Klinghoffer family. They are currently pursuing a civil judgment against the PLO for the execution of Leon Klinghoffer, a passenger on the ill-fated *Achille Lauro* cruiseliner.

Because this crime violated certain admiralty laws, a Federal court in New York was able to establish jurisdiction. But for the vast majority of such crimes, no civil cause of action exists for American victims of terrorism. With this provision, we offer the opportunities to other American families—like those who lost loved ones in the attack on Pan Am Flight 103—to pursue claims in U.S. courts.

Terrorism against Americans—bombings, hijackings, and taking of hostages—continues to threaten our interests. On the eve of a potential Middle East peace conference, it is essential that we not forget these American families and the continued terrorist acts that threaten any long-term peace.

I want to address three other issues that seem to be causing some controversy. The first has to do with a ban on assault weapons. I cannot for the life of me understand why any single member of this body could rise in opposition to a ban on 13 of the most dangerous weapons in America. Do they really want some one in their neighborhood to carry an AK-47 or a Streetsweeper/Striker 12? Should drug dealers be permitted to walk the streets with guns like the TEC-9, which can fire dozens of rounds a minute?

H.R. 3371 would simply fortify the President's own ban on the importation of assault weapons, and strengthen it by adding several other killing machines. Every hunting rifle in America—including every semi-automatic hunting rifle—is exempt from this bill. If we can again summon the courage to defy the screams and shouts of the National Rifle Association—as we did on May 8 when we passed the Brady bill—we might be able to reduce the blood that is spilled each year at the hands of criminals with assault weapons.

I also want to express my support for the bill's habeas corpus reform procedures, and my opposition to the Hyde habeas amendment. H.R. 3371 strikes a rare balance: It insures that capital defendants are treated fairly while preventing wasteful, repetitive, and frivolous appeals. But the Hyde amendment shoves the Bill of Rights to one side, and fiddles perilously with what our Founding Fathers called the great writ—the writ of habeas corpus. By extending the pale full and fair standard to our entire system, by unnecessarily cutting off habeas petitions after half a year, and by denying death row inmates a right to competent counsel at each stage of the judicial process, the Hyde amendment would weaken our Bill of Rights—even as liberated peoples all across Eastern Europe and the Soviet Union are discovering theirs.

Finally, I hope my colleagues will avoid any temptation to weaken the exclusionary rule, which has deterred improper police conduct for more than a generation. Its never satisfying to hear that a defendant escaped justice on a technicality, but the rule is in fact rarely invoked—a clear sign that the exclusionary rule has been successful in preventing police misconduct before it can happen. Police can work with it, the courts know how to apply it can happen. Police can work with it, the courts know how to apply it sensibly, and it essential to the proposition that the American fight against crime will adhere to the American creed of fairness.

I would like to take a moment to address one more issue—improving the lives and livelihoods of our law enforcement officers. As the original sponsor of the Law Enforcement Scholarships Act, I am pleased to see that it is part of today's bill. Officer education pays for itself several times over: bet-

ter-educated officers communicate better with the public, are better decisionmakers, and are the subject to fewer complaints. New technologies, the drug war, and a more complicated society all demand more sophisticated, well-educated police officers. By allocating a modest amount of money to State-run law enforcement scholarships, we are making an investment in the future of our police officers—and the safety of our streets.

Mr. Chairman, the bill before us is a good one—it takes the fight against crime to the streets, while honoring the greatest liberties our Constitution's framers guaranteed us. I hope that the Members of this body will think twice before they rush to amend it, and support its final passage.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of the Hyde amendment for meaningful habeas corpus reform. My good friend, the freshman Member from California [Mr. RIGGS], was a police officer for 6 years and has seen duty on the frontline. He talked about a case, the Harris case, in San Diego, CA.

□ 1620

I am very familiar with that case. Those boys lived right down the street from me.

Those boys' killer, Harris, killed them not too far from Mira Mesa, CA. After they were dead, Harris sat over on the side of a bank and continued eating their hamburgers out of a McDonald's bag.

Harris has seven times on seven separate occasions testified that he was guilty, that he committed these crimes. He was sentenced to death, but yet, 13 years later, Harris is still on death row.

The facts of the case are clear. Harris did brutally murder the two boys. He admits it. Yet his lawyers filed eight State habeas corpus petitions and three Federal.

This is a travesty in itself. The Hyde amendment would end this kind of travesty. The families of the Harris murder victims have been denied justice. The appeals process is out of control, Mr. Chairman.

The Hyde amendment adopts the recommendations of the blue-ribbon Powell Commission. It protects the rights of defendants, but ensures that justice will be done.

Mr. Chairman, the California attorney general, Dan Lungren, has repeatedly called on Congress to enact meaningful habeas corpus. He strongly supports the Hyde amendment. All 58 California district attorneys, Republicans and Democrats alike, have called on Congress to enact meaningful habeas corpus.

Let us listen to the men and women who are in the trenches and let us not be so worried about police misconduct but misconduct of the criminals.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, our large cities, our small communities, every part of America is crying out for relief, real relief from crime. Members should decide their vote on this crime bill by the standard I believe most of our constituents expect. Is it likely to deliver real relief from crime? Some sections of this bill provide real relief. Others deliver false promises, and worse, undermine fairness and offer a needless false trade-off between liberty and real relief from crime.

Surely no real relief from crime should be achieved at the cost of one of the great guide posts of American liberty. Yet that is what the Senate crime bill attempts in its provisions for habeas corpus reform. Though the concern has been for capital cases, the Senate included the administration's proposal, which essentially eliminates the review of the constitutional claims of all State prisoners in Federal court, not just defendants in capital cases. Serious constitutional violations would be immunized from Federal review if a Federal judge were restricted to procedural aspects of State cases.

The bill before us now takes a more reasoned and targeted approach to habeas reform. Title XI directly and more narrowly attacks the problem which the American Bar Association has found to be the primary cause of habeas petitions—costly errors made by inadequate counsel in capital cases. The committee's bill ensures that States provide competent counsel in such cases from trial through the appellate process.

Habeas corpus is one of the great hallmarks of American justice. It would be a perversion of the traditions we have maintained throughout our constitutional history to use this crime bill to destroy the great habeas corpus remedy.

Mr. Chairman, no provisions in this bill demand a real relief standard more than the death penalty provisions that assume, in spite of all the evidence, that the State, by taking a life, can deter those who would take the lives of others. This bill thoughtlessly and aimlessly takes the death penalty, now permissible at the Federal level in two instances—airline hijacking where death results, and homicides ordered by drug kingpins—and expands its use to over 50 additional Federal crimes, including some where no homicide has occurred.

This leap to attach death to as many Federal crimes as possible makes a mockery of the real relief standard I have suggested. In leading death sentence States, for example Florida, Louisiana, and Texas, murders and violent crimes continue to increase. In States with similar population demographics, but no death penalty—for example, Massachusetts, New York, and Minnesota—murder and violent crime rates are comparable or lower. Imposing death at the Federal level will no more meet a real relief standard than it has in these States. Replacing Federal death penalties with mandatory life sentences without possibility of release achieves the necessary relief.

However, the problems with the death penalty in this country are far deeper. We must not avoid them in this bill. One of the reasons so few countries allow the death penalty is that it is almost always used politically, which is to say, against powerless groups. That is why almost invariably when countries overturn totalitarianism, one of their first acts is to abolish the death penalty, as was done most recently in the Eastern bloc nations.

One of the great racist stains still left in our country is the racial imposition of the death penalty. Mountains of studies have shown that the race of the victim and of the defendant continue to significantly guide prosecutor's decisions to seek the death penalty. The reliability of this substantial body of data was validated last year by the General Accounting Office. Bay County, FL is an example of this awful racism. There, 40 percent of the murder victims are black, but in all of the cases where the death penalty was sought, the victims were white between 1975 and 1987. Yet the statistical evidence that would almost surely show racial use of the death sentence cannot be introduced today because the Supreme Court says legislative authority is required. We should give the courts that authority by passing the Fairness in Death Sentencing Act of 1991. This body simply cannot allow itself to expand the use of capital punishment before racism as an ingredient in the discretion to impose it is removed.

The bill's vital provisions which ban the sale and possession of 13 types of assault weapons, do pass the real relief test. The law enforcement community says that such measures are essential to its efforts to curb the proliferation of drug and gang related violence. We in the District of Columbia have seen how these weapons make city streets into battlefields. The overwhelming majority of Americans know the difference between sporting goods and military hardware. And the framers would have been astonished at the constitutional claims opponents make against the Government's legitimate and compelling public safety obligations.

Perhaps no section of this bill fails the real relief standard more than provisions for increased uses of mandatory minimum sentences. What a pretense at getting tough on crime it is to fill

jails and prisons, now so overcrowded that they sometimes must be run by judges because of constitutional violations. What a diversion of public money wasted in bricks and mortar that turn back on the streets criminals educated in finer points of crime than those that brought them there. We already need 250 new cells a day to keep up with the current rate of incarceration. That comes to $12.5 million per day. We spend on the average $29,600 a year on a juvenile offender. We could send him to Harvard for $18,000 a year. We do much too little to divert criminals using mandatory house arrest, restitution, and other alternatives to incarceration clearly appropriate for significant numbers. And we use incarceration often when we should be using drug treatment.

There is a better way. Just 2 months ago, the U.S. Sentencing Commission issued a special report to the Congress which concluded that:

> The most efficient and effective way for Congress to exercise its powers to direct sentencing policy is through the established process of sentencing guidelines * * * rather than through mandatory minimums.

The Judicial Conference of the United States, which represents the judges of every Federal judicial circuit, concurred. Just 7 years ago, the Congress passed the Sentencing Reform Act to correct past patterns of undue leniency—and disparity—for certain categories of serious offenses. Why not give our new sentencing guidelines, which became law only in 1987, an opportunity to work before undermining them with mandatory minimum sentences.

These are not the only problems I have with this bill, Mr. Chairman. It enacts into law a judicially created good faith exception to the exclusionary rule. This will permit courts to consider evidence obtained by police who relied in good faith on a warrant later determined to be invalid.

Finally Mr. Chairman, it is important for me to point to provisions in this bill that do meet the real relief test. I commend the bill's provision for substance abuse treatment in Federal and State prisons, for alternatives to incarceration for youthful offenders, Federal funding assistance to States and localities which have been designated drug emergency areas, grants to local police departments for community policing programs, and funds to hire 350 additional DEA agents. These are provisions sure to have a beneficial effect. So are proven crime prevention tools such as safe schools and midnight basketball leagues.

In the District of Columbia there have been 378 murders this year compared to 374 this time last year. Our need for real relief is desperate. Our Nation's need is desperate. We owe the people of the United States a bill that will give them real relief.

Mr. SENSENBRENNER. Mr. Chairman, I yield 6 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I rise in support of several amendments that will be offered to correct the flaws in H.R. 3371. In particular, I strongly encourage my colleagues to support Mr. HYDE's amendments on habeas corpus, Mr. GEKAS' amendment on the death penalty, Mr. VOKLMER's amendment to strike the assault weapons provisions, and my amendments on the Equal Justice Act and the exclusionary rule.

I will offer an amendment to replace title XVI, the Fairness in Sentencing Act, with the Equal Justice Act. Don't be misled by the title given to the Fairness in Sentencing Act; it would more appropriately be called the Death Penalty Repeal Act or the Death Sentence Quota Act.

This act creates an inference of racial bias if a defendant can show a statistical variation in the racial composition of those who have committed murders and willful homicides compared to those who are sentenced to death in a given jurisdiction, State or Federal. The inference would also be created by statistical evidence indicating that killers of victims of one racial group are less likely to receive the death penalty than killers of victims of another racial group.

There are several problems with this approach. First, 90 percent of murders are intraracial, so if the prosecutor tries to lower the percentage of minority capital defendants, the percentage of death penalty cases involving minority victims will automatically be lowered. But this is an impermissible result because it automatically will mean that killers of minority victims are less likely to receive a death sentence. A catch-22 situation is created, making it difficult if not impossible for a prosecutor to seek a death sentence regardless of the race of either the victim or murderer and no matter how heinous the crime.

Second, such a statistical approach inaccurately assumes that crime rates in various racial groups are substantially the same. For example, about one-half of all murder victims are black. The Fairness in Sentencing Act would ensure that the death penalty is not available to punish their murderers.

Third, the Fairness in Sentencing Act does not take into account the facts of the individual case at hand, nor does it go beyond the general statistics to determine why death sentences were given in various cases—it does not consider the atrocity of the crime, the weight of evidence, or, ironically, the actual presence or absence of racial bias.

This quota sentencing act ostensibly allows the prosecution to attempt to rebut such a falsely based statistical inference, but then proceeds to tie its hands. It expressly prohibits the Government from relying on assertions that there was no intent to discriminate or that the cases used to create the inference were cases that fit the statutory criteria—which include aggravating circumstances—for imposition of the death penalty.

The result is the creation of an inference based on unsound methods, the near impossibility of rebutting the inference, and, therefore, the abolition of the death penalty.

I want to make it very clear that this provision is retroactive. The more than 2,450 existing capital sentences would all be open to challenge under this unequal and unjust approach, regardless of the facts of the case or the guilt of the convicted killer.

Far from contributing to a colorblind justice system, the Fairness in Sentencing Act would require prosecutors to carefully consider the race of both the defendant and victim. This act is also a deeply disturbing departure from our tradition of individual justice. It is a move toward a system of group justice based on statistical quotes.

I will be offering an alternative. The Equal Justice Act would replace the Fairness in Sentencing Act with a system that ensures that each defendant receives a fair trail based on the facts of the case and without racial bias or prejudice. It codifies and preserves rules against racial bias at the front end of the litigation process, were defendants are charged and tried.

My alternative prohibits any rule that requires or authorizes the imposition of penalties to achieve specified racial proportions, or that requires or authorizes the invalidation of penalties if specified racial proportions are not achieved. It does not bar the defendant from offering any evidence in support of a claim that he has actually been discriminated against, including statistical evidence. It does reject the notion that statistical disparities in themselves are racial discrimination requiring the invalidation of capital sentences.

The Equal Justice Act also lays out evenhanded rules to guard against racial bias, regardless of whether it would operate to the advantage of the defense or the prosecution, In cases where there is a substantial likelihood that the jury may be influenced by racial bias or prejudice, the risk of bias will be examined through inquiry on voir dire; the venue may be changed on motion by either the prosecutor or the defense attorney if an impartial jury cannot be obtained because of racial bias; and the prosecutor and defense attorney are prohibited from appealing to racial bias in front of the jury.

I will also offer an amendment to replace the language in section 1720 on the exclusionary rule with the more effective language that this House adopt-

ed last year and in the two Congresses before that.

My amendment would provide for the admissibility of evidence obtained as the result of a search and seizure that was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. It would extend the "good faith" exception to the exclusionary rule stated by the Supreme Court in *United States* v. *Leon*, 468 U.S. 897, 918-20 (1984) to both warrant and nonwarrant cases.

As long as law enforcement officers are working under an objectively reasonable belief that they are conforming to the fourth amendment protection against unreasonable searches and seizures, there is no deterrent value in excluding evidence. This rational was cogently stated by the Supreme Court for cases involving search warrants. The Federal courts in the fifth and eleventh circuits have already applied a fully general good faith exception—in both warrant and nonwarrant cases. This proposal would make the benefits of this reform available on a national basis.

I also have an amendment on the drug kingpin death penalty. This amendment is part of the Gekas death penalty amendment, a vitally important amendment to the improvement of this bill. My language is the same language adopted by the House last year and that I introduced in this Congress. It would extend the *mens rea* requirement for imposition of the death penalty in drug cases to include reckless disregard for human life. Under this provision, the death penalty would be available for the drug dealer who burned down a rival crack house and killed a woman and her child whom he did not know were in the house.

My language would also allow the death penalty for a drug kingpin who attempts or orders an attempt to kill a public officer, juror, witness, or member of their family in order to obstruct justice.

These amendments represent a reasonable and effective approach to improving our judicial system by ensuring that racial bias plays no role in it and by making sure that criminals can be effectively prosecuted without jeopardizing the rights of defendants. I strongly encourage the support of the colleagues for each of them.

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Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER], a member of the committee.

Mrs. SCHROEDER. Mr. Speaker, I thank my chairman for yielding time to me.

Mr. Chairman, I rise today in strong support of two provisions of the Omnibus Crime Control Act of 1991 that constitute "prevention" in anyone's lexicon. Americans know a bargain when they see one—they know that prevention saves lives and money. No wonder, then, that these initiatives had bipartisan support when they were introduced as H.R. 3101 and H.R. 3102. I want to thank Chairman BROOKS and my colleagues on the committee for including these important provisions in the omnibus bill.

Many of today's police officers first learned about law enforcement through television dramas such as "Dragnet," in which stiffly professional officers calmly asked witnesses for just the facts. These television images typified the police ideal of the officer who places duty ahead of caring for family and self. Echoing police dramas, real-life law enforcement communities in the 1960's rarely recognized the internal stresses that eat away at officers and their families, and almost never provided officer or family support.

Yet Sgt. Joe Friday would certainly be horrified to hear just the facts on police officer and family well-being. Each day, Federal, State, and local law enforcement officers risk their lives to protect our communities in an increasingly dangerous Nation. In 1989, almost 22,000 law enforcement officers were injured as a result of line-of-duty assaults. Fear of impending injury or death caused untold stress for countless officers and family members.

In a recent hearing on police officer and family stress, the Select Committee on Children, Youth, and Families heard testimony that the pressures can lead to serious family problems, including emotional numbness, officer burnout, alcoholism, marital tension, and high rates of family violence. According to one witness, 40 percent of officers surveyed reported that, in the previous 6-month period, they had behaved violently toward their spouse or children. Another study found that 41 percent of male officers and 34 percent of female officers reported violent assaults in their marital relationships, compared with 16 percent of civilians.

The select committee also heard that few police departments offer assistance to help police officers and families cope with stress. A recent national survey of large municipal and State police departments found that 53 percent provided counseling to officers for personal and family problems, and that 42 percent counseled officers' spouses and family members. Rural and suburban departments provide far fewer services.

Yet officers today, unlike those in "Dragnet" days, understand the need to reduce their serious stress levels. In a nationwide survey of State and local law enforcement officers, personal stress management was ranked as the No. 1 training need.

Furthermore, police administrators and psychologists testified at the hearing that stress reduction and family support programs are cost-effective—they reduce the incidence of disability compensation claims and legal costs associated with a range of problems.

The law enforcement family support provision authorizes grants to State and local police departments to fund family support services for law enforcement personnel. Services may include family counseling, 24-hour child care, marital and adolescent support groups, stress reduction and education, counseling for officers exposed to the AIDS virus, postshooting debriefing for officers and their spouses, and counseling for families of officers killed in the line of duty.

The Director of the Bureau of Justice Assistance will administer the program and will also oversee the implementation of family-friendly policies for law enforcement personnel within the Department of Justice. The provision also charges the Bureau to provide training to law enforcement agencies, and serve as a clearinghouse for information regarding police family stress.

We usually hear about police when a crime is committed on the street. In order to ensure a healthy and effective police force, the everyday needs of officers and their families warrant attention. This provision addresses the special needs of police officers and their families.

If you haven't been a Washington-based elected official too long to remember what late night life is like for an unemployed, high school dropout, you can understand the need for midnight basketball leagues. You can remember that energy is high, and nights are endless, but there is nowhere to go after the mall closes.

The accuracy of my perceptions of that bleak, risky reality has been confirmed by dozens of inquiries about midnight basketball from every region of this country. People who work with youth are so enthusiastic about a positive recreational alternative to late night crime that they want their communities to be first in line for these small but potent program grants.

I first learned of midnight basketball leagues when Mr. Gil Walker, commissioner of midnight basketball in the Chicago Housing Authority, gave striking testimony at a hearing held by the Select Committee on Children, Youth and Families. The hearing was entitled: "The Risky Business of Adolescence: How to Help Teens Stay Safe." Witnesses made the point that, regardless of what teen problems you are trying to prevent, programs need certain active ingredients to ignite motivation and to sustain safe behavior over time. The midnight basketball league incorporates all of these elements: 1-on-1 individual attention from concerned adults, the involvement of parents, a focus on acquisition of basic academic and social skills, and broad community involvement.

Juvenile crime is high between 10 p.m. and 2 a.m. but players in the mid-

night basketball league are shooting hoops, and then attending required job skills training, GED classes, AIDS prevention workshops, and other educational seminars. In addition to coaches and seminar leaders, players have team owners for role models—businessmen from the community who contribute financially and personally to make this program a successful public/private partnership.

Parents attend games, and some parents say that midnight basketball has allowed them to cheer for what their sons are doing for the very first time. Gang activity is reduced because rival gang members play on the same teams in the midnight basketball league. Official uniforms and high-tech sneakers and other paraphernalia provided by the team owners' contributions are a hook but, beginning to see a successful future maintains the interest of players.

An independent, university-based evaluation has shown that none of the players in the 3-year-old Chicago league has gotten into trouble with the law since joining, and almost 50 percent of the players are now either employed full time or have completed GED degrees. The model works in the suburbs as well as in the inner city. Mr. Van Standerfer from suburban Maryland, the president of the National Association of Midnight Basketball Leagues, has received a point of light award from President Bush because he knows that kids in the suburbs do drugs too, and he knows what to do about it.

This modest proposal authorizes $2.5 million to fund approximately 35 leagues at $100,000 each, and requires that local contributions from potential owners be pledged prior to grant approval. In addition, to ensure that maximum benefit is derived from the experience of current providers, one urban center and one suburban/rural technical assistance center will receive technical assistance grants of $50,000 per year. Finally, a formal, coordinated, multisite study of the effectiveness of this approach is commissioned and funded at the level of $250,000.

Our most recent statistics show that about 17 percent of all arrests in the United States are of people under the age of 18, and that 78 percent of juveniles arrested are males. Four out of five 11- to 17-year-olds report delinquent behavior at some time or other, but arrest rates show striking racial differences that self reports omit. While black youngsters make up 15 percent of the juvenile population, 15 percent of those under 18 arrested for juvenile crimes are black. While the absolute number of juvenile crimes has decreased over the last 10 years, the case rate increased about one-half of 1 percent. Over 1.7 million arrests of 10 to 17-year-olds were made in 1986, and incarceration of a single juvenile for a year is $30,000.

I am delighted to extend the opportunity to support something that is so cost-effective and makes so much sense.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, as a member of the Judiciary Committee, it is with tremendous disappointment that I rise to speak on this bill.

The first right of any citizen is to feel safe in their home and neighborhoods. But the reality today is that violent crime has reached outrageous levels in this country. Things are so bad that the average citizen is now more likely to be the victim of violent crime than of an auto accident.

The American people want protection from violent crime. They need protection from violent crime. And they deserve protection from violent crime. The bill before the House, however, is not the anticrime legislation that the American people want, need, or deserve.

The American people deserve a law enforcement system that ensures swift and certain punishment of violent criminals and seeks to protect honest citizens, not the criminals. They deserve a system that prevents death row criminals from appealing their cases for years on end. They deserve a system that keeps violent criminals from going free on technicalities when law enforcement officers act in good faith.

Instead, Mr. Chairman, we got a billion dollar wish list of programs that will never be funded. We promised them money, when they wanted tougher drug laws and stiffer sentencing. We gave them an endless appeals process when they wanted a comprehensive death penalty for the most heinous criminals.

There are some bright points. For example, the Jacobs Wetterling Crimes Against Children Registration Act, which I offered during subcommittee markup, will prove to be an invaluable tool for local law enforcement to prevent child sex offenders from committing such crimes again.

Studies show that 74 percent of incarcerated child molesters had one or more prior convictions for a sex offense against a child and that a typical offender molests an average of 117 children, most of whom never report the offense. My amendment would help put an end to these statistics by requiring persons convicted of certain crimes against children to register their name and address with local law enforcement for 10 years after their release from prison.

There is also an important provision on the problem of sexual assaults on college campuses. The incidence of rape on campus has reached truly epidemic levels. Every 21 hours, a young woman is reported raped on college campuses. Estimates are as many as 1 in 4 women will be the victim of rape or attempted rape during their college career. This crisis deserves immediate attention. That's why I am pleased that this bill includes my call for the attorney general to study this issue and report on this national problem.

But even these provisions cannot outweigh the shortcomings of this bill. The habeas corpus reforms in this bill will only lengthen the appeals process for convicted criminals. We need to pass the Hyde amendment to give one opportunity for appeal within a reasonable timeframe and prevent the guilty from delaying their sentences while preserving their constitutional rights.

In addition, the committee provision on the exclusionary rule will allow criminals to get off on technicalities. We need the McCollum amendment to allow officers to obtain evidence in good faith with the fourth amendment and bring these outlaws to justice.

Finally, the bill's capital punishment provisions will allow those who show a reckless disregard for human life and drug kingpins to evade the death penalty. It will allow murderers to use statistics to avoid their just sentences. We need a real, workable death penalty to ensure that justice is guaranteed, not denied, to the victims of crime and their families.

In closing, Mr. Chairman, let us make the necessary changes to this bill and give the American people the crime bill they want and deserve.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I think that we ought to make it clear that there seems to be a misunderstanding on the other side of the aisle. Both the amendment of the gentleman from Illinois [Mr. HYDE] and our bill provide for one appeal with a statute of limitations at 1 year. The Members on the other side of the aisle should not be standing up here and saying there are going to be multiple appeals, because there are not. There will not be multiple appeals under our bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the gentleman from California [Mr. EDWARDS] unfortunately is in error. The statute of limitations in the Hyde habeas corpus amendment is 6 months and in the Democratic provision it is 1 year.

Second, the biggest difference is the full and fair standard which is designed to preserve Federal review. That will be discussed at greater length, but there are big differences between the Hyde approach and the approach that is coming from the other side of the aisle.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding time to me and congratulate the chairman and the members of the Judiciary Committee on bringing to this floor a tough crime bill.

Crime is rampant in America. At no other time in our history has crime been as great a problem as it is today. Criminal gangs are terrorizing our streets. There is a daily body count of murders in the evening news. The people simply want something done about it.

Where there is room for debate on most subjects in Congress, there is no debate on the question of putting an end to the terrorizing of our streets by rampant crime in America today. If it takes tougher laws, we should pass them; more police, we should provide them; more prosecutors, we must have them; more courts if necessary in order to try the cases; more jails in order to provide a place to confine the criminals. And by all means, we must put an end to the endless and frivolous appeals that go on and on after a conviction occurs.

The committee has wisely set time limits on the appeals process. Everyone is guaranteed an appeal within a year but we must stop the costly multiple appeal practice that delays justice. I want to congratulate this committee for putting an end to this frivolous appeals practice that has cost the American taxpayers millions of dollars and permits these criminals to go unpunished.

Mr. Chairman, I congratulate you again for the leadership that you have provided.

□1640

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong opposition to H.R. 3371, the so-called anticrime bill reported to the floor by the Judiciary Committee.

According to FBI statistics, in 1989 a violent crime was committed in this country every 19 seconds, and every 24 minutes someone was murdered. In 1990, a violent crime was committed every 17 seconds and someone was murdered every 22 minutes. We are running out of time in our fight against crime!

I remain firmly convinced that the certainty of swift apprehension, just prosecution, and severe punishment would serve as a strong deterrent to violent criminals. However, while I believe that our current laws provide both convicted and suspected criminals with too many loopholes that allow them to beat the system, the committee-reported anticrime bill further weakens several laws regarding prisoner appeals, and criminal prosecutions.

As a member of the House Republican Task Force on Crime, I joined many of my colleagues in supporting H.R. 1400, the Comprehensive Violent Crime Control Act, which was introduced in the House at the request of President Bush. This legislation closed the loopholes, including endless habeas corpus appeals and technicalities involving evidence obtained in good faith. Unfortunately, instead of acting on the President's bill, the House is considering this legislation which makes the loopholes even bigger.

In all of my time as a public servant, I have consistently supported the death penalty as both a punishment for heinous crimes and an effective deterrent to future violence. The bill now being considered before the House further weakens the Federal laws surrounding the death penalty, making it even more unlikely in the minds of criminals that the sentence would ever be imposed.

I am also opposed to the provisions of this legislation that would effectively establish racial quotas in sentencing convicted murderers. Our Nation's criminal justice system is founded on the ability of judges and juries to render decisions based on the facts of a particular case rather than the race of a particular criminal.

I urge my colleagues to take note of the time. The crime clock is ticking away, and Congress must take a tough stand against crime. We must send this simple message to criminals: If you commit a crime, you will be caught. if you are guilty, you will be punished.

I strongly support the strengthening amendments concerning the death penalty, exclusionary rule, habeas corpus, and others.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, there are many important provisions in this anticrime legislation. However, I want to take this time to address the issue of fairness, the issue of race, and the death penalty. I rise to state my support for the fairness in death sentencing provisions of the crime bill.

I support the death penalty. But I believe that we must make absolutely certain that race plays no part in determining who is sentenced to die.

Frankly, around here lately, especially in regard to recent hearings conducted in the other body, we've heard a lot about race. My opinion is that some people play the race card when their hand is otherwise bare.

But this issue is different. In 82 percent of the studies documented by the GAO, the race of the victim was found to influence the likelihood of being charged with capital murder, or receiving the death penalty. Three-fourths of the studies found that black defendants were more likely to receive the death penalty than whites. The race of the victim was found to influence death penalty decisions at all stages of the criminal justice system.

Mr. Chairman, when it comes to someone's life, we must be absolutely sure that race plays no part in determining who is sentenced to die.

The substitute which will be offered by Mr. MCCOLLUM outlaws racial bias in words, but provides no means of determining when it exists in practice. It claims to be an antidiscrimination provision, but outlaws the introduction of evidence that is vital to proving discrimination.

However, consistent with other areas of law, the committee bill would allow a defendant to prove a pattern of racially biased results. Contrary to its critics' assertions, that won't end the death penalty. But it will end the influence of race in decisions about who is to live and who is to die.

Mr. Chairman, we need to outlaw discrimination in words, but also provide the tools that will give defendants and their attorneys a chance to outlaw it in practice. Otherwise, the sentence of death in America will continue to be determined all too often by the color of a person's skin, and not by the severity of the crime.

I urge my colleagues to support the Fairness in Death Sentencing Act, and to oppose the McCollum amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, first of all, I want to say that I am going to introduce an amendment that was referred to earlier dealing with Bureau of Justice grants to State and local agencies to help local law enforcement.

In a nutshell, that ratio is 75 percent Federal money. The crime bill would make that permanent 75 percent Federal money for all time. My amendment would make that temporary so Congress can review in the future if it can still afford to pay 75 percent of the grants. That is the only difference, Mr. Chairman.

Mr. Chairman, I would like to address the question of assault weapons as found in the bill. I think the major problem with the assault-weapons provision over and above anything else is the weapons identified in this bill that are going to be banned if passed under the name of assault weapons are not assault weapons. The only credible definition of assault weapons that we heard in the Crime Subcommittee of the Committee on the Judiciary is that an assault weapon is an actual military weapon made with a selector so that it can fire automatically, that is, with one pull of the trigger fire until the clip is empty.

None of the weapons on this list are, in fact, automatic weapons. Therefore, they are not assault weapons. In my judgment, the term "assault weapons" has been used solely to confuse the

issue, and it sure has worked. I have heard these weapons referred to as anything one could think of out here including, by one of my colleagues, submachine guns. They fire one shot with each pull of the trigger just like virtually any other firearm, certainly any other semiautomatic.

The sponsors of the bill or of this provision have now retreated. They now no longer always refer to these weapons as assault weapons. They refer to them as semiautomatic assault weapons. That is a contradiction of terms. Since an assault weapon means a fully automatic weapon, there is no such thing as a semiautomatic assault weapon.

Mr. Chairman, I think all of this is done to confuse the issue. It is not necessary. We can have a legitimate debate over whether there is, in fact, any benefit to law enforcement in trying to ban these weapons without misnaming them in the bill.

We should not be passing a bill or a portion of a bill that would violate our own truth-in-labeling laws.

Finally, on this point, Mr. Chairman, I would point out that this bill does not take a weapon away from anyone. We are told that these weapons are only used by criminals, and yet not one criminal will have to give up a weapon even if this bill passes, and even if criminals obey the law. That is because this bill grandfathers in present owners. Anyone who owns a so-called assault weapon gets to keep it under this bill.

Good, honest citizens do not own these weapons. Why does the bill let them keep them?

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3 minutes, the remainder of my time.

Mr. Chairman, one of the most important amendments that we will be debating when we get to the amendment process is the Hyde habeas corpus reform amendment which embodies the proposals of the President which have been endorsed by most of the law enforcement community. The Hyde amendment is simply designed to prevent endless litigation through petitions on habeas corpus following the exhaustion of direct appeals from a criminal conviction.

It is designed to get on with finality of sentencing which is something that we do not have under the present system.

The major difference between the Hyde amendment and what has been proposed by the Committee on the Judiciary is the so-called full and fair standard which says that if there has been full and fair review in State courts, in a habeas corpus petition, then that issue cannot be relitigated in a subsequent Federal habeas corpus proceeding. That means that you have got one kick at the cat, one day in court. If you lose your day in court after a full and fair review, then you cannot go running to the courthouse on the other side of the street presided over by a Federal district judge and go through the same arguments before a different forum.

The only time when there would be a second review in Federal court was when three conditions were not met, and that is that the State court proceeding was conducted in a manner inconsistent with the procedural safeguards of Federal law applicable to the State proceeding; second, that the State proceeding was contrary to or involved an arbitrary or unreasonable interpretation of clearly established Federal law, or the State proceeding involved an arbitrary or unreasonable determination of the facts in light of the evidence that was presented.

Now, if one of those three exceptions is met, then the Federal judge can review the State court proceeding.

□ 1650

However, if none of the exceptions are met, then there is finality of decision in the habeas corpus proceeding and the criminal defendant cannot go into federal court, having lost his case in the state court. That is fair and that is reasonable.

To defeat the Hyde amendment through the convoluted parliamentary rules that have been adopted will allow a continuation of the endless petitions for habeas corpus and those that have been convicted will never face the music, particularly those who have been convicted of a capital offense and sentenced to die by the jury.

Passing the Hyde amendment is important. Defeating the other amendments under the King of the Hill procedure dictated by the Rules Committee is also important.

Mr. Speaker, I would hope that the Members would have that in mind when they come to vote on this subject.

Mr. BROOKS. Mr. Chairman, I would like at this time to yield myself a couple minutes to refer to a letter from the former attorney general of the State of Texas, Jim Mattox. He was the attorney general of Texas for 8 years and is known as a tough enforcement officer. He was a strong advocate of the death penalty.

He says, "I believe that the criminal justice system should function efficiently; nevertheless, I feel that the Hyde amendment is not an appropriate solution to the problems with the process. In a word, this legislation"—the Hyde proposal—"would not reform habeas corpus; it would end it."

Now, the letter goes on, but he points out:

Because of these concerns, I have joined with more than 90 others, many of whom who are present or former prosecutors like myself, in forming the Emergency Committee to Save Habeas Corpus. I think I can safely say that all of us want to fight crime. We all agree that we, and our elective Representatives, must not squander our precious constitutional rights in our zeal to appear "tough on crime."

Mr. Chairman, I will submit that letter for the RECORD at this point. The letter is as follows:

OCTOBER 12, 1991.

Hon. JACK BROOKS,
Chairman, House Judiciary Committee, 2449 Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my opposition to the Hyde Amendment, which will be offered on the floor as an amendment to H.R. 3371, and which, I believe, will virtually eliminate the right to hadeas corpus review of state criminal convictions.

As you well know, I was the Attorney General of the State of Texas for eight years. I was known as a tough law enforcement officer. I was a strong advocate of the death penalty. I believe that the criminal justice system should function efficiently; nevertheless, I feel that the Hyde Amendment is not an appropriate solution to the problems, with the process. In a word, this legislation would not reform habeas corpus; it would end it.

There is clearly a need for reform, especially with respect to capital cases; but I believe that the Judiciary Committee's bill, not the Hyde Amendment, addresses the real problems with the present system: inadequate representation by trial counsel, no time limits on petitions, successive petitions, and retroactive applications of new rules of law. This reform can and must be accomplished without sacrificing the right to hadeas corpus review, which is one of our most basic protections against the imprisonment or execution of innocent persons.

Because of these concerns, I have joined with more than 90 others, many of whom are present or former prosecutors like myself, in forming the Emergency Committee to Save Habeas Corpus. I think I can safely say that all of us want to fight crime. We all agree that we, and our elected representatives, must not squander our precious constitutional rights in our zeal to appear "tough on crime."

Sincerely,

JIM MATTOX.

Mr. CONYERS. Mr. Chairman, we can all agree that no one should be executed under a death sentence imposed because of race. Unfortunately recent studies have confirmed, that is some jurisdictions the single most important factor in determining whether a person receives a death sentence is either the race of the victim or the race of defendant. We cannot allow this situation to continue.

The fairness in death sentencing provision of this crime bill is one of the most important civil rights issues that you will have an opportunity to support in this Congress. This provision would make it unlawful to execute someone whose death sentence is the product of racial discrimination. Contrary to what you will hear during debate on a substitute amendment, it will not end the death penalty.

The fairness in death sentencing provision would merely allow courts to consider statistics of a consistent pattern of racial discriminatory death sentencing in determining whether a defendant's death sentence is influenced by racial factors. This is based on the same premise we have worked on in virtually all civil

rights bills, that is that discrimination is now sophisticated. Rarely, will prosecutors, judges and jurors admit purposeful discrimination. Therefore we allow the use of comprehensive statistics to establish a prima facie case of racial discrimination, just as we have done in title VII of the Civil Rights Act of 1964 and in the Voting Rights Act.

If a defendant can meet the heavy burden of demonstrating that at the time the death sentence was imposed, race was statistically a significant factor in imposing the death sentence, than an inference that a sentence was based on race is established. The State then has the opportunity to show that the sentence was the product of nonracial aggravating factors, or that the statistics on pattern to apply to this particular case.

You will hear a number of specious arguments by opponents of this provision. The one used most often is that once an inference of racial discrimination has been established, it is virtually impossible for a prosecutor to rebut the inference of discrimination. This is wrong. A State merely has to rebut the evidence by a preponderance of the evidence—as opposed to clear and convincing. Second, the bill does not limit the grounds on which the State may rebut the statistical showing. There are several ways in which the State may rebut a statistical inference of race discrimination:

First, the State can show that the sentence does not fall within the statistical pattern because of the existence of nonracial factors aggravating factors or prior records of the offenders.

Second, the state could show that the evidence of statewide patterns is irrelevant and that the evidence in the local jurisdiction where the sentence was imposed shows no pattern of racial bias in that locality.

The other argument opponents like to use is that the real aim of this bill is to stop the implementation of all death sentences. In reality this provision does not affect the lawfulness of any sentence of death which does not show racial bias. It prohibits only the execution of those specific death sentences that are the product of racial bias. There are jurisdictions where there is no racial pattern to death sentencing. No death sentence in those jurisdictions would be subject to challenge under the act.

Finally, opponents use the same old racebaiting argument that we heard in the debate on the Civil Rights Act of 1991, that act would encourage death sentencing by quotas. This is simply wrong. This provision requires the comparison of similar cases. This means that an overall balance or imbalance in death sentencing is irrelevant. Achieving a certain number or percentage of white death sentences and a certain number of percentage of black death sentences will not bring a State in compliance with the act; instead, such a charging and sentencing process would violate the provision, since the decision would be based on race and not on legitimate factors.

The fairness in death sentencing provision is strongly supported by every major civil rights organization in this country, as well as the American Bar Association.

Mr. MCCOLLUM will offer amendment No. 14 to replace the fairness and death sentencing provision. This is a mischievous amendment that is misleadingly called the Equal Justice Act. It does not seriously address the problem of racial bias in death penalty sentencing that has been documented in numerous studies, several congressional hearings, and an independent evaluation by the General Accounting Office.

Frankly, because no hearings have been held on this proposal. I am not sure that anybody knows what this amendment does or how it would work. None of us on the Judiciary Committee have had an opportunity to hear from any witnesses or to ask questions about how this proposal would respond to the problem of racial bias in the criminal justice system.

We can only speculate about the prohibition in the bill on using statistical tests to achieve a specified racial proportion or racial quotas in executions. Noboby in the civil rights community has argued in favor of racial quotas, nor has there been any testimony that such a problem exists. I urge you to vote against this amendment.

The other important issue in the crime bill I would like to discuss in habeas corpus reform. This bill is a vast improvement over the administration-backed bill which passed the Senate in July. There are over 2,300 inmates on death row who have been prosecuted in State courts. Under our system of justice, the State's case should be based on three factors: First, weighed by a fair and impartial jury; second, before an unbiased judge and third, after a competent and vigorous defense.

Tragically, these basic constitutional guarantees are seldom met. In fact, an American Bar Association study found that 40 percent of death row inmates were sentenced to death in violation of their constitutional rights.

There are several reasons for such a large number of constitutional violations. First is because prosecutors exclude blacks from juries. For example: Jesse Morrison of Alabama was sentenced to death even though the prosecutor struck 20 of 21 blacks from the jury pool; Albert Jefferson, also of Alabama, was also sentenced to death even though all 26 blacks were excluded from jury service.

The record also indicates that unqualified counsel is a serious problem. In Kentucky, one-fourth of death row inmates were represented by counsel who have since been debarred or suspended. In Alabama, one witness told the Judiciary Committee that lawyers often file briefs that are less than 10 pages in length and do not cite constitutional authorities. In at least four capital cases in Georgia, defense counsel referred to his client in court as "nigger" and said the only cases with which he is familiar are Miranda and Dred Scott. All four defendants were sentenced to death.

There is also a problem of the lack of funding for counsel. In six States—Texas, Georgia, Alabama, Mississippi, Virginia, and Louisiana—which account for nearly 70 percent of the executions since 1972, there is no statewide public defender system. In Alabama, lawyers who represent death row inmates are paid only $20 per hour up to a maximum of $1,000. In South Carolina, the rate is $15 per hour.

The habeas provisions in H.R. 3371 would set minimum standards to ensure that those who commit capital offenses are represented by counsel who are knowledgeable about the complicated laws surrounding the death sentence. It is supported by the NAACP Legal Defense Fund, the American Bar Association and the ACLU.

Mr. HYDE's substitute bill would block habeas appeals if the State courts have fully and fairly adjudicated the issue, even if they wrongly decided the constitutional issues. In reality, this gives the State courts free rein to dismiss cases on technical and procedural grounds without ever deciding the merits of defendants claims.

It is understandable that Congress is frustrated by the epidemic of violent crime, but it is unfortunate and tragic that there are many in Congress who believe the solution is to limit habeas corpus rights which have been a cherished doctrine in American constitutional law for more than 200 years.

Even if everyone on death row were executed tomorrow, the streets of America would not be safer. Many people think of those on death row as the most despised, hated and rejected members of our society. What none of us can deny is that people who are hated and rejected often become the targets of an abuse of power by those in authority.

It does not seem unreasonable to demand that before any society takes a life, it first ensures that justice is served. The Federal judiciary is the best hope and the last bastion for protecting the rights of the least among us. We must not take that hope away from those who need it the most.

Mr. RICHARDSON. Mr. Chairman, I rise today to express my strong support for the Omnibus Crime Control Act of 1991. The Judiciary Committee is to be commended for their endeavors in designing a bill which targets crime on every front, while at the same time reflecting a sensitivity to the concerns of minorities and an even-handed approach to constitutional reform.

This bill seeks to stop crime at the source: In our schools and in our communities. Being a resident of both Washington, DC, and northern New Mexico, I recognize that different communities benefit from a variety of crime prevention programs. This bill authorizes grants to create neighborhood policing programs, to develop education and training programs for the prevention of crime in our schools, and to implement substance abuse treatment program. By allowing States to strike hard in their schools and communities, I believe we improve the chances of controlling the onslaught of violence in our communities.

This bill includes measures designed to put an end to the drug-related violence which is choking our Nation. The crime bill authorizes funds for States or localities which are designated as drug emergency areas. These provisions have been established to benefit not only urban centers with high rates of crime but also rural areas plagued by drug activity which is uncontrollable by local police.

As you may know, last year I pushed for an opt-in provision for Indian tribes which allows tribes who reside on Federal land to determine whether the death penalty shall apply for first-degree murder on their lands. I am pleased to see that the Judiciary Committee has included

this important protection in this year's crime bill. I also wish to commend the committee for including the racial justice provision which allows the use of statistical evidence to reveal racial discrimination in imposing the death penalty. Both of these provisions exhibit an admirable sensitivity to the rights of minorities.

By focusing on safety in our communities and in our schools, I feel that this legislation will be tremendously beneficial to the quality of life in our country as a whole. I am proud to lend my support to this important legislation and I urge my colleagues to do the same.

Mr. KOLBE. Mr. Chairman, here we go again. Hardly a year goes by that Congress does not pass an omnibus crime bill and pat itself on the back all the way to the ballot box. If we are so good at tackling crime, then why do we continually have these bills before us?

Obviously we are not getting it right, so we have to undertake this exercise over and over again.

But we can get it right today. We have several amendments that, if passed, would provide real teeth for our criminal justice system. If passed, these amendments would help provide relief from the relentless crimewave that has gripped our Nation and terrified its citizens.

Essentially, these amendments, taken together, the President's Comprehensive Crime Control Act of 1991. Why do I support the President's bill? The answer is simple.

President Bush took office with a mandate to do something about the scourge of drugs and drug addiction in our country. Illegal narcotics was the chief crime problem of the day. Tough enforcement action taken by the President and endorsed by this Congress makes it possible to cite real progress in the war on drugs today.

Between 1988 and 1990, overall drug use dropped by 11 percent, surpassing the 10-percent goal set by the President in his strategy. Student attitudes have changed and continue to do so. Their approval of drug use has dropped by 28 percent. Adolescent cocaine use plunged by 49 percent. The President's strategy, relying on both increased law enforcement and demand reduction efforts, appears to be working. In fact, the No. 1 goal of the President is to reduce the number of people using drugs and prevent others from trying drugs for the first time. We are making progress toward this goal, but we concede there is still a long way to go.

Today, the larger problem in the minds of the American public is violent crime. Americans are terrified of the bloodshed that plagues our Nation's inner cities, our suburbs, and our rural small towns. Of course, drugs play a major role in this wave of violent crime. But one fact remains clear. Even as we make progress in the war on drugs, violent crime is skyrocketing at an alarming pace—11 percent annually.

How can this be? The answer, I think, is that criminals are not deterred by our criminal justice system. That fact stands in sharp contrast to the casual drug user of the 1980's who, under the zero-tolerance standard, decided the risk of continued drug use was not worth the potential cost of being caught, convicted, and incarcerated, or fined steeply.

Mr. Chairman, we need a zero-tolerance standard for violent crime in this country. That means criminals must be made aware that the risks are too great, the costs too high, to continue to victimize law-abiding citizens. And, since the consequences of violent crimes are higher than for the casual drug user, so too must the risks and costs be higher for the perpetrator.

Violent criminals must understand that zero tolerance means longer prison sentences, restrictions on endless appeals based on technicalities and not the merits of a defense, and wider latitude for law enforcement officials to act in good faith while developing cases. And yes, Mr. Speaker, a violent criminal should know that if his actions take the life of another, especially the life of an innocent bystander—a schoolchild, a pregnant woman, a motorist going to work—then his life will be forfeited. Period.

These are tough words. But violent times demand tough action. And the American people have spoken on this subject, and their message is crystal clear. They want real action from this Congress. Not the milquetoast bill presented here today that is designed to expand even further the rights of the accused, at the expense of victims' rights.

Let me cite just one example; here's how these rights are working today in a case in Utah. Three criminals robbed a retail store and in the process forced five innocent people to drink Drano with the clear intention of killing them. But the Drano didn't work, so William Andrews, one of the criminals shot each of them in the head.

Three died.

Andrews was convicted of three counts of first-degree murder and two counts of aggravated robbery. He was sentenced to death by firing squad in 1974. However, since that time he has filed 11 State actions and 15 Federal actions. In addition, he has filed three State habeas petitions and six Federal habeas petitions. He has had four petitions before the Supreme Court. Sixty-five judges have been involved.

William Andrews remains alive even while three have been dead—murdered in the most heinous fashion—for almost 20 years. I cannot believe this is what anyone intended when they drafted the Bill of Rights.

Our Constitution embodies rights for the accused. But our Founding Fathers would never condone the travesty of their intentions that is perpetrated in the name of our criminal justice system today.

That is why we must take steps to change the criminal justice system. We need reform that simply brings into balance the rights of the accused and the rights of victims.

The President's crime bill offers that reform in five steps, each of which will be offered today on the House floor.

The President has called for reasonable limits on appeals in capital cases. Today, we will vote on an amendment offered by my colleague, Representative HENRY HYDE, that offers such limits.

The Hyde amendment mirrors the habeas corpus reforms passed by the Senate earlier this year. The amendment would allow an appeal to the Supreme Court—provided it occurs in a timely fashion. It would fulfill the accused's rights to competent counsel. Finally, it would give back to the States the ability to adjudicate capital cases without the additional complication of Federal review if the State adjudication was carried out fully and fairly.

In contrast, the Judiciary Committee bill would cause further unnecessary delays in carrying out capital sentences by allowing appeals on alleged technical defects of the sentence—without regard to the guilt or innocence of the prisoner. This is inconsistent with the recommendations of the Powell Commission which supported appeal of capital cases based on questions of guilt or innocence, and only supported second and successive habeas corpus petitions in extraordinary cases. In addition, the Judiciary Committee bill allows much longer time limits for filing habeas corpus appeals, and would not only mandate competent counsel, but dictates the qualifications and standards that the counsel must meet.

On March 4 of this year, Supreme Court Justice Sandra Day O'Connor gave a speech at the Attorney General's Crime Summit in which she gave her views on death penalty appeals. I believe they are worth noting. Justice O'Connor said:

> Surely it is not too much to ask that state petitioners ask for federal review (of state court adjudications) in a reasonable time and in a single petition. Consideration should also be given to altering the legal standard of review in all federal habeas corpus cases. I suggest the federal courts should ensure that the state proceedings in which the prisoner was convicted, and in which his federal claims were addressed, were fundamentally fair; they should not necessarily reexamine and decide anew every legal issue already addressed by the state courts. Under our federal system, the federal government owes this respect to the states.

The President's crime bill calls for colorblind sentencing. I agree. Race should not be an issue when determining whether or not a person deserves the death penalty. My colleague, Representative BILL MCCOLLUM will offer an amendment today to do just that in the form of the Equal Justice Act of 1991. This act would ensure that racial bias could not be used in sentencing proceedings and would prevent quota justice.

The Judiciary Committee bill seeks to prohibit the imposition of the death penalty based on race. I agree with this goal. However, I suspect the underlying purpose of the committee's provision is to abolish the death penalty by allowing the admission of statistical evidence to demonstrate a racial bias. The State would then be left with the nearly impossible task of refuting general statistical analysis on a case-by-case basis. To make matters worse, it would apply it retroactivly to all death-row cases, thus wiping out hundreds of convictions.

It is disingenuous for advocates of quota-based justice to claim they are protecting minorities in this country from race-based sentencing. Bureau of Justice statistics demonstrate that white homicide defendants are more likely to be sentenced to death than black homicide defendants. Simply stated, this bill is a cynical attempt to use the guise of racial fairness to abolish the death penalty.

The President's crime bill calls for increased sentences for firearm violence. The Judiciary Committee bill accomplishes this task in a

number of ways. But then it goes too far by restricting ownership on certain types of firearms.

The facts on firearms restrictions are clear: With few exceptions, gun restrictions affect law-abiding citizens, not criminals. Only one out of six felon purchases their firearm from a legal source. The rest, the five out of six, obtain their weapons illegally on black markets or through theft.

In addition, the weapons that would be banned in this bill are not the weapons of choice of criminals. My colleague, Representative STALLINGS, has circulated a letter that provides convincing evidence that these weapons are not the choice of felons. In Washington, DC, only one assault weapon was confiscated during 1988 and the first quarter of 1989. In Los Angeles, ground-zero for gang activity, only 3 percent of all weapons confiscated in 1988 were assault weapons. In New York City, there was no report of an assault weapon being used in a crime in 1990.

The bottom line is, if you want to prevent the criminal use of firearms, you must arrest, convict, incarcerate and—if necessary—sentence to death those who would use firearms on another.

An amendment will be offered today by Representative VOLKMER striking the gun ownership restriction provisions. I would urge my colleagues to support it.

The President's bill calls for a good-faith exception to the exclusionary rule. Where a police officer acts on good faith to either execute a warrant, or to conduct a search without a warrant in extraordinary circumstances, the evidence obtained should be allowed in court. It is that simple. In those cases where an officer did not act in a lawful manner, then that evidence should not be allowed. Representative MCCOLLUM will offer an amendment today to do just that, and it should be supported by all who recognize the difficult constraints and complicated rules our law enforcement officers operate under today.

The Supreme Court in United States versus Leon has already validated a good-faith exception. While the Judiciary Committee bill portrays itself as codifying Leon, it would really have the opposite effect by narrowing the exceptions to the exclusionary rule. The McCollum amendment does the opposite by codifying the natural extension of Leon to searches without a warrant if a court believes the officer submitting the evidence acted in good faith.

Finally, the President's bill calls for an expansion of the death penalty to cover more crimes including unintentional but indiscriminate killing. The committee bill only allows the death penalty for intentional killings.

This standard would effectively allow a criminal, who unintentionally kills an innocent bystander during a drive-by shooting, to avoid a potential death-penalty sentence. I can think of countless cases in which criminal action resulted in possibly unintentional death; I do not for a minute believe that these acts should be held to a lesser standard than acts of intentional killing.

Representative GEKAS will offer an amendment to the committee bill today to change the standard for giving the death penalty. In addition to intentional killing, the Gekas amendment would include criminal elements who show a reckless disregard for human life. In effect, if you unintentionally take an innocent life while committing a criminal act you will be held to the same standard as if you intentionally killed a person.

It is an affront to justice to think that the killing of an innocent bystander for some reason is not as heinous, not as shocking, as the intentional killing of another human being. Both are equally reprehensible and both must be held to the same strict standard.

Finally, Mr. Speaker, I would like to make some comments on the cost of this bill. There are a number of budget-busting programs in this bill. This bill would authorize $150 million for community policing programs. $100 million for a safe-schools program, $200 million more for States for youthful offenders, and up to $3 million for midnight basketball programs.

I am not in a position to debate the merits of these programs. In fact, I am more than willing to say that each of the programs authorized in the Judiciary Committee bill has merit and may reap benefits in our crime-plagued society.

What I am not willing to do, however, is allow the same majority in Congress who supported drastic cuts in the function 750 category during debate on the fiscal year 1992 budget resolution to now support new spending for the very same category.

In May of this year, this body registered its support for a budget resolution that recommended $13.7 billion in budget authority for the administration of justice, or function 750, category. In contrast, the President requested $14.8 billion for function 750 programs. The conference committee agreement on the fiscal year 1992 budget resolution passed this body by a vote of 239–181. Of the "yea" votes, 231 were cast by members of the majority party. The majority cannot have it both ways.

Today's bill advocates nearly $1.2 billion a year for each of the next 3 years in new spending on law enforcement programs.

Mr. Chairman, I am a member of both the Budget Committee and the Appropriations Committee, including the subcommittee that funds the Department of Justice accounts. For fiscal year 1992, for the Department of Justice, we approved $9.9 billion, more than $400 million less than requested by the President.

We had to reduce the President's request for the Nation's chief law enforcement agency; our allocation was too low to do otherwise.

If this Congress stays within last year's budget agreement, which I hope it will, our allocation for Department of Justice accounts will again be low for fiscal year 1993. We will be forced to cut increases for existing programs. There will be no room to fund $1.2 billion in new programs.

The supporters of this new spending know this to be the case.

It is disingenuous for this body to vote 5 months ago for drastic reductions in the justice accounts, and then today to vote to boost spending by $1.2 billion.

Mr. Chairman, 23,000 people were killed in criminal violence last year. Six million Americans were subjected to a violent crime. This is more than the number of people injured in automobile accidents.

It is unbelievable to me that this Nation was able to fight a war against the fourth largest army in the world and lose only 298 service personnel while at the same time losing more than 12,000 at home to murder and mindless violence.

The people in my State, Arizona, are sick of violence and of senseless killing. A recent poll in the Phoenix area put crime near the top of the list of concerns facing society. Earlier this year, nine members of a Buddhist Temple were murdered in cold blood in my State. This was a disgusting, senseless act that left my State shocked and outraged. Those who are responsible for this act should face the death penalty.

It is not enough to say the death penalty is not a deterrent so it should not be used. The American people want a sense of justice, and the bill reported by the committee is out of touch with that sense.

We have a choice today. We can choose to vote for the Judiciary Committee bill, which goes well beyond protecting the legitimate rights of the accused. Or we can vote for a slate of amendments that begins the process of true reform. These amendments put criminals on notice that their violent behavior will no longer be tolerated, but punished severely.

Finally, these amendments offer a sense of justice to the 6 million victims per year of violent crime in this country. Some may say we are being too tough on criminals. Ask the mother of a schoolchild who attends an inner-city school if we are being too tough on criminals. Ask the husband of a woman killed by an indiscriminate spray of bullets if we are being too tough.

Mr. Chairman, by voting for the Gekas amendment on the death penalty, the McCollum amendment on equal justice in death sentences, the Hyde amendment on habeas corpus reform, the McCollum amendment on the exclusionary rule, and the Volkmer amendment on firearm restrictions, we can send a real message to the American people that we agree with them that violent crime in this Nation deserves zero tolerance.

Mr. CUNNINGHAM. Mr. Chairman, I rise today to bring to the attention of the House a resolution I recently received from the California District Attorneys Association on the issue of the Equal Justice Act. As the House finally begins to take up the crime bill, I feel it is critical that we heed the advice of the men and women who are on the frontlines of the war on crime.

This resolution is significant, in that the organization representing all 58 California district attorneys, Republican and Democrat alike, has endorsed the Equal Justice Act, which will be offered as an amendment by Representative BILL MCCOLLUM. They specifically point out that the text of H.R. 3371, in its current form, would rely on statistical evidence to deny justice to convicted criminals.

Mr. Chairman, the issue is not one of guilt or innocence. Rather, the issue behind the so-called fairness in death sentencing provisions in H.R. 3371 is one of statistics. It would dangerously move our judicial system away from the basic precept that the trial and sentencing of a particular case should deal with the facts of that particular case.

I commend the efforts of the California District Attorneys Association, and in particular, its president, Edward R. Jagels, the Kern

County district attorney. We cannot afford to tie the hands of the prosecutors who are attempting to keep the criminals off the streets. I urge my colleagues to review the resolution and to support Representative MCCOLLUM's Equal Justice Act amendment.

RESOLUTION OF THE CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION CONCERNING THE EQUAL JUSTICE ACT AND THE FAIRNESS IN DEATH SENTENCING ACT

Whereas, the California District Attorneys Association is an organization composed of the elected District Attorneys of California's fifty-eight counties and 3,000 deputy district attorneys and city prosecutors;

Whereas, the Congress is considering legislation, such as the Equal Justice Act, H.R. 1400, Title X, and the Fairness in Death Sentencing Act, H.R. 3371, Title XVI, or H.R. 2851, (formerly titled The Racial Justice Act), which involves protections against racial bias in capital cases;

Whereas, the Equal Justice Act would codify U.S. Supreme Court case law establishing protections against bias in criminal cases and adopt other safeguards to prohibit bias in criminal cases;

Whereas, the Fairness in Death Sentencing Act would, first, permit a capital case defendant to make a statistical showing that death sentences are being imposed or administered in a disproportionate manner upon (1) persons of one race or (2) as punishment for capital offenses against persons of one race, and second, require the prosecutor to rebut this statistical showing "by a preponderance of the evidence";

Whereas, on June 20, 1991, the U.S. Senate voted to strike a similar measure entitled the Racial Justice Act out of the omnibus crime measures, S. 1241, by a bipartisan vote of 55 to 41 (this is the third successive Congress in which the U.S. Senate has rejected the Racial Justice Act);

Whereas, the U.S. Supreme Court rejected a discrimination claim founded solely upon statistics, in *McCleskey v. Kemp*, 481 U.S. 279 (1987): Now therefore, be it

Resolved That the California District Attorneys Association by unanimous vote of the Board of Directors:

(1) Opposes *any version* of the Fairness in Death Sentencing Act (or any version of the Racial Justice Act), for the following reasons:

(a) the Fairness in Death Sentencing Act would result in the effective abolition of capital punishment because of the inherent evidentiary difficulties and inevitable vast expenditures of time and money in litigation in every post-conviction capital case, to prove by at least a preponderance of the evidence a negative, to wit, that race was not the basis for any of the prosecutor's, jury's, or judge's decisions;

(b) as to adjudicated cases, the retroactive application of the Fairness in Death Sentencing Act would permit convicted capital defendants to reopen their cases by presenting discrimination claims (regardless of whether such claims had previously been rejected);

(c) the statistical premise of any version of the Fairness in Death Sentencing Act (or the Racial Justice Act) is unsound, for several reasons, including:

(i) it disregards the fundamental precept of our criminal justice system that an individual is tried on the facts of his or her case, not on the facts or circumstances or statistics from unrelated cases;

(ii) it overturns the U.S. Supreme Court's rejection of such a statistical premise, where the Court noted with regard to the Baldus study: "Even Professor Baldus does not contend that his statistics *prove* that race enters into any capital sentencing decisions or that race was a factor in McCleskey's particular case. Statistics at most may show only a likelihood that a particular factor entered into some decisions." *McCleskey v. Kemp*, 481 U.S. 279, 308 (1987) (italic in original); and

(iii) its statistical showing fails to establish that the imposition of capital punishment in a particular case is predicated on any bias; and

(d) the Fairness in Death Sentencing Act would permit the "second-guessing" of capital case decisions by prosecutors, defense counsel, judges and juries based upon the information and statistics required to be maintained under the Act;

(e) the Fairness in Death Sentencing Act eliminates the traditional deference to state-court findings of fact, 28 U.S.C. §2254(d); *Sumner v. Mata*, 449 U.S. 539 (1981), if the state fails to satisfy the requirements under the Act, and causes the individual conviction, though lawfully and justifiably imposed, to be unduly placed in jeopardy;

(f) the potential cost of compliance on states and local entities would be exorbitant, as demonstrated by one California case which took three years to prepare for an evidentiary hearing and cost more than $1,000,000. The evidentiary hearing was never held, after the *McCleskey v. Kemp* ruling was rendered;

(g) The Fairness in Death Sentencing Act encourages a quota system for capital punishment cases by in effect introducing "race consciousness" into capital case decisions.

(2) Opposes any legislation which would undermine or otherwise modify the holding in *McCleskey v. Kemp*, 481 U.S. 279 (1987);

(3) Concludes that the Fairness in Death Sentencing Act is inconsistent with the objective of meaningful federal habeas corpus reform, and, therefore, calls upon the U.S. House of Representatives to follow the lead of the U.S. Senate on June 20, 1991 and reject any version of the Fairness in Death Sentencing Act (or any version of the Racial Justice Act) as part of any package of federal habeas corpus reform;

(4) Strongly supports the Equal Justice Act, which:

(a) expressly provides that capital punishment "shall be administered . . . without regard to the race or color of the defendant or victim" and explicitly prohibits "any racial quota or statistical test" for the imposition of capital punishment;

(b) codifies U.S. Supreme Court precedent which establishes safeguards against racial prejudice in criminal cases;

(c) establishes protections against any racial prejudice in the examination of possible jurors and the venue of the trial and prohibits appeals to racial bias by the prosecutor of defense counsel;

(d) specifies a federal funding objective to provide "adequate resources and expertise" for death penalty cases, which is consistent with other proposals calling for equal funding for state prosecutors for those states which have capital resource litigation centers devoted to the defense in capital punishment cases: Be it further

Resolved by the California District Attorneys Association that its Executive Director shall transmit a copy of this resolution to the U.S. Senators and Representatives in the California delegation and to members of the Senate and House Committees on the Judiciary.

Mr. HOYER. Mr. Chairman, today I rise in strong support of H.R. 3371, the Omnibus Crime Control Act of 1991. I would like to commend the chairman of the Judiciary Committee, JACK BROOKS and subcommittee chairmen, DON EDWARDS and CHUCK SCHUMER for their diligence and hard work in crafting a bill that takes a serious approach to fighting crime in our communities.

In the past few years crime has taken on new more violent demeanor. Just recently, the District of Columbia's Police Chief acknowledged that organized gangs are operating in the Washington Metropolitan area and are responsible for a number of homicides and robberies resulting in death. The bill before us today seeks to return an element of safety and security back to us by waging a fast and furious war against crime. This crime bill intends not only to prosecute criminals to the fullest extent of the law but will also work to prevent some crimes before they happen.

Mr. Chairman, I am particularly pleased about the provisions of the bill that attempts to thwart crime before it is able to take place. We are going back to the old way of community policing by increasing the number of cops who are foot patrols. It has been proven that serious crime decreases when police become visible members of the neighborhoods in which they work. We will be providing the necessary funds to develop community based crime prevention programs and streamline the technology that will release cops overburdened with paperwork to patrol the streets.

During the first few weeks of school this year in the District of Columbia, Virginia, and my own State of Maryland, shots were fired on or near the campuses of our schools. A recent Centers for Disease Control study revealed that 1 in 3 high school males sometimes carried a gun, knife or other weapon with the intention of using it if necessary. Twenty percent of the respondents indicated that they carried a weapon at least once in the preceding month. It has become increasingly clear that young people are becoming more inclined to using weapons than their fists. This bill addresses the increasing violence in our schools by funding safety measures such as metal detectors and video-surveillance. In addition, it provides the resources necessary to train teachers to prevent crime and violence in schools as well as to counsel students who have been victimized by crime in schools. Each year there are approximately 3 million crimes or attempted crimes in the vicinity of our Nation's schools. We owe our children the opportunity to study in an environment conducive to learning, free from the fear of violence. The safe schools provisions of this bill will address these concerns.

For some time now I have been in support of programs that are alternatives to incarceration and probation for some of our younger offenders. One program in particular is the military-styled boot camps. Although there is evidence that this program has been successful in reducing the recidivism rate among juvenile and youthful offenders, most States have had difficulties with implementation as a result of a lack of funds. H.R. 3371 provides $200 million in grants to the States to assist with this and other alternatives to the traditional methods of incarceration. I strongly believe that the boot camps offer a severe form of punishment while deterring younger offenders

from returning to the system after committing a more serious crime.

In an effort to compensate victims of crime who are sometimes lost in the process, the bill eliminates the limits on deposits to crime victims' fund, requires that State crime victim assistance focus on children who are victims or violent street crime and expands reimbursement to victims in court ordered restitution to include cost associated with child care and transportation. I attempted to have language inserted in the bill which would have made it possible for victims of crime to have an offenders tax refunds intercepted in court ordered restitution cases when restitution payments were in arrears. Unfortunately my amendment was ruled out of order in the committee of jurisdiction but I still contend that victims of crime are being neglected in our judicial system. I will continue to press this issue.

I am deeply saddened and outraged by the mass murder that occurred in the cafeteria in Texas. Unfortunately, this is a classic example of why assault weapons which have no other useful purpose in our society other than to create mass destruction should be banned. Although I too have gun enthusiasts in my district, I cannot justify or rationalize the need for these types of weapons. I have always believed that law-abiding citizens should have the right to protect themselves in their homes and that hunters should have the right to hunt. However, I do not feel that banning weapons capable of exacting such a high human toll in a matter of seconds or minutes is a violation of anyone's constitutional rights. It is my hope that the amendment striking the bill's prohibition on owning or transferring the 13 named assault weapons will be soundly defeated.

As pleased as I am with the committee-passed bill, I am just as displeased with some of the amendments that will be offered here today and tomorrow. While trying to improve the judicial system, some very basic and fundamental constitutional rights would be jeopardized if the amendments were to prevail. I am in strong opposition to the amendment that would strike the bill's provisions regarding habeas corpus reform. The "full and fairly" adjudicated language would prohibit a Federal court from hearing a claim in a habeas appeal that was "fully and fairly" adjudicated in State court. This amendment would make it virtually impossible for a State prisoner to have his case federally reviewed. It has been determined that after Federal review, judgments could be reversed in over 40 percent of the cases. Yes, indeed there will be some prisoners who will tie up the courts for years by using the Federal appeals process but in cases where grave mistakes have been made and justice not served, the great writ of habeas can be used to restore fairness and constitutionality.

Mr. Chairman, last year we had an opportunity to debate the Racial Justice Act as part of the crime bill. Once again the issue of race as it related to capital cases in being raised. Members on the other side of the aisle would like to be able to eliminate the bill's provisions that would prohibit a prisoner from being executed because of racial discrimination. There is no doubt that if one is black or if the victim is white, the chances of receiving the death penalty is substantially higher. In fact, a very small percentage of executions have been carried out in cases where the victims were African-Americans and in all of those cases the defendants were African-Americans. This issue is not about the death penalty, but it is about how the death penalty is applied, and the fact of the matter is that the death penalty if it is to be applied, should be applied impartially without regard to race.

Mr. Chairman, this bill is not going to eradicate crime in our society but it is a step in the right direction. The committee-passed bill seeks to fight drugs, beef up law enforcement, and mete out tough punishments for those who have little regard for the law. It also recognizes that urban crime is spreading to rural America and provides additional funds for rural drug enforcement. Amendments that seek to undermine the constitutional rights of prisoners, permit the use of evidence illegally obtained by the police and sentence others to death with total disregard for discrimination should be soundly defeated and I urge my colleagues to support the committee bill and amendments that further the cause of justice and fairness in our judicial process.

Mr. GRADISON. Mr. Chairman, H.R. 3371 sadly needs a reality check. Although much of the debate surrounds constitutional issues, the measure also includes $1.2 billion in new program authorizations for each of fiscal years 1992, 1993, and 1994 with no indication of how or whether funding for this program will materialize. No one who knows anything about the way Congress makes spending decisions could have even the slightest expectation that money for these programs will ever be spent.

Few of these authorizations were included in the President's budget request or in this crime bill; they are Democrat initiatives designed to portray the Democrats "getting tough on crime." As the debate unfolds, I invite my colleagues and the American public to note the following points:

If House Democrats are so tough on crime, why did they agree three separate times in the process of adopting the budget resolution to cut the President's request for budget function 750, administration of justice? First, the House Budget Committee reported a budget resolution cutting $500 million from his request. Next, on the House floor, Members adopted the Ford amendment, which cut function 750 another $100 million. Finally, the conference agreement took yet another $400 million from function 750. When it was all over, the Democratic Congress had adopted a budget for fighting crime that fell short of the President's request by more than $1 billion in budget authority.

Fiscal year 1992 discretionary appropriations are nearly complete and function 750 is $600 million in budget authority and almost $700 million in outlays below the President's request. If Democrats are really concerned about crime, why aren't they funding more of the President's request or even funding the proposals being authorized for fiscal year 1992 in this crime bill?

There is even less likelihood that $1.2 billion will be provided next fiscal year to pay for these initiatives than it will this year. Under the budget agreement, the domestic discretionary cap will be tighter. For fiscal year 1993 than for fiscal year 1992, yet no one is saying what domestic program cuts would make room to fund these initiatives. If Democrats are serious about funding these initiatives, why don't they identify discretionary program cuts to pay for them as they garner political credit for authorizing them?

Mr. Chairman, Budget Act points of order are not in order here because this is an authorization, but reality checks are. "Getting tough on crime" should be evaluated on policy grounds, actual spending versus budget requests, and program results. New Democratic anticrime initiatives with little hope of funding can only add to the lack of credibility the Democratic Party holds on this issue. Promises that the Federal Government will find $1.2 billion per year to pay for predominately State and local anticrime efforts are not reality: They are just political pretense.

Mr. GOSS. Mr. Chairman, when will we realize that the mounting crime statistics are not just numbers, numbers that can be corrected by mere words and empty legislation? The number of arrests rose by 14.2 percent over a 5-year period and from 10,440,569 in 1989 to 11,250,083 in 1990. As frightening as those statistics are, it's even more terrifying to remember that there is a very real victim behind each of those numbers. We must not forget the painful part these individuals and their families, past, present and future, play in the continuing war on crime.

It is for this reason, the people behind the numbers, that I must express my frustration and dismay with regard to H.R. 3371, the Omnibus Crime Control Act we are considering today. This legislation effectively aggravates the bureaucratic nightmare our criminal justice system has become, adding delay and red tape to everything from the death penalty to Federal/State cost sharing. This bill seems less an attempt at reform, and more a cover-up for our inadequate and overburdened penal system.

The partisan politics that prohibited extremely important amendments from even being considered on the floor of the House today, continue to hold real reform at bay. Will we continue to pass ineffective legislation under the guise of a yearly crime bill? There are effective options and we can pass a crime bill with teeth, if we have the courage to address the real issues and close the loopholes that will allow the release of criminals on legal technicalities.

More than 215 days ago, the President challenged Congress to provide real protection against crime for the American people and he outlined substantive methods to effectively accomplish this task. These much needed proposals include real habeas corpus reform that prevents repetitive filings and expedites petitions; allowing the facts of a case to be presented by establishing a good faith exemption to the exclusionary rule; and important extensions of the death penalty.

The American people have given Congress a mandate to stop the legal persecution of victims. Our constituents are not asking for racial quotas for the death penalty. They want to know that justice will be swift and sure for all violent criminals. They are demanding that we pay attention to the growing ranks of individuals violated by criminal activity and give law enforcement the tools they need to do their

jobs. Only then will we turn the frightening numbers of violent crime around.

Mr. FRANKS of Connecticut. Mr. Chairman, each day American families mourn the loss or injury of a victim of crime. The national statistics are troubling and very real, touching those who live the hard life of the inner city or the quiet of the suburbs.

Every 17 seconds an American falls victim to a violent crime, every 5 minutes a woman is raped, and every 22 minutes a person is murdered. In my State of Connecticut alone, crime has risen almost 4 percent in the last year.

One reads in newspapers and watches on television, images of senseless violence, spurned on by the savage effects of drugs.

We ask ourselves why those who kill or steal for cocaine are not arrested, prosecuted and imprisoned. When we see an arrest, often those found guilty are freed after serving a small portion of their sentence.

It seems the legal system now works for those who break the rules, rather than those who abide by the rule of law.

The American people are getting sick and tired of it.

It is time to stand up for the victim and send a strong message to the criminals in this country that we will not tolerate it anymore. It's time to declare war on the drug pushers and the criminals before we lose control of our streets and our neighborhoods.

Unfortunately H.R. 3371 does not go far enough in our common goals of turning the tide on waves of violence and despair.

This bill is a real crime in its present form. It does not go far enough in attempting to address the real issues and root causes of what is at stake for all Americans.

Several amendments will be introduced which will strengthen this legislation and allow this bill to become law. I urge my colleagues to vote for these amendments and vote to send a strong signal to the American people that we intend to set the rules in this crime game.

Once again this bill lacks teeth. It leaves out important provisions which would reform an already abused habeas corpus system. Currently, many death row inmates petition again and again for habeas corpus in the Federal court system without restriction as to number or time of appeals. Too often, convicted criminals take advantage of the appeals process in order to forestall their punishment. This impedes the judicial system and costs the honest taxpayer millions of dollars a year.

Another key provision which is inadequately addressed in this bill is the problem which arises when a known criminal is released because of a minor technicality. In the past many strong cases were thrown out because of a technicality and the criminal was right back on the street.

An amendment by Mr. MCCOLLUM would address this problem. The amendment establishes a good faith exception to the exclusionary rule so that evidence could be admitted if the conduct of the officers was objectively reasonable.

Finally Mr. Chairman, we must address the violent crime offender. The person who takes the life of another must face the ultimate consequences.

I support an amendment offered by Mr. GEKAS which will establish procedures required for the constitutional imposition of the death penalty and to extend it to specific Federal crimes.

We are at a crossroads. One path leads to surrendering the rule of law to those who have no sense of right and wrong, who think nothing of killing innocent people in search of blood money.

The other path is one where our society stands united in purpose and deed to say to the criminals, "Enough is enough."

There have been countless stories of neighborhoods coming together. They are forming block watches, civilian patrols, and school escorts. They are looking to us to stand with them in their fight to make their lives safer. Are we going to do that, or turn tail and run from our responsibilities?

Crime is no longer isolated in urban areas. It touches suburbs, small cities, and little towns—it touches every American.

Let's adopt a crime bill which will permit every citizen to walk our streets without fear, which will allow our children to look to the future with hope, and which will protect the rights of every victim of crime.

Mr. MCMILLAN of North Carolina. Mr. Chairman, today I rise in support of section 1303 of H.R. 3371, which makes it a Federal criminal offense to defraud, loot, or plunder an insurance company or to defraud insurance regulations.

It has been my good fortune to have served as a member of the Oversight and Investigations Subcommittee which conducted numerous case studies, including three of the largest property-casualty insurance insolvencies. As documented in our failed promises report, we learned that insurance industry is vulnerable to the same types of mismanagement and fraud that led to the savings and loan crisis. While serving on the Banking Committee, I became all too familiar with these sorts of problems.

As the ranking Republican on the Commerce, Consumer Protection, and Competitiveness Subcommittee, I see this Federal insurance fraud legislation as a necessary first step in addressing the growing problem of insurance insolvency and restoring public confidence in the overall health of our Nation's insurance industry. While our committee will be dealing with the insurance solvency issue in the coming months. Americans everywhere should rest assured that those who seek to pillage our Nation's insurance companies will not go unpunished.

I encourage my colleagues to support this provision of the crime bill.

Mrs. LOWEY of New York. Mr. Chairman, there is no question that what we are addressing today is one of the vital issues that will affect the future of this Nation. Successfully dealing with the crime that is threatening the law-abiding people of this Nation is central to our quest for a better life for all Americans. If we cannot guarantee our citizens the basic freedom to walk down the street without fear, we will never be able to build the kind of society that we all want to see. We must adopt tough-minded, commonsense solutions to the plague of violence.

For more than 20 years, as reported crimes have increased dramatically across this Nation, how to address the crime problem has been a focal point of debate and controversy across this country. Yet for all the bombast, all of the rhetoric, and all the political posturing, there has been regrettably little meaningful action. Very few steps have been taken to prevent crime or to protect its victims.

Every day, more lives are ruined and families are ripped apart because of the tragedy of violent crimes. Every month, we see statistics more sobering than those of the month before about how many people are being victimized. Every year, we lose more and more ground—more streets that are not safe to walk on, more neighborhoods where fear is a constant presence, and more young lives caught up in the tragic swirl of drugs and lawlessness.

Today, however, we can take the first step on the long road back to safety. Today we can finally begin an offensive that will turn the tide on crime. While I do not agree with every provision of it, the bill that we have before us puts the focus rights where it belongs—on preventing crime, punishing criminals, and protecting victims. I congratulate the Judiciary Committee for doing an outstanding job in facing this difficult challenge. They have not allowed themselves to be overtaken by hysteria, but instead they have created a bill that will enact meaningly policies to move forcefully and effectively to turn back the wave of crime.

This bill will toughen Federal sentences and make clear that we will not tolerate violent crime any longer. It will make funds available to communities to put tens of thousands of new police officers on the beat. That is, after all the front line against crime.

It will help States move toward the goal of punishing every youthful offender. It will provide funds to educational authorities to provide safe learning environments for our children. And it will put into place effective new programs for fighting car theft, keeping high-risk youths off the streets and out of gangs, and using the most up-to-date technology to catch and prosecute criminals.

That is not all that this crime bill does. It also gives much needed aid to the victims, who all too frequently have been lost in the shuffle. Too many times in the past, our Government has overlooked the needs and the rights of crime victims. I have worked hard to correct that oversight, and it is good news that this bill will increase the funds available for restitution and assistance to victims. We cannot allow those who have been victimized by the tryanny of crime to be victimized again by withering inattention.

The victims compensation title of this bill is a noteworthy achievement that finally recognizes those who suffer directly from crimes in our society.

A great deal will remain to be done, Mr. Chairman, after this legislation is enacted. There will be many obstacles in our path, and many times when our commitment and our fortitude will be tested. But it is a road that we must travel. For the sake of our children, we must reclaim the streets of America. H.R. 3371 is a good bill, a tough bill, that moves us in the right direction. I urge my colleagues to join me in passing this historic legislation, so that we can work together for an America where people can be secure in their homes, safe on our streets, and able to fulfill their

dreams for themselves and their families without living in fear.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 3371, the Omnibus Crime Control Act of 1991. It is imperative that this body act today to reclaim our cities from the control of drug pushers, rapists, thieves, and street gangs, and return it to law-abiding Americans.

H.R. 3371 is a comprehensive package of crime-fighting proposals designed to win back our streets and neighborhoods from the criminal filth which has so violently touched every American's life in some manner. For too long, Mr. Chairman, mothers have been afraid to let their children walk to school for fear of having them accosted by drug pushers or savaged by rapists. For too long, our police forces have been outgunned by criminals using weapons with names such as the "Street Sweeper" and "Striker." And for too long, we have seen criminals walk free on a technicality, even though the evidence is overwhelmingly incriminating. We must halt the further descent of our Nation into a constant state of fear. This bill will give law enforcement officials and community groups the tools necessary to assess, control, and begin to turn back, the rising tide of crime gripping our streets.

Among the most important provisions in the legislation is a ban on domestically made semiautomatic assault rifles. The role of semiautomatic and assault weapons in America's drug crisis and other crimes has been well documented. The front pages of our newspapers seem to regularly report the latest occurrences of drug-related drive-by shootings, disgruntled employees returning to the worksite to seek revenge, and madmen on meaningless rampages. We must rid our streets of these weapons which have no legitimate purpose except to kill other human beings.

This proposal has been met with widespread support by the Nation's police forces and law enforcement organizations. Furthermore, public opinion polls have shown an overwhelming support for initiatives designed to halt further proliferation of semiautomatic weapons. We cannot allow ourselves to be fooled by those who claim their second amendment rights will be violated by this ban. I have to question the intentions of any sportsman who would use such weapons of death to hunt animals. The fact is that only 13 very specific types of weapons will be banned by this provision, and no semiautomatic weapons already legally owned will be affected. No government stormtroopers will be knocking on the doors of law-abiding gun owners to confiscate weapons. Such a notion is pure and simple NRA generated poppycock. In addition to banning these destructive weapons, this bill lengthens the mandatory sentences for numerous crimes involving firearms, as well as establishes new firearms crimes.

H.R. 3371 also includes important provisions to codify an already existing good faith exception to the exclusionary rule. This rule, which prohibits the introduction of illegally obtained evidence into a trial, would be circumvented under H.R. 3371 if the evidence was obtained with the good faith knowledge of officials that their search and seizure was valid. All to often, Mr. Chairman, we have seen criminals walk free because incriminating evidence was disallowed due to technicalities in the issuing of a search warrant. These criminals are then free to commit other crimes and hurt other law-abiding citizens. This provision would insure that if those law enforcement officers who obtained evidence believed that they were indeed acting in "good faith," and believed that all legal guidelines for obtaining evidence had been followed, that evidence would then be admissible in a court of law.

This legislation also seeks to protect our society's most vulnerable members; namely our children, by requiring States to register the names and current addresses of all persons who have committed crimes against children. Furthermore, it will create a national system which will be administered by the FBI for identifying child abusers. We must do everything possible to prevent the horrible scourge of child abuse and molestation from ruining the lives of our Nation's young people, and these provisions will do much to help prevent this ugliness.

I do have concerns over one section of this bill, Mr. Chairman, specifically that which greatly expands the list of crimes punishable by the death penalty. How are we to become a "kinder and gentler" Nation, as the President has set out as his goal, if we continually attempt to reform America's criminals by killing them? Study upon study has shown that the death penalty does not deter criminal behavior, and simply increasing the number of crimes punishable by death will accomplish nothing, except perhaps increasing the chances that a wrongfully convicted individual will be put to death.

However, if we must have the death penalty, Mr. Chairman, I am pleased to see that this bill includes language to insure that the death penalty is instituted fairly to all, regardless of race. Past inequities in the frequency of sentencing the death penalty to African-Americans over whites are well documented. H.R. 3371 would allow those sentenced to death to appeal the decisions if they can cite evidence showing a pattern of racial discrimination in the sentencing of the death penalty.

Furthermore, this legislation provides a fair reform to current Federal habeas corpus procedures. The public has grown weary of convicted criminals continually logjamming the judicial system with appeal after appeal. These reforms will place reasonable limits on the number of appeals criminals convicted in State courts can file with Federal courts. Some of my colleagues would like to virtually eliminate this procedure altogether. However, even prisoners are protected under the Constitution and the Judiciary Committee's habeas corpus measure provides for thoughtful reform without restricting the right of the accused to due process under the law.

Finally, Mr. Chairman, and perhaps most importantly, this legislation provides funding for many crucial programs at both the Federal and local level. Among these are the expansion of DNA analysis labs, scholarships for future law enforcement officers, grants for community policing initiatives, school violence grants, block grants for local antidrug initiatives, and midnight basketball league funding, an idea with a proven track record of putting vulnerable youth in the gyms for healthy competition and getting them off the streets in the late hours of the night. Such local initiatives are often the most successful methods of fighting crime and drug abuse, Mr. Chairman, as only those who must live day to day with crime at their doorstep can truly assess their own unique local needs.

It is time to act and reaffirm to the American people that this body is indeed ready to tackle the true problems that are afflicting our Nation. The confidence of the public in our ability to direct the Nation is at a record low. We must not allow this important legislation to become mired in unproductive partisanship and bickering. The country is counting on us to act and I urge my colleagues to support H.R. 3371.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary, as modified by the amendments printed in part 1 of House Report 102-253, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 3371

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Crime Control Act of 1991".

(b) TABLE OF CONTENTS.—The following is the table of contents for this Act:

TITLE I—COMMUNITY POLICING; COP ON THE BEAT
TITLE II—DRUG TREATMENT IN FEDERAL PRISONS
TITLE III—SUBSTANCE ABUSE TREATMENT IN STATE PRISONS
TITLE IV—SAFE SCHOOLS
TITLE V—VICTIMS OF CRIME
Subtitle A—Crime Victims Fund
Subtitle B—Restitution
Subtitle C—HIV Testing
TITLE VI—CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS
TITLE VII—DRUG TESTING OF ARRESTED INDIVIDUALS
TITLE VIII—DRUG EMERGENCY AREAS ACT OF 1991
TITLE IX—COERCED CONFESSIONS
TITLE X—DNA IDENTIFICATION
TITLE XI—HABEAS CORPUS
TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS
Subtitle A—Police Accountability
Subtitle B—Retired Public Safety Officer Death Benefit
Subtitle C—Study on Police Officers' Rights
Subtitle D—Law Enforcement Scholarships
Subtitle E—Law Enforcement Family Support
TITLE XIII—FRAUD
TITLE XIV—PROTECTION OF YOUTH
Subtitle A—Crimes Against Children
Subtitle B—Parental Kidnapping
Subtitle C—Sexual Abuse Amendments
Subtitle D—Reporting of Crimes Against

Children
TITLE XV—MISCELLANEOUS DRUG CONTROL
TITLE XVI—FAIRNESS IN DEATH SENTENCING ACT OF 1991
TITLE XVII—MISCELLANEOUS CRIME CONTROL
Subtitle A—General
Subtitle B—Motor Vehicle Theft Prevention
Subtitle C—Terrorism: Civil Remedy
Subtitle D—Commission on Crime and Violence
TITLE XVIII—MISCELLANEOUS FUNDING PROVISIONS
Subtitle A—General
Subtitle B—Midnight Basketball
TITLE XIX—MISCELLANEOUS CRIMINAL PROCEDURE AND CORRECTIONS
Subtitle A—Revocation of Probation and Supervised Release
Subtitle B—List of Veniremen
Subtitle C—Immunity
Subtitle D—Clarification of 18 U.S.C. 5032's Requirement That Any Prior Record of a Juvenile Be Produced Before the Commencement of Juvenile Proceedings
Subtitle E—Petty Offenses
Subtitle F—Optional Venue for Espionage and Related Offenses
Subtitle G—General
TITLE XX—FIREARMS AND RELATED AMENDMENTS
Subtitle A—Firearms and Related Amendments
Subtitle B—Assault Weapons
Subtitle C—Large Capacity Ammunition Feeding Devices
TITLE XXI—SPORTS GAMBLING
TITLE XXII—TECHNICAL CORRECTIONS
TITLE XXIII—DEATH PENALTY PROCEDURES
TITLE XXIV—DEATH PENALTY

TITLE I—COMMUNITY POLICING; COP ON THE BEAT

SEC. 101. SHORT TITLE.

This title may be cited as "The Community Policing; Cop on the Beat Act of 1991".

SEC. 102. COMMUNITY POLICING; COP ON THE BEAT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of general local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities which have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in such community.

"SEC. 1602. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In such application, one office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1601;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan which contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1603. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1602(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1604. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1602(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1605. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1602(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year that shall contain a detailed statement regarding grant awards, activities of grant recipients, and an evaluation of projects established under this part.

"SEC. 1606. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"Sec. 1601. Grant authorization.
"Sec. 1602. Application.
"Sec. 1603. Allocation of funds; limitation on grants.
"Sec. 1604. Award of grants.
"Sec. 1605. Reports.
"Sec. 1606. Definitions.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) by redesignating the last 3 paragraphs as paragraphs (7), (8), and (9); and

(2) by adding after paragraph (9) the following:

"(10) There are authorized to be appropriated $150,000,000 to carry out this part for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part P.".

TITLE II—DRUG TREATMENT IN FEDERAL PRISONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Drug Treatment in Federal Prisons Act of 1991".

SEC. 202. DEFINITIONS.

As used in this title—

(1) the term "residential substance abuse treatment" means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

(A) directed at the substance abuse problems of the prisoner; and

(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems; and

(2) the term "eligible prisoner" means a prisoner who is—

(A) determined by the Bureau of Prisons to have a substance abuse problem; and

(B) willing to participate in a residential substance abuse treatment program.

SEC. 203. IMPLEMENTATION OF SUBSTANCE ABUSE TREATMENT REQUIREMENT.

(a) IN GENERAL.—In order to carry out the requirement of the last sentence of section 3621(b) of title 18, United States Code, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall provide residential substance abuse treatment—

(1) for not less than 50 percent of eligible prisoners by the end of fiscal year 1993;

(2) for not less than 75 percent of eligible prisoners by the end of fiscal year 1994; and

(3) for all eligible prisoners by the end of fiscal year 1995 and thereafter.

(b) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—Section 3621 of title 18, United States Code, is amended by adding at the end the following:

"(e) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(1) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under subsection (b) of this section, shall remain in the custody of the Bureau for such time (as limited by paragraph (2) of this subsection) and under such conditions, as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for drug abuse and discontinue such conditions on determining that drug abuse has recurred.

"(2) PERIOD OF CUSTODY.—The period the prisoner remains in custody after successfully completing a treatment program shall not exceed the prison term the law would otherwise require such prisoner to serve, but may not be less than such term minus one year.".

SEC. 204. REPORT.

The Bureau of Prisons shall transmit to the Congress on January 1, 1993, and on January 1 of each year thereafter, a report. Such report shall contain—

(1) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

(2) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

(3) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this Act.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991 and each fiscal year thereafter such sums as may be necessary to carry out this title.

TITLE III—SUBSTANCE ABUSE TREATMENT IN STATE PRISONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Substance Abuse Treatment in State Prisons Act of 1991".

SEC. 302. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 102, is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 1701. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

"SEC. 1702. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, halfway house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1703. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1701 to carry out the projects described in the application submitted under section 1702(a) upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1702 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1704. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1705. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 102 of this Act, is amended by striking the matter relating to part Q and inserting the following:

"PART Q—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 1701. Grant authorization.
"Sec. 1702. State applications.
"Sec. 1703. Review of State applications.
"Sec. 1704. Allocation and distribution of funds.
"Sec. 1705. Evaluation.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

SEC. 303. DEFINITIONS.

Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended by adding after paragraph (23) the following:

"(24) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part Q.".

TITLE IV—SAFE SCHOOLS

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Schools Act of 1991".

SEC. 402. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 302, is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following:

"PART R—SAFE SCHOOLS ASSISTANCE

"SEC. 1801. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director shall develop a written safe schools model in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 1802. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 1803. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—Each application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 1802;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within the schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce crime problems.

"SEC. 1804. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1803(c).

"SEC. 1805. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1803(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 1803(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1806. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1803(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under 1803(b)(4), and an evaluation of programs established under this part.

"SEC. 1807. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 302 of this Act, is amended by striking the matter relating to part R and inserting the following:

"PART R—SAFE SCHOOLS ASSISTANCE

"Sec. 1801. Grant authorization.
"Sec. 1802. Use of funds.
"Sec. 1803. Applications.
"Sec. 1804. Allocation of funds; limitations on grants.
"Sec. 1805. Award of grants.
"Sec. 1806. Reports.
"Sec. 1807. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 304 of this Act, is amended by adding after paragraph (11) the following:

"(12) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part R.".

TITLE V—VICTIMS OF CRIME

Subtitle A—Crime Victims Fund

SEC. 501. CRIME VICTIMS FUND.

(a) ELIMINATION OF FUND CEILINGS AND SUNSET PROVISION.—Subsection (c) of section 1402 (42 U.S.C. 10601) of the Victims of Crime Act of 1984 is repealed.

(b) ALLOCATIONS.—

(1) GENERALLY.—Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the total deposited in the Fund during a particular fiscal year—

"(i) the first $10,000,000 shall be available for grants under section 1404A of this title;

"(ii) the next sums deposited, up to the reserved portion (as described in subparagraph (C)), shall be made available to the judicial branch for administrative costs to carry out the functions of that branch under sections 3611 and 3612 of title 18, United States Code;

"(iii) and of the sums remaining after the allocations under clauses (i) and (ii)—

"(I) 4 percent shall be available for grants under section 1404(c)(1); and

"(II) 96 percent shall be available in equal amounts for grants under section 1403 and 1404(a) of this title.

"(B) The Director may retain any portion of the Fund that was deposited during a fiscal

year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000.

"(C) The reserved portion referred to in subparagraph (A) is $6,200,000 in each of fiscal years 1992 through 1995 and $3,000,000 in each fiscal year thereafter.".

(2) CONFORMING CROSS-REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(iv)" and inserting "(i)" in lieu thereof.

(c) AMOUNTS AWARDED AND UNSPENT.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Except as provided in paragraph (2), any" and inserting "Any";

(B) by striking "succeeding fiscal year" and inserting "two succeeding fiscal years";

(C) by striking "which year" and inserting "which period"; and

(D) by striking "the general fund of the Treasury" and inserting "the Fund"; and

(2) by striking paragraph (2).

SEC. 502. PERCENTAGE CHANGE IN CRIME VICTIM COMPENSATION FORMULA.

Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "40 percent" and inserting "45 percent".

SEC. 503. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following:

"(3) The Director may permit not more than 5 percent of a grant made under this section to be used for the administration of the crime victim compensation program receiving the grant.".

SEC. 504. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay, then—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 505. USE OF UNSPENT SECTION 1403 MONEY.

Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended—

(1) by striking "or for the purpose of grants under section 1403 but not used for that purpose,"; and

(2) by adding at the end the following:

"The Director, in the Director's discretion, may use amounts made available under section 1402(d)(2) for the purposes of grants under section 1403 but not used for that purpose, for grants under this subsection, either in the year such amounts are not so used, or the next year.".

SEC. 506. UNDERSERVED VICTIMS.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following:

"(6) In making the certification required by paragraph (2)(B), the chief executive shall give particular attention to children who are victims of violent street crime.".

SEC. 507. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 508. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(A)) is amended—

(1) in paragraph (1) by inserting ", except as provided in paragraph (7)" after "programs", and

(2) by adding after the paragraph added by section 506 of this Act the following:

"(7) The Director may permit not more than 5 percent of sums provided under this subsection to be used by the chief executive of each State for the administration of such sums.".

SEC. 509. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended—

(1) by striking "December 31, 1990", and inserting "May 31, 1993"; and

(2) by striking "December 31" the second place it appears and inserting "May 31" in lieu thereof.

SEC. 510. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 511. DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.

Sections 102(b), 103, 104, and 109, and the amendments made by those sections, shall take effect with respect to the first fiscal year that begins after the date of the enactment of this Act for which the Director certifies there are sufficient sums in the Victim Assistance Fund and the Victims Compensation Fund, as of the end of the previous fiscal year, to make the allocations required under such sections and amendments without reducing the then current funding levels of programs supported by such Funds.

Subtitle B—Restitution

SEC. 521. RESTITUTION AMENDMENTS.

(a) EXPANSION OF RESTITUTION.—Section 3663(b) of title 18, United States Code, is amended by striking "and" following the semicolon in paragraph (3), redesignating paragraph (4) as paragraph (5), and adding after paragraph (3) the following:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Subsections (g) and (h) of section 3663 of title 18, United States Code, are redesignated as subsections (h) and (i), respectively, and a new subsection (g) is inserted as follows:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments established under subsection (f)(1) of this section, or any requirement of immediate payment under subsection (f)(3) of this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

(c) RESTITUTION FOR VICTIMS OF SEX OFFENSES.—Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110 of this title" after "an offense resulting in bodily injury to a victim".

Subtitle C—HIV Testing

SEC. 531. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) Chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new section:

"§2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRETRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that followup tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender

knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) CLERICAL AMENDMENT.—The section analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

SEC. 532. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", and the cost of up to two tests of the victim for the human immunodeficiency virus during the 12 months following the assault".

TITLE VI—CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS

SEC. 601. SHORT TITLE.

This title may be cited as the "Certainty of Punishment for Young Offenders Act of 1991".

SEC. 602. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 402 of this Act, is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as section 2001; and

(3) by inserting after part R the following:

"PART S—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1901. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1902. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1903. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1901(a) to carry out the projects described in the application submitted by such applicant under section 1902(a) upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1902 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1901(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1904. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1902(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1901 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1905. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1901 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1901.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1901, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1902(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1906. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 402 of this Act, is amended by striking the matter relating to part S and inserting the following:

"PART S—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1901. Grant authorization.
"Sec. 1902. State applications.
"Sec. 1903. Review of State applications.
"Sec. 1904. Local applications.
"Sec. 1905. Allocation and distribution of funds.
"Sec. 1906. Evaluation.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2001. Continuation of rules, authorities, and proceedings.".

SEC. 603. DEFINITION.

Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)),

as amended by section 303 of this Act, is amended by adding after paragraph (24) the following:

"(25) The term 'young offender' means an individual 28 years of age or younger.".

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (12) the following:

"(13) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part S.".

TITLE VII—DRUG TESTING OF ARRESTED INDIVIDUALS

SEC. 701. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 602 of this Act, is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following:

"PART T—GRANTS FOR DRUG TESTING UPON ARREST

"SEC. 2001. GRANT AUTHORIZATION.

The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

"SEC. 2002. STATE APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2002(c).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 2001 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in such State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified in such State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 2001, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2002 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 2005. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year that funds are received under this part regarding the effectiveness of the drug testing project.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 602 of this Act, is amended by striking the matter relating to part T and inserting the following:

"Part T—Drug Testing for Individuals Arrested

"Sec. 2001. Grant authorization.

"Sec. 2002. State applications.

"Sec. 2003. Local applications.

"Sec. 2004. Allocation and distribution of funds.

"Sec. 2005. Report.

"Part U—Transition; Effective Date; Repealer

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 604 of this Act, is amended by adding after paragraph (13) the following:

"(14) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

TITLE VIII—DRUG EMERGENCY AREAS ACT OF 1991

SEC. 801. SHORT TITLE.

This title may be cited as the "Drug Emergency Areas Act of 1991".

SEC. 802. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under subparagraph (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude, that Federal assistance is necessary to assure an effective response to save lives, and to protect property and public health and safety.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining that government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and for-

ward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—Assistance under this subsection shall be subject to annual audit by the Comptroller General.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992, 1993, and 1994, $300,000,000 to carry out this subsection.".

TITLE IX—COERCED CONFESSIONS

SEC. 901. COERCED CONFESSIONS.

The admission into evidence of a coerced confession shall not be considered harmless error. For the purposes of this section, a confession is coerced if it is elicited in violation of the fifth or fourteenth articles of amendment to the Constitution of the United States.

TITLE X—DNA IDENTIFICATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "DNA Identification Act of 1991".

SEC. 1002. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1003 of the DNA Identification Act of 1991;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iii) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1003 of the DNA Identification Act of 1991.".

(c) For each of the fiscal years 1992 through 1996, there are authorized to be appropriated $10 million for grants to the states for DNA analysis.

SEC. 1003. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from state and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5. U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

SEC. 1004. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION

(a) The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) Such index may include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1003 of the DNA Identification Act of 1991;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1003 of the DNA Identification Act of 1991; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(C) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) of this section are not met.

SEC. 1005. FEDERAL BUREAU OF INVESTIGATION

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1003(b). Within one year of the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this paragraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For five years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests referred to in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes; or

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) Whoever—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) willfully discloses such information in any manner to any person or agency not entitled to receive it;

shall be fined not more than $100,000.

(2) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 1006. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992 through 1996 to carry out sections 1003, 1004, and 1005 of this Act.

TITLE XI—HABEAS CORPUS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 1102. STATUTE OF LIMITATIONS.

Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court not later than one year after—

"(A) the date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review of the conviction and sentence is filed, within the time limits established by law, in the Supreme Court;

"(B) the date of issuance of the mandate of the highest court of the State on direct appeal or unitary review of the conviction and sentence, if a petition for a writ of certiorari is not filed, within the time limits established by law, in the Supreme Court; or

"(C) the date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court grants the writ, and disposes of the case in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 2257 of this chapter;

"(B) during the period from the date the applicant files an application for State postconviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met; and

"(C) during an additional period not to exceed 90 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 1103. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire if—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this chapter;

"(2) upon completion of district court and court of appeals review under section 2254 of this chapter, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari is filed and the Supreme Court denies the petition; or

"(C) a timely petition for certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this chapter and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 1104. LAW APPLICABLE.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2256. Law applicable

"In an action filed under this chapter, the court shall not apply a new rule. For purposes of this section, the term 'new rule' means a clear break from precedent, announced by the Supreme Court of the United States, that could not reasonably have been anticipated at the time the claimant's sentence became final in State court.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable.".

SEC. 1105. COUNSEL IN CAPITAL CASES; STATE COURT.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2257. Counsel in capital cases; State court

"(a) A State in which capital punishment may be imposed shall provide legal services to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate, collateral, or unitary review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court.

"(b) The State shall establish an appointing authority, which shall be—

"(1) a statewide defender organization;

"(2) a resource center; or

"(3) a committee appointed by the highest State court, comprised of members of the bar with substantial experience in, or commitment to, criminal justice.

"(c) The appointing authority shall—

"(1) publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing qualifications and performance of counsel, which shall include—

"(A) knowledge and understanding of pertinent legal authorities regarding issues in capital cases;

"(B) skills in the conduct of negotiations and litigation in capital cases, the investigation of capital cases and the psychiatric history and current condition of capital clients, and the preparation and writing of legal papers in capital cases;

"(C) in the case of counsel appointed for the trial or sentencing stages, 5 years of experience in the representation of criminal clients in felony cases and experience in at least one case in which the death penalty was sought; and

"(D) in the case of counsel appointed for the appellate, postconviction, or unitary review stages, 5 years of experience in the representation of criminal clients in felony cases at the appellate, postconviction, unitary review, or certiorari stages and experience in at least one case in which the client had been sentenced to death;

"(2) monitor the performance of attorneys appointed and delete from the roster any attorney who fails to meet qualification and performance standards; and

"(3) appoint a defense team, which shall include at least 2 attorneys, to represent a client at the relevant stage of proceedings, promptly upon receiving notice of the need for the appointment from the relevant State court.

"(d) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with quality legal representation.

"(e) No counsel appointed pursuant to this section to represent a prisoner in State postconviction proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made, unless the prisoner and counsel expressly request continued representation.

"(f) The ineffectiveness or incompetence of counsel appointed pursuant to this section during State or Federal postconviction proceedings shall not be a ground for relief in a proceeding arising under section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal postconviction proceedings.

"(g) Upon receipt of notice from the appointing authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

"(h) Attorneys appointed from the private bar shall be compensated on an hourly basis and at a reasonable rate in light of the attorney's qualifications and experience and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases and shall be reimbursed for expenses reasonably incurred in representing the client, including the costs of law clerks, paralegals, investigators, experts, or other support services.

"(i) Support services for staff attorneys of a defender organization or resource center shall be equal to the services listed in subsection (h).

"(j) If a State fails to provide counsel in a proceeding specified in subsection (a), or counsel appointed for such a proceeding fails substantially to meet the qualification standards specified in subsections (c)(1) or (d), or the performance standards established by the appointing authority, the court, in an action under this chapter, shall neither presume findings of fact made in such proceeding to be correct nor decline to consider a claim on the ground that it was not raised in such proceeding at the time or in the manner prescribed by State law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2257. Counsel in capital cases; State court.".

SEC 1106. SUCCESSIVE FEDERAL PETITIONS.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application; or

"(ii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.".

SEC. 1107. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right of appeal without a certification of probable cause, except after denial of a second or successive application.".

TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS

Subtitle A—Police Accountability

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the "Police Accountability Act of 1991".

SEC. 1202. PATTERN OR PRACTICE CASES.

(a) CAUSE OF ACTION.—

(1) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities, secured or protected by the Constitution or laws of the United States.

(2) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

(3) CIVIL ACTION BY INJURED PERSON.—Any person injured by a violation of paragraph (1) may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice. In any civil action under this paragraph, the court may allow the prevailing plaintiff reasonable attorneys' fees and other litigation fees and costs (including expert's fees). A governmental body shall be liable for such fees and costs to the same extent as a private individual.

(b) DEFINITION.—As used in this section, the term "law enforcement officer" means an official empowered by law to conduct investigations of, to make arrests for, or to detain individuals suspected or convicted of, criminal offenses.

SEC. 1203. DATA ON USE OF EXCESSIVE FORCE.

(a) ATTORNEY GENERAL TO COLLECT.—The Attorney General shall, through the victimization surveys conducted by the Bureau of Justice Statistics, acquire data about the use of excessive force by law enforcement officers.

(b) LIMITATION ON USE OF DATA.—Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of the victim or any law enforcement officer.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the data acquired under this section.

Subtitle B—Retired Public Safety Officer Death Benefit

SEC. 1211. RETIRED PUBLIC SAFETY OFFICER DEATH BENEFIT.

(a) PAYMENTS.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in subsection (a) by inserting after "line of duty" the following "or a retired public safety officer has died as the direct and proximate result of a personal injury sustained while responding to a fire, rescue, or police emergency";

(2) in subsection (b) by inserting after "line of duty" the following "or a retired public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained while responding to a fire, rescue, or police emergency"; and

(3) in subsections (c), (i), and (j) by inserting after "public safety officer" every place it occurs the following "or a retired public safety officer".

(b) LIMITATIONS.—Section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in paragraph (1) by striking "the public safety officer or by such officer's intention" and inserting "the public safety officer or the retired public safety officer who had the intention";

(2) in paragraph (2) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer"; and

(3) in paragraph (3) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer".

(c) NATIONAL PROGRAM.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting before the period "or retired public safety officers who have died while responding to a fire, rescue, or police emergency".

(d) DEFINITIONS.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking "and" after paragraph (6);

(2) by inserting "; and" at the end of paragraph (7); and

(3) by adding at the end the following:

"(8) 'retired public safety officer' means a former public safety officer, as defined in paragraph (7), who has served a sufficient period of time in such capacity to become vested in the retirement system of a public agency with which the officer was employed and who retired from such agency in good standing.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to death or injuries occurring after the date of the enactment of this section.

Subtitle C—Study on Police Officers' Rights

SEC. 1221. STUDY ON POLICE OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than one year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

Subtitle D—Law Enforcement Scholarships

SECTION 1231. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Scholarship Act of 1991".

SEC. 1232. STATEMENT OF PURPOSE.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 791 of this Act, is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as 2201; and

(3) by inserting after part T the following:

"PART U—LAW ENFORCEMENT SCHOLARSHIPS

"SEC. 2101. PURPOSES.

"It is the purpose of this part to assist States to establish scholarship programs which—

"(1) enhance the recruitment of young individuals to careers in law enforcement;

"(2) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel; and

"(3) provide educational assistance to law enforcement personnel seeking further education.

"SEC. 2102. DEFINITIONS.

"For purposes of this part—

"(1) the term 'Director' means the Director of the Bureau of Justice Assistance;

"(2) the term 'educational expenses' means expenses that are directly attributable to—

"(A) a course of education leading to the award of an associate degree;

"(B) a course of education leading to the award of a baccalaureate degree; or

"(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies and related expenses;

"(3) the term 'institution of higher education' has the same meaning given such term in section 1401(a) of the Higher Education Act of 1965;

"(4) the term 'law enforcement position' means employment as an officer in a State or local police force, or correctional institution; and

"(5) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

"SEC. 2103. ALLOTMENT.

"From amounts appropriated under section 2111, the Director shall allocate—

"(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

"(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this part.

"SEC. 2104. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—From amounts available pursuant to section 2103 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

"(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this part shall not exceed 60 percent.

"(2) The non-Federal share of the cost of scholarships under this part shall be supplied from sources other than the Federal Government.

"(c) LEAD AGENCY.—Each State receiving an allotment under section 2103 to conduct a scholarship program in the State in accordance with the provisions of this part shall designate an appropriate State agency to serve as the lead agency in carrying out the provisions of this part.

"(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the program conducted pursuant to this part and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this part.

"(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 2103 may reserve not more than 8 percent of such allotment for administrative expenses.

"(f) SPECIAL RULE.—Each State receiving an allotment under section 2103 shall ensure that each scholarship recipient under this part be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

"(g) SUPPLEMENTATION OF FUNDING.—Funds received under this part shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

"SEC. 2105. SCHOLARSHIPS.

"(a) PERIOD OF AWARD.—Scholarships awarded under this part shall be for a period of one academic year.

"(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this may use such scholarship for educational expenses at any accredited institution of higher education.

"SEC. 2106. ELIGIBILITY.

"An individual shall be eligible to receive a scholarship under this part if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

"SEC. 2107. STATE APPLICATION.

"Each State desiring an allotment under section 2103 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

"(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the provisions of this part;

"(2) contain assurances that the State shall advertise the scholarship assistance provided under this part;

"(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the scholarship program under this part;

"(4) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this part;

"(5) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

"(6) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges.

"SEC. 2108. LOCAL APPLICATION.

"(a) IN GENERAL.—Each individual desiring a scholarship under this part shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

"(b) PRIORITY.—In awarding scholarships under this part, each State shall give priority to applications from individuals who are—

"(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

"(2) pursuing an undergraduate degree.

"SEC. 2109. SCHOLARSHIP AGREEMENT.

"(a) IN GENERAL.—Each individual receiving a scholarship under this part shall enter into an agreement with the Director.

"(b) CONTENTS.—Each agreement described in subsection (a) shall—

"(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

"(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

"(A) dies;

"(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

"(C) has been discharged in bankruptcy; and

"(3) set forth the terms and conditions under which an individual receiving a scholarship under this part may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this part.

"(c) SERVICE OBLIGATION.—(1) Except as provided in paragraph (2), each individual awarded a scholarship under this part shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this part.

"(2) For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this part shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

"SEC. 2110. REPORTS TO CONGRESS.

"Not later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

"(1) state the number of present and past scholarship recipients under this part, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have serve law enforcement;

"(2) describe the geographic, racial, and gender dispersion of scholarship recipients; and

"(3) describe the progress of the program and make recommendations for changes in the program.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 701 of this Act, is amended by striking the matter relating to part U and inserting the following:

"Part U—Law Enforcement Scholarships

"Sec. 2101. Purposes.
"Sec. 2102. Definitions.
"Sec. 2103. Allotment.
"Sec. 2104. Program Established.
"Sec. 2105. Scholarships.
"Sec. 2106. Eligibility.
"Sec. 2107. State Application.
"Sec. 2108. Local Application.
"Sec. 2109. Scholarship Agreement.
"Sec. 2110. Reports to Congress.

"Part V—Transition; Effective Date; Repealer

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

SEC. 1233. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 702 of this Act, is amended by adding after paragraph (14) the following:

"(15) There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of part U.".

Subtitle E—Law Enforcement Family Support

SEC. 1241. LAW ENFORCEMENT FAMILY SUPPORT.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1232 of this Act is amended—

(1) by redesignating part V as part W;
(2) by redesignating section 2201 as 2301; and
(3) by inserting after part V the following:

"PART V—FAMILY SUPPORT

"SEC. 2201. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 2202. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to

provide family support services to law enforcement personnel.

"SEC. 2203. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this Act shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this Act shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this Act may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 2204. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this Act.

"SEC. 2205. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 2206. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 2207. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this Act shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) Such report shall contain—

"(A) a description of the types of projects developed or improved through funds received under this Act;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) the number of individuals served in each location and throughout the country.

"SEC. 2208. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1232 of this Act, is amended by striking the matter relating to part V and inserting the following:

"PART V—FAMILY SUPPORT

"Sec. 2201. Duties of director.
"Sec. 2202. General authorization.
"Sec. 2203. Uses of funds.
"Sec. 2204. Applications.
"Sec. 2205. Award of grants; limitation.
"Sec. 2206. Discretionary research grants.
"Sec. 2207. Reports.
"Sec. 2208. Definitions.

"PART W—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2301. Continuation of rules, authorities, and privileges.".

SEC. 1242. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1233 of this Act, is amended by adding after paragraph (15) the following:

"(16) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996. Not more than 20 percent of such funds may be used to accomplish the duties of the Director under section 2201 in part V of this Act, including administrative costs, research, and training programs.".

TITLE XIII—FRAUD

SEC. 1301. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 1302. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

(a) IN GENERAL.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly, and with intent to defraud, effects transactions, with one or more access devices issued to another person, to receive anything of value aggregating $1,000 or more during any one-year period;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(b) TECHNICAL AMENDMENTS FOR SECTION 1029.—Section 1029 of title 18, United States Code, as amended by subsection (a), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 1303. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and, with the intent to deceive, knowingly makes any false material statement or report or willfully overvalues any land, property or security—

"(A) in connection with reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a trans-

action relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the embezzlement, abstraction, purloining, or willful misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years. If the amount or value embezzled, abstracted, purloined, or willfully misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business, or

"(B) to deceive any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Whoever has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Whoever is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks underwritten by insurance companies,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means a business which is organized as an insurance company under the laws of any State, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and which is subject to supervision by the insurance official or agency of a State; or any receiver or similar official or any liquidating agent for such a company, in his or her capacity as such, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§ 1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the insolvency of an insurer which has been placed under the control of a State insurance regulatory agency or official, such penalty shall be remitted to the regulatory official of the insurer's State of domicile for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of such title is amended by adding at the end the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end thereof the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding directly or indirectly, notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

TITLE XIV—PROTECTION OF YOUTH

Subtitle A—Crimes Against Children

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 1402. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from

prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 1403. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement the provisions of this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Subtitle B—Parental Kidnapping

SEC. 1421. SHORT TITLE.

This title may be cited as the "International Parental Kidnapping Crime Act of 1991".

SEC. 1422. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

"§ 1204. International parental kidnapping

"(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. International parental kidnapping.".

SEC. 1423. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701–10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

Subtitle C—Sexual Abuse Amendments

SEC. 1431. SEXUAL ABUSE AMENDMENTS.

(a) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT FOR VICTIMS UNDER THE AGE OF 16.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting in lieu thereof "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

Subtitle D—Reporting of Crimes Against Children

SEC. 1441. SHORT TITLE.

This subtitle may be cited as the "National Child Abuser Identification Act of 1991".

SEC. 1442. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State—

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(6) the term "State criminal history information repository" means a division or office of a State that acts as a central repository for criminal child abuse information.

SEC. 1443. PURPOSES.

The purposes of this subtitle are—

(1) to establish a national system through which current, accurate information concerning persons who have committed crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to governmental agencies authorized to receive criminal history information; and

(3) to understand the problem of child abuse in the United States by providing statistical data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

SEC. 1444. REPORTING BY THE STATES.

(a) IN GENERAL.—A State criminal history information repository shall report child abuser information to the Federal Bureau of Investigation.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this subtitle.

(2) The guidelines established under paragraph (1) shall require that the State shall ensure that reports of all convictions under the criminal child abuse law of the State are maintained by a State criminal history information repository and reported to the Federal Bureau of Investigation.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual statistical summary of the child abuser information reported under this subtitle.

SEC. 1445. CONDITION ON GRANTS.

Compliance with section 1444 shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

TITLE XV—MISCELLANEOUS DRUG CONTROL

SEC. 1501. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following:

"(b)(1) Whoever, being a physical trainer or adviser to an individual, endeavors to persuade or induce that individual to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both. If such individual has not attained the age of 18

years, the maximum imprisonment shall be 5 years.

"(2) As used in this subsection, the term 'physical trainer or adviser' means any professional or amateur coach, manager, trainer, instructor, or other such person, who provides any athletic or physical instruction, training, advice, assistance, or other such service to any person.".

SEC. 1502. DRUG-FREE PUBLIC HOUSING.

(a) PUBLIC HOUSING.—

(1) IN GENERAL.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(A) so that the heading reads as follows "DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES, OR PUBLIC HOUSING"; and

(B) by striking "or a playground" each place it appears and inserting "a playground, or a public housing project".

(2) The item relating to section 419 in the table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting ", or public housing" after "colleges".

(b) DETERMINATION OF BOUNDARIES AND POSTING OF SIGNS.—Section 5124 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11903) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

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

"(8) with respect only to public housing, the determination by the public housing agency (in consultation with appropriate officials of the applicable local government and law enforcement agencies) of the geographical boundaries of the real property comprising public housing projects of the agency and the posting of signs identifying the property of the projects as drug-free zones.".

(c) NOTIFICATION.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall require each public housing agency to post notices regarding the penalty imposed by the amendment made by subsection (a)(1) in common areas and at other appropriate locations in public housing projects of the agency. The notices shall contain statements—

(A) of the offenses to which the treble penalty (under the amendment made by subsection (a)(1)) applies;

(B) of the date on which the treble penalty takes effect; and

(C) that the treble penalty applies to offenses committed on the property comprising the public housing projects of the agency.

(2) DEFINITIONS.—For purposes of this subsection, the terms "project", "public housing", and "public housing agency" have the meaning given the terms in section 3(b) of the United States Housing Act of 1937.

SEC. 1503. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the words "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,"; and

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)".

SEC. 1504. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"§3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(2) The table of sections at the beginning of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) DRUG TESTING CONDITION FOR PROBATION.—

(1) Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2), by striking out "and";

(B) in paragraph (3), by striking out the period and inserting "; and"; and

(C) by adding after paragraph (3) the following:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of the controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the Court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a drug test result.".

(2) DRUG TESTING FOR SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court), for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(3) DRUG TESTING IN CONNECTION WITH PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(c) REVOCATION OF PAROLE.—Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

SEC. 1505. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

TITLE XVI—FAIRNESS IN DEATH SENTENCING ACT OF 1991

SEC. 1601. SHORT TITLE.

This Act may be cited as the "Fairness in Death Sentencing Act of 1991".

SEC. 1602. AMENDMENT TO TITLE 28.

(a) PROCEDURE.—Part VI of title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.

"3501. Prohibition against the execution of a sentence of death imposed on the basis of race.

"3502. Data on death penalty cases.

"3503. Enforcement of the chapter.

"3504. Construction of chapter.

"§3501. Prohibition against the execution of a sentence of death imposed on the basis of race

"(a) IN GENERAL.—No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed based on race.

"(b) INFERENCE OF RACE AS THE BASIS OF DEATH SENTENCE.—An inference that race was the basis of a death sentence is established if valid evidence is presented demonstrating that, at the time the death sentence was imposed, race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question.

"(c) RELEVANT EVIDENCE.—Evidence relevant to establish an inference that race was the basis of a death sentence may include evidence that death sentences were, at the time pertinent under subsection (b), being imposed significantly more frequently in the jurisdiction in question—

"(1) upon persons of one race than upon persons of another race; or

"(2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

"(d) VALIDITY OF EVIDENCE PRESENTED TO ESTABLISH AN INFERENCE.—If statistical evidence is presented to establish an inference that race was the basis of a sentence of death, the court shall determine the validity of the evidence and if it provides a basis for the inference. Such evidence must take into account, to the extent it is compiled and publicly made available, evidence of the statutory aggravating factors of the crimes involved, and shall include comparisons of similar cases involving persons of different races.

"(e) REBUTTAL.—If an inference that race was the basis of a death sentence is established under subsection (b), the death sentence may not be carried out unless the government rebuts

the inference by a preponderance of the evidence. The government cannot rely on mere assertions that it did not intend to discriminate or that the cases fit the statutory criteria for imposition of the death penalty.

"§3502. Access to data on death eligible cases

"Data collected by public officials concerning factors relevant to the imposition of the death sentence shall be made publicly available.

"§3503. Enforcement of the chapter

"In any proceeding brought under section 2254, the evidence of a prima facie case supporting a claim under this chapter may be presented in an evidentiary hearing and need not be set forth in the petition. Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 2921 shall be presumed to be correct unless—

"(1) the State is in compliance with section 2922;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim; and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§3504. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 3501 of this title.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially Discriminatory Capital Sentencing ..... 3501.".

SEC. 1603. ACTIONS BEFORE ENACTMENT.

No person shall be barred from raising any claim under section 3501 of title 28, United States Code, as added by this Act, on the ground of having failed to raise or to prosecute the same or a similar claim before the enactment of the Act, nor by reason of any adjudication rendered before that enactment.

TITLE XVII—MISCELLANEOUS CRIME CONTROL

Subtitle A—General

SEC. 1701. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) CHAPTER 41 AMENDMENT.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following:

"§880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be fined under this title or imprisoned not more than three years, or both."; and

(2) in the table of sections, by adding at the end the following item:

"880. Receiving the proceeds of extortion.".

(b) SECTION 1202 AMENDMENT.—Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding at the end the following:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be fined under this title or imprisoned not more than ten years, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 1702. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding at the end the following:

"(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be fined under this title or imprisoned not more than ten years, or both.".

SEC. 1703. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.

"521. Criminal street gangs.

"§521. Criminal street gangs

"(a) Whoever, under the circumstances described in subsection (c) of this section, commits an offense described in subsection (b) of this section, shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. Such sentence of imprisonment shall run consecutively to any other sentence imposed.

"(b) The offenses referred to in subsection (a) of this section are—

"(1) any Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act);

"(2) any Federal felony crime of violence;

"(3) any felony violation of the Controlled Substances Act, the Controlled Substances Import and Export Act or the Maritime Drug Law Enforcement Act; or

"(4) a conspiracy to commit any of the offenses described in paragraphs (1) through (3) of this subsection.

"(c) The circumstances referred to in subsection (a) of this section are that the offense described in subsection (b) was committed as a member of, on behalf of, or in association with a criminal street gang and that person has been convicted, within the past 5 years for—

"(1) any offense listed in subsection (b) of this section;

"(2) any State offense—

"(A) involving a controlled substance (as defined in section 102 of the Controlled Substances Act); or

"(B) that is a crime of violence;

for which the maximum penalty is more than 1 year's imprisonment; or

"(3) any Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(4) a conspiracy to commit any of the offenses described in paragraphs (1) through (3) of this subsection.

"(d) For purposes of this section—

"(1) the term 'criminal street gang' means any group, club, organization, or association of 5 or more persons—

"(A) whose members engage or have engaged within the past 5 years, in a continuing series of violations of any offense treated in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following:

"26. Criminal street gangs ..... 521".

SEC. 1704. UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§21. Stolen or counterfeit nature of property for certain crimes defined

"(a) Wherever in this title it is an element of an offense that—

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1705. INCREASED PENALTIES FOR DRUG-DEALING IN "DRUG-FREE" ZONES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking "one year" and inserting "3 years"; and

(2) in subsection (b), by striking "three years" each place it appears and inserting "5 years".

SEC. 1706. F.B.I. ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director, may—

"(1) request the name, address, length of service, and toll billing records of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

SEC. 1707. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended—

(1) by striking "inhabitant of" and inserting "person in"; and

(2) by striking "such inhabitant" and inserting "such person".

SEC. 1708. INCREASED PENALTY FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting in lieu thereof "and thereafter performs or attempts to perform (1) any of the acts specified in paragraphs (1) and (3) shall be fined under this title or imprisoned for not more than five years, or both, or (2) any of the acts specified in paragraph (2) shall be fined under this title or imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 1709. MISUSE OF INITIALS "DEA".

Section 709 of title 18, United States Code, is amended by inserting the following before the paragraph beginning "Shall be punished": "Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

SEC. 1710. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means (1) any Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)), having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 1711. CONFORMING DEFINITION OF "1-YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "the term"; and

(2) by inserting before the period the following: " and (2) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666 of this title.".

SEC. 1712. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

SEC. 1713. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) Whoever, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) In the course of the enforcement of this section and notwithstanding any other provision of law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 1714. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) IN GENERAL.—The Attorney General shall, by contract with an appropriate entity, provide for a national base study to research the incidence of campus sexual assault and explore the adequacy of college and university policies and practices in protecting victims' legal rights, as well as the public interest in prosecuting criminals and preventing future crimes.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include an analysis of—

(1) the number of reported (and estimated number of unreported) allegations of sexual assault occurring on college and university campuses, and to whom the allegations are reported—campus authorities, sexual assault victim service entities, or local criminal authorities;

(2) the number of campus sexual assault allegations reported to campus authorities which are reported to criminal authorities;

(3) the percentage of campus sexual assault allegations compared to noncampus sexual assault allegations which result in eventual criminal prosecution;

(4) State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of campus policies and practices in protecting the legal rights and interests of sexual assault victims and the accused, including consideration of—

(A) practices which might discourage the reporting of sexual assaults to local criminal authorities, or result in any form of obstruction of justice, and thus undermine the public interest in prosecuting perpetrators of sexual assault; and

(B) the ability of campus disciplinary hearings to properly address allegations of sexual assault;

(6) whether colleges and universities take adequate measures to ensure victims are free of unwanted contact with alleged assailants;

(7) why colleges and universities are sued in civil court regarding sexual assaults, the resolution of these cases, and measures that can be taken to prevent future lawsuits;

(8) the different ways in which colleges and universities respond to allegations of sexual assault, including an assessment of which programs work the best;

(9) recommendations to redress concerns raised in this report; and

(10) any other issues or questions the Attorney General deems appropriate to this study.

(c) AUTHORIZATION.—There shall be authorized $200,000 to fund the competitive grant or grants to conduct this study, which shall be awarded to persons or organizations with expertise in the legal aspects of campus violence.

SEC. 1715. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or his designee), in consultation with the Secretary of the Treasury (or his designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by July 1, 1992.

(d) AUTHORIZATION OF FUNDS.—There are authorized to be appropriated for fiscal year 1992 such sums as may be necessary to carry out this section.

SEC. 1716. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States

wherever that term is used in title 18, United States Code.

SEC. 1717. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by inserting after "title" in subsection (a) the phrase "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District", and by inserting the following new subsection (c) at the end thereof:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 1718. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 1719. CRIMINAL PENALTY FOR FAILURE TO OBEY ORDER TO LAND.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§2237. Order to land

"(a)(1) A pilot or operator of an aircraft that has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, who intentionally fails to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act, or section 1956 or 1957 of this title (relating to money laundering), shall be fined under this title, or imprisoned not more than three years, or both.

"(2) The Secretary of the Treasury and the Secretary of Transportation, in consultation with the Attorney General, shall make rules governing the means by which a Federal law enforcement officer may communicate an order to land to a pilot or operator of an aircraft.

"(3) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 or another law the Customs Service enforces or administers, or the authority of a Federal law enforcement officer under a law of the United States to order an aircraft to land.

"(b) A foreign nation may consent or waive objection to the United States enforcing the laws of the United States by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(c) For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, when that nation consents to United States enforcement of United States law; and

"(C) over the high seas, an aircraft without nationality, an aircraft of the United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the United States enforcement of United States law; and

"(2) the term 'Federal law enforcement officer' has the same meaning that term has in section 115 of this title.

"(d) An aircraft that is used in violation of this section is liable in rem for a fine imposed under this section.

"(e) An aircraft that is used in violation of this section may be seized and forfeited. The laws relating to seizure and forfeiture for violation of the customs laws, including available defenses such as innocent owner provisions, apply to aircraft seized or forfeited under this section.

"(f) The Secretary of the Treasury and the Secretary of Transportation may delegate Federal law enforcement officer seizure and forfeiture responsibilities under this section to other law enforcement officers.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land.".

SEC. 1720. CODIFICATION OF EXCEPTION TO EXCLUSIONARY RULE.

Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States if the evidence was obtained in reasonable reliance on a search warrant issued by a detached and neutral magistrate even though the warrant is ultimately determined to be invalid, unless—

(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

(2) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

(3) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.

SEC. 1721. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a)(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d)(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 1722. CLARIFYING AMENDMENT REGARDING SCOPE OF PROHIBITION AGAINST GAMBLING ON SHIPS IN INTERNATIONAL WATERS.

The first paragraph of section 1081 of title 18, United States Code, is amended by adding at the end the following: "Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986).".

SEC. 1723. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 1002, is amended—

(1) in paragraph (21) by striking "and" at the end;

(2) in paragraph (22) by striking the period at the end and inserting "; and"; and

(3) inserting after paragraph (22) the following:

"(23) programs which address the need for effective bindover systems for the prosecution of violent 16- and 17-year olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 922(u) of title 18, United States Code.".

SEC. 1724. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) Section 2245 of title 18, United States Code, is redesignated section 2246.

(b) Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(c) The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking "2245" and inserting in lieu thereof "2246"; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

Subtitle B—Motor Vehicle Theft Prevention

SEC. 1731. SHORT TITLE.

This title may be cited as the "Motor Vehicle Theft Prevention Act".

SEC. 1732. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

SEC. 1733. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever, with intent to further the theft of a vehicle, knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined under this title or imprisoned not more than five years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended by—

(1) striking "and" after the semicolon in subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§ 511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

Subtitle C—Terrorism: Civil Remedy

SEC. 1734. SHORT TITLE.

This subtitle may be cited as the "Antiterrorism Act of 1991".

SEC. 1735. TERRORISM.

(a) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (d) of this section, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332, and striking the heading for section 2332 as so redesignated and inserting the following:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332 as so redesignated the following:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.";

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of international terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§2337. Suits against Government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections at the beginning of the chapter to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(b) TABLE OF CONTENTS.—The table of chapters at the beginning of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals ..... 2331"

and inserting in lieu thereof:

"113A. Terrorism ..... 2331".

(c) EFFECTIVE DATE.—This title and the amendments made by this title shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

(d) CONFORMING REPEAL OF PRIOR CHAPTER 113A.—The amendments made by section 132 of Public Law 101-519, the Military Construction Appropriations Act, 1991, are repealed, effective April 10, 1991.

Subtitle D—Commission on Crime and Violence

SEC. 1741. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the majority leader of the Senate and two of whom shall be appointed on the recommendation of the minority leader of the Senate.

SEC. 1742. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990's. The report shall include an estimated cost for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(5) To make a comprehensive study of the economic and social factors lending to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it.

(6) To recommend means of targeting finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective possible crime control and protection of the community and public safety, with particular emphasis on examining the issue of possible disproportionate incarceration rates among black males and any other minority group disproportionately represented in State and Federal correctional populations, and to consider increased use of alternatives to incarceration which offer a reasonable prospect of equal or better crime control at equal or less cost.

SEC. 1743. COMMISSION MEMBERS.

(a) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(b) COMPOSITION OF MEMBERSHIP.—The Commission members will represent a cross section of professions that include law enforcement, prosecution, criminal defense, judges, corrections, education, medicine, welfare and social services, victims of crime, elected officials from State, local and Federal Government that equally represent both political parties, and representatives of any other discipline with professional expertise in drug or crime reduction.

SEC. 1744. ADMINISTRATIVE PROVISIONS.

(a) FEDERAL AGENCY SUPPORT.—All Federal agencies shall provide such support and assistance as may be necessary for the Commission to carry out its functions.

(b) EXECUTIVE DIRECTOR AND STAFF.—The President is authorized to appoint and compensate an executive director. Subject to such regulations as the Commission may prescribe, staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(c) DETAILED FEDERAL EMPLOYEES.—Upon the request of the chairperson, the heads of executive and military departments are authorized to detail employees to work with the executive director without regard to the provisions of section 3341 of title 5, United States Code.

(d) TEMPORARY AND INTERMITTENT EMPLOYEES.—Subject to rules prescribed by the Commission, the chairperson may procure temporary and intermittent services under section 3108(b)

of title 5, United States Code, but at a rate of base pay not to exceed the annual rate of base pay for GS-18 of the General Schedule.

SEC. 1745. REPORT.

The Commission shall submit a final report to the President and the Congress not later than one year after the appointment of the Chairperson. The report shall include the findings and recommendations of the Commission as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1746. TERMINATION.

The Commission shall terminate 30 days after submitting the report required under section 1745.

TITLE XVIII—MISCELLANEOUS FUNDING PROVISIONS

Subtitle A—General

SEC. 1801. AUTHORIZATION FOR DRUG ENFORCEMENT AGENCY.

There is authorized to be appropriated for fiscal year 1992, for the Drug Enforcement Administration, $100,500,000, which shall include—

(1) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas; and

(2) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(3) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

SEC. 1802. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (7) as redesignated by section 103 of this Act and inserting the following:

"(7) There are authorized to be appropriated such sums as may be necessary for fiscal year 1991 and $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 1803. AVAILABILITY OF THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND FOR CERTAIN BLOCK GRANTS.

Section 524(c) of title 28, United States Code is amended by adding at the end the following:

"(12)(A) In addition to the purposes otherwise provided for in this subsection, the Fund shall be available for the purpose of providing additional amounts for block grants under subpart I of part B of title XIX of the Public Health Service Act.

"(B) Amounts made available under subparagraph (A)—

"(i) may be transferred only from excess unobligated amounts in the Fund and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes under paragraph (1); and

"(ii) shall, with respect to each fiscal year, equal 25 percent of the total of such excess amounts for that fiscal year.

"(C) Amounts made available under this paragraph for block grants referred to subparagraph (A) shall be used to supplement, rather than replace, amounts that would be otherwise available for such block grants.".

SEC. 1804. LIMITATION ON GRANT DISTRIBUTION.

(a) AMENDMENT.—Section 510(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(b)) is amended by inserting "non-Federal" after "with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 1805. AUTHORIZATION FOR BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1992 for the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(1) $25,000,000 to hire, train, and equip no fewer than 500 full-time equivalent border patrol officer positions.

(2) $20,000,000 to hire, train, and equip no fewer than 400 full-time equivalent Immigration and Naturalization Service criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

SEC. 1806. FEDERAL SHARE.

Section 504(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended by striking "not---" and all that follows through "per centum;" the last place it appears, and inserting the following: "not for any fiscal year be expended for more than 75 percent".

SEC. 1807. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Subsection (c) of section 5122 of the Drug-Free Schools and Communities Act of 1986, as amended by section 1504(3) of Public Law 101-647, is amended by inserting "or local governments that work cooperatively with local educational agencies" after "for grants to local educational agencies".

SEC. 1821. DOMESTIC VIOLENCE GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1241, is amended—

(1) by redesignating part W as part X;

(2) by redesignating section 2301 as section 2401; and

(3) by inserting after part Y the following:

"PART W—DOMESTIC VIOLENCE INTERVENTION

"SEC. 2301. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance may make grants to 10 States for the purpose of assisting States in implementing a civil and criminal response to domestic violence.

"SEC. 2302. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to encourage increased prosecutions for domestic violence crimes;

"(2) to report more accurately the incidences of domestic violence;

"(3) to facilitate arrests and aggressive prosecution policies; and

"(4) to provide legal advocacy services for victims of domestic violence.

"SEC. 2303. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—Each application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2302;

"(2) a description of the programs already in place to combat domestic violence;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information, if available, in such form and containing such information that the Director may require regarding domestic violence within that State.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that shall contain—

"(1) a description of the domestic violence problem within the State targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the State to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce domestic violence.

"SEC. 2304. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) STATE MAXIMUM.—No State shall receive more than $2,500,000 under this part for any fiscal year.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2303(c).

"SEC. 2305. AWARD OF GRANTS.

"The Director shall consider the following factors in awarding grants to States and shall give preference to those State which have—

"(1) a law or policy that requires the arrest of a person who police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated a civil protection order;

"(2) a law or policy that discourages dual arrests;

"(3) laws or statewide prosecution policies that authorize and encourage prosecutors to pursue domestic violence cases in which a criminal case can be proved, including proceeding without the active involvement of the victim if necessary;

"(4) statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only one spouse has sought a restraining or protective order;

"(B) require any history of abuse against a child or against a parent to be considered when making child custody determinations; and

"(C) require judicial training on domestic violence and related civil and criminal court issues;

"(5) policies that provide for the coordination of court and legal victim advocacy services; and

"(6) policies that make existing remedies to domestic violence easily available to victims of domestic violence, including elimination of court fees, and the provision for simple court forms.

"SEC. 2306. REPORTS.

"(a) REPORT TO DIRECTOR.—Each State that receives funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2103(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under 2103(b)(4), and an evaluation of programs established under this part.

"SEC. 2307. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'domestic violence' means any act or threatened act of violence, including any forceful detention of an individual, which—

"(A) results or threatens to result in physical injury; and

"(B) is committed by an individual against another individual (including an elderly individual) to whom such individual is or was related by blood or marriage or otherwise legally related or with whom such individual is or was lawfully residing.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1241 of this Act, is amended by striking the matter relating to part W and inserting the following:

"part w—domestic violence intervention

"Sec. 2301. Grant authorization.

"Sec. 2302. Use of funds.

"Sec. 2303. Applications.

"Sec. 2304. Allocation of funds; limitations on grants.

"Sec. 2305. Award of grants.

"Sec. 2306. Reports.

"Sec. 2307. Definitions.

"part x—transition; effective date; repealer

"Sec. 2401. Continuation of rules, authorities, and proceedings.".

SEC. 1822. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1242 of this Act, is amended by adding after paragraph (16) the following:

"(17) There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out the projects under part U.".

Subtitle B—Midnight Basketball

SEC. 1831. GRANTS FOR MIDNIGHT BASKETBALL LEAGUE ANTICRIME PROGRAMS.

(a) AUTHORITY.—The Attorney General of the United States, in consultation with the Secretary of Housing and Urban Development, shall make grants, to the extent that amounts are approved in appropriations Acts under subsection (m) to—

(1) eligible entities to assist such entities in carrying out midnight basketball league programs meeting the requirements of subsection (d); and

(2) eligible advisory entities to provide technical assistance to eligible entities in establishing and operating such midnight basketball league programs.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (2), grants under subsection (a)(1) may be made only to the following eligible entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) for a grant under section 520(a) of such Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally-assisted low-income housing.

(2) PROHIBITION ON SECOND GRANTS.—A grant under subsection (a)(1) may not be made to an eligible entity if the entity has previously received a grant under such subsection, except that the Attorney General may exempt an eligible advisory entity from the prohibition under this paragraph in extraordinary circumstances.

(c) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under subsection (a)(1) may use such amounts only—

(1) to establish or carry out a midnight basketball league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant amount may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d)(9).

(d) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under subsection (a)(1) shall establish a midnight basketball league program as follows:

(1) The program shall establish a basketball league of not less than 8 teams having 10 players each.

(2) Not less than 50 percent of the players in the basketball league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

(A) A substantial problem regarding use or sale of illegal drugs.

(B) A high incidence of crimes committed by youths or young adults.

(C) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

(D) A high incidence of pregnancy or a high birth rate, among adolescents.

(E) A high unemployment rate for youths and young adults.

(F) A high rate of high school drop-outs.

(4) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held immediately following the conclusion of league basketball games at or near the site of the games.

(5) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Attorney General in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee.

(6) Basketball games of the league shall be held between the hours of 10:00 p.m. and 2:00 a.m. at a location in the neighborhood or community served by the program.

(7) The program shall obtain sponsors for each team in the basketball league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

(8) The program shall comply with any criteria established by the Attorney General in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee established under subsection (i).

(9) Administrators or organizers of the program shall receive training and technical assistance provided by eligible advisory entities receiving grants under subsection (h).

(e) GRANT AMOUNT LIMITATIONS.—

(1) PRIVATE CONTRIBUTIONS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, may not make a grant under subsection (a)(1) to an eligible entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Attorney General and the Secretary that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

(A) In each of the first 2 years that amounts from the grant are disbursed (under paragraph (4)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight basketball league program.

(B) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight basketball league program.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under subsection (a)(1)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

(3) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grant amounts under subsection (a)(1) and amounts provided by States and units of general local government to supplement grant amounts may not be used to replace other public funds previously used, or designated for use, under this section.

(4) MAXIMUM AND MINIMUM GRANT AMOUNTS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, may not make a grant under subsection (a)(1) to any single eligible entity in an amount less than $50,000 or exceeding $125,000.

(5) DISBURSEMENT.—Amounts provided under a grant under subsection (a)(1) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

(A) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

(B) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

(f) APPLICATIONS.—To be eligible to receive a grant under subsection (a)(1), an eligible entity shall submit to the Attorney General an application in the form and manner required by the Attorney General (after consultation the Secretary of Housing and Urban Development and with the Advisory Committee), which shall include—

(1) a description of the midnight basketball league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

(2) letters of agreement from service providers to provide training and counseling services required under subsection (d) and a description of such service providers;

(3) letters of agreement providing for facilities for basketball games and counseling, training, and educational services required under subsection (d) and a description of the facilities;

(4) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight basketball league; and

(5) evidence that the neighborhood or community served by the program meets the requirements of subsection (d)(3).

(g) SELECTION.—The Attorney General, in consultation with the Secretary of Housing and Urban Development and the with Advisory Committee, shall select eligible entities that have submitted applications under subsection (f) to

receive grants under subsection (a)(1). The Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight basketball league programs in suburban and rural areas.

(h) TECHNICAL ASSISTANCE GRANTS.—Technical assistance grants under subsection (a)(2) shall be made as follows:

(1) ELIGIBLE ADVISORY ENTITIES.—Technical assistance grants may be made only to entities that—

(A) are experienced and have expertise in establishing, operating, or administering successful and effective programs for midnight basketball and employment, job training, and educational services similar to the programs under subsection (d); and

(B) have provided technical assistance to other entities regarding establishment and operation of such programs.

(2) USE.—Amounts received under technical assistance grants shall be used to establish centers for providing technical assistance to entities receiving grants under subsection (a)(1) of this section and section 520(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(a)) regarding establishment, operation, and administration of effective and successful midnight basketball league programs under this subsection.

(3) NUMBER AND AMOUNT.—To the extent that amounts are provided in appropriations Acts under subsection (m)(2) in each fiscal year, the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make technical assistance grants under subsection (a)(2). In each fiscal year that such amounts are available the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make 2 such grants, as follows:

(A) One grant shall be made to an eligible advisory entity for development of midnight basketball league programs in public housing projects.

(B) One grant shall be made to an eligible advisory entity for development of midnight basketball league programs in suburban or rural areas.

Each grant shall be in an amount not exceeding $50,000.

(i) ADVISORY COMMITTEE.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall appoint an Advisory Committee to assist in providing grants under this subsection. The Advisory Committee shall be composed of not more than 7 members, as follows:

(1) Not fewer than 2 individuals who are involved in managing or administering midnight basketball programs that the Secretary determines have been successful and effective. Such individuals may not be involved in a program assisted under this subsection or a member or employee of an eligible advisory entity that receives a technical assistance grant under subsection (a)(2).

(2) A representative of the Office for Substance Abuse Prevention of the Public Health Service, Department of Health and Human Services, who is involved in administering the grant program for prevention, treatment, and rehabilitation model projects for high risk youth under section 509A of the Public Health Service Act (42 U.S.C. 290aa-8), who shall be selected by the Secretary of Health and Human Services.

(3) A representative of the Department of Education, who shall be selected by the Secretary of Education.

(4) A representative of the Department of Health and Human Services, who shall be selected by the Secretary of Health and Human Services from among officers and employees of the Department involved in issues relating to high-risk youth.

(j) REPORTS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall require each eligible entity receiving a grant under subsection (a)(1) and each eligible advisory entity receiving a grant under subsection (a)(2) to submit for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

(k) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to subsection (m)(3), the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make a grant to one entity qualified to carry out a study under this subsection. The entity shall use such grant amounts to carry out a scientific study of the effectiveness of midnight basketball league programs under subsection (d) of eligible entities receiving grants under subsection (a)(1). The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Attorney General and the Secretary not later than the expiration of the 2-year period beginning on the date that the grant under this subsection is made.

(l) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Committee" means the Advisory Committee established under subsection (i).

(2) The term "eligible advisory entity" means an entity meeting the requirements under subsection (h)(1).

(3) The term "eligible entity" means an entity described under subsection (b)(1).

(4) The term "federally assisted low-income housing" has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) for grants under subsection (a)(1), $2,500,000 in each of fiscal years 1992 and 1993;

(2) for technical assistance grants under subsection (a)(2), $100,000 in each of fiscal years 1992 and 1993; and

(2) for a study grant under subsection (k), $250,000 in fiscal year 1992.

TITLE XIX—MISCELLANEOUS CRIMINAL PROCEDURE AND CORRECTIONS

Subtitle A—Revocation of Probation and Supervised Release

SEC. 1901. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 1902. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 1903. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4);

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 1904. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a

term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

Subtitle B—List of Veniremen

SEC. 1911. LIST OF VENIREMEN.

Section 3432 of title 18, United States Code, is amended to read as follows:

"§3432. Indictment and list of jurors and witnesses for prisoner in capital cases

"(a) A person charged with treason or other capital offense shall, a reasonable time before commencement of trial, be furnished with—

"(1) a copy of the indictment;

"(2) a list of the veniremen, and of the witnesses to be produced on the trial for proving the indictment and at the sentencing hearing, stating the place of abode of each venireman and witness;

"(3) the relevant written or recorded statements of such witnesses, relevant portions of memoranda containing reports of their statements, and copies of documents and opportunity to examine tangible objects that the government intends to use in the trial or sentencing hearing; and

"(4) such other reports, statements, or information as the court may order.

"(b) The list of veniremen and the name and address of a witness or other information identifying a witness need not be furnished under this section if the court finds by the preponderance of the evidence that providing the list or the name or address may jeopardize the life or safety of any person.".

Subtitle C—Immunity

SEC. 1921. IMMUNITY.

Section 6003(b) of title 18, United States Code, is amended—

(1) by striking "or" before "Deputy Assistant Attorney General" and inserting a comma; and

(2) by inserting "or one other officer or employee of the Criminal Division designated by the Attorney General" after "Deputy Assistant Attorney General".

Subtitle D—Clarification of 18 U.S.C. 5032's Requirement That Any Prior Record of a Juvenile Be Produced Before the Commencement of Juvenile Proceedings

SEC. 1931. CLARIFICATION OF 18 U.S.C. 5032's REQUIREMENT THAT ANY PRIOR RECORD OF A JUVENILE BE PRODUCED BEFORE THE COMMENCEMENT OF JUVENILE PROCEEDINGS.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

Subtitle E—Petty Offenses

SEC. 1941. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 1942. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended in subsection (b) by adding "other than a petty offense" after "misdemeanor".

SEC. 1943. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

Subtitle F—Optional Venue for Espionage and Related Offenses

SEC. 1944. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting:

"§3239. Optional venue for espionage and related offenses.

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) CLERICAL AMENDMENT.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offense.".

Subtitle G—General

SEC. 1951. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) SECTION 1705(b).—Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1705(a).—Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(c) SECTION 1541.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "five years".

(d) CHAPTER 75.—Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "ten years".

(e) Section 1545.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "ten years".

SEC. 1952. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than three levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 1953. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following:

"§3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 is amended by inserting below the item for:

"3285. Criminal contempt."

the following:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 1954. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before "or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

SEC. 1955. CRIMINAL HISTORY RECORD INFORMATION FOR THE ENFORCEMENT OF LAWS RELATING TO GAMING.

A State gaming enforcement office located within a State Attorney General's office may obtain from the Interstate Identification Index of the FBI criminal history record information for licensing purposes through an authorized criminal justice agency.

SEC. 1956. PRISON IMPACT ASSESSMENTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4047. Prison impact assessments

"(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated or in Federal penal institutions shall be accompanied by a prison impact statement, as defined in subsection (b) of this section.

"(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 7 days of any request. A prison impact assessment shall include—

"(1) projections of the impact on prison, probation, and post prison supervision populations;

"(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

"(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

"(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

"(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 is amended by adding at the end the following new item:

"4047. Prison impact assessments.".

SEC. 1957. INTERSTATE ENFORCEMENT OF PROTECTION ORDERS.

(a) FULL FAITH AND CREDIT GIVEN TO PROTECTION ORDERS.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the terms of this section if—

(1) such court has jurisdiction over the parties and matter under the law of such State; and

(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

(d) DEFINITIONS.— As used in this section—

(1) the term "spouse or intimate partner" includes—

(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

(2) the term "protection order" includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner; and

(3) the term "State" includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States.

SEC. 1958. SPECIAL RULE FOR CERTAIN HABEAS CORPUS PETITIONS RELATING TO DEATH SENTENCES.

(a) IN GENERAL.—Any existing race bias claim, whether or not previously raised or determined, unless determined on the merits in a Federal habeas corpus proceeding, may be raised in a proceeding commenced under chapter 153 of title 28, United States Code, not later than 1 year after the date of the enactment of this Act and shall be determined on the merits. In determining the merits of that claim, the law in effect at the time of the determination shall apply.

(b) DEFINITION.—As used in this subsection, the term "existing race bias claim" means a claim of race discrimination, or bias on the basis of race—

(1) made by a person seeking relief with respect to a sentence of death imposed before the date of the enactment of this Act; and

(2) based on a Supreme Court decision announced before such date of enactment.

SEC. 1959. NATIONAL INSTITUTE OF JUSTICE STUDY.

(a) FEASIBILITY STUDY.—The National Institute of Justice shall study the feasibility of establishing a clearinghouse to provide information to interested persons to facilitate the transfer of prisoners in State correctional institutions to other such correctional institutions, pursuant to the Interstate Corrections Compact or other applicable interstate compact, for the purpose of allowing prisoners to serve their prison sentences at correctional institutions in close proximity to their families.

(b) REPORT TO CONGRESS.—The National Institute of Justice shall, not later than 1 year after the date of the enactment of this Act, submit to the Committees on the Judiciary of the House of Representatives and the Senate a report containing the results of the study conducted under subsection (a), together with any recommendations the Institute may have on establishing a clearinghouse described in such subsection.

(c) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia and any territory or possession of the United States.

SEC. 1960. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges"and inserting "each side is entitled to 6 peremptory challenges".

TITLE XX—FIREARMS AND RELATED AMENDMENTS

Subtitle A—Firearms and Related Amendments

SEC. 2001. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by striking "and if the firearm is a short-barreled rifle, short-barreled shotgun" and inserting "if the firearm is a semiautomatic firearm, a short-barreled rifle, or a short-barreled shotgun,".

(b) SEMIAUTOMATIC FIREARM.—Section 921(a) of such title is amended by adding at the end the following:

"(29) The term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 2002. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "twenty".

SEC. 2003. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section);

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 2004. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsection added by section 2003 of this Act the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned not less than two nor more than ten years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of such title is amended by adding at the end the following:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce

shall be imprisoned not less than two nor more than ten years, fined in accordance with this title, or both.".

SEC. 2005. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking "(a)(6),"; and

(2) in paragraph (2), by inserting "(a)(6)," after "subsection".

SEC. 2006. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by inserting after and below the end the following:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 2007. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1), by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1), by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

SEC. 2008. ENHANCED PENALTIES FOR USE OF A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25" after "United States,".

SEC. 2009. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) 1 PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2)(A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years" before the period.

(b) 2 PRIOR CONVICTIONS.—Section 924 of such title is amended by adding after the subsections added by sections 2003 and 2004(a) of this Act the following:

"(k)(1) Notwithstanding subsection (a)(2) of this section, any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).".

SEC. 2010. REPORTING OF MULTIPLE FIREARMS SALES.

Section 923(g)(3) of title 18, United States Code, is amended—

(1) by striking "five consecutive business" and inserting "thirty consecutive"; and

(2) by adding at the end the following: "Each licensee shall forward a copy of the report to the chief law enforcement officer of the place of residence of the unlicensed person not later than the close of business on the date that the multiple sale or disposition occurs.".

SEC. 2011. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C), by striking "and";

(2) in paragraph (8)(C), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms.".

SEC. 2012. PROHIBITION AGAINST CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 2003, 2004(a), and 2009(b) of this Act the following:

"(l) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of such title is amended by adding after the subsection added by section 2004(b) of this Act the following:

"(l) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 2013. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 2003, 2004(a), 2009(b), and 2012(a) of this Act the following:

"(m) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of such title is amended by adding after the subsections added by sections 2004(b) and 2012(b) of this Act the following:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 2014. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 2015. COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS REQUIRED BEFORE ISSUANCE OF FEDERAL LICENSE TO DEAL IN FIREARMS.

(a) IN GENERAL.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following:

"(F) in the case of an application for a license to engage in the business of dealing in firearms—

"(i) the applicant has complied with all requirements imposed on persons desiring to engage in such a business by the State and political subdivision thereof in which the applicant conducts or intends to conduct such business; and

"(ii) the application includes a written statement which—

"(I) is signed by the chief of police of the locality, or the sheriff of the county, in which the applicant conducts or intends to conduct such business, the head of the State police of such State, or any official designated by the Secretary; and

"(II) certifies that the information available to the signer of the statement does not indicate that the applicant is ineligible to obtain such a license under the law of such State and locality.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for a license that is issued on or after the date of the enactment of this Act.

SEC. 2016. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 2003, 2004(a), 2009(b), 2012(a), and 2013(a) of this Act the following:

"(n) Whoever, with the intent to engage in conduct which constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 2017. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 2018. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

Subtitle B—Assault Weapons

SEC. 2021. PROHIBITION AGAINST POSSESSION AND TRANSFER OF ASSAULT WEAPONS.

(a) PROHIBITION.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) It shall be unlawful for any person to possess an assault weapon, unless—

"(A) the weapon was lawfully and continuously possessed by the person since before the

date the weapon is included in the list set forth in section 921(a)(30); or

"(B) the weapon was lawfully transferred to the person after the effective date of this subsection.

"(2) It shall be unlawful for any person to transfer an assault weapon, unless—

"(A) the weapon was lawfully and continuously possessed by the person since before the date the weapon is included in the list set forth in section 921(a)(30); and

"(B) the transfer is in accordance with regulations prescribed by the Secretary.".

(b) ASSAULT WEAPON DEFINED.—Section 921(a) of such title is amended by adding after the paragraph added by section 2001(b) of this Act the following:

"(30)(A) The term 'assault weapon' means any of the following weapons, or a copy thereof:

"(i) Action Arms Israeli Military Industries UZI and Galil.

"(ii) Auto Ordnance 27A1 Thompson, 27A5 Thompson, and M1 Thompson.

"(iii) Beretta AR–70 (SC–70).

"(iv) Colt AR–15 and CAR–15.

"(v) Fabrique Nationale FN/FAL, FN/LAR, and FNC.

"(vi) INTRATEC TEC–9.

"(vii) MAC 10 and 11.

"(viii) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs.

"(ix) Springfield BM59, SAR48, and G3SA.

"(x) Steyr AUG.

"(xi) Street Sweeper and Striker 12.

"(xii) All Ruger Mini-14 models with folding stocks.

"(xiii) Armscorp FAL.

"(B) The term 'copy' means, with respect to a weapon specified in subparagraph (A), a weapon, by whatever name known, which embodies the same basic configuration as the weapon so specified.".

(c) AUTHORITY OF THE SECRETARY OF THE TREASURY TO RECOMMEND MODIFICATIONS TO THE LIST OF ASSAULT WEAPONS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§931. Recommendation of modifications to the list of assault weapons

"From time to time, the Secretary, in consultation with the Attorney General, may recommend to the Congress that certain weapons be added to, or removed from, the list set forth in section 921(a)(30).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 44 of such title is amended by adding at the end the following:

"931. Recommendation of modifications to the list of assault weapons.".

(d) PENALTIES.—

(1) UNLAWFUL POSSESSION OR TRANSFER OF ASSAULT WEAPON.—Section 924(a)(1)(B) of such title is amended by striking "or (q)" and inserting "(r), or (s)".

(2) ENHANCED PENALTY FOR POSSESSION OR USE OF ASSAULT WEAPON DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—Section 924(c)(1) of such title, as amended by section 2001(a) of this Act, is amended by inserting "an assault weapon," after "semiautomatic firearm,".

(e) REGULATIONS GOVERNING TRANSFER OF ASSAULT WEAPONS.—

(1) REGULATIONS.—Section 926 of such title is amended by adding at the end the following:

"(d) Within 60 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations governing the transfer of assault weapons, which shall allow such a transfer to proceed within 30 days after the Secretary receives such documentation as the Secretary may require to be submitted with respect to the transfer, and shall include provisions for determining whether the transferee is a person described in section 922(g).".

(2) PENALTY FOR VIOLATION OF REGULATIONS.—Section 924(a) of such title is amended—

(A) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(B) by adding at the end the following:

"(5) Whoever, in violation of a regulation issued under section 926(d), transfers an assault weapon that has been lawfully and continuously possessed by the person since before the date the weapon is included in the list set forth in section 921(a)(30) shall be fined not more than $500.".

Subtitle C—Large Capacity Ammunition Feeding Devices

SEC. 2031. PROHIBITION AGAINST POSSESSION OR TRANSFER OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, is amended by adding after the subsection added by section 2021(a) of this Act the following:

"(t)(1) It shall be unlawful for any person to possess or transfer any large capacity ammunition feeding device.

"(2) Paragraph (1) shall not apply to any otherwise lawful possession or otherwise lawful transfer of a large capacity ammunition feeding device that was lawfully possessed before the date of the enactment of this subsection.".

(b) LARGE CAPACITY AMMUNITION FEEDING DEVICE DEFINED.—Section 921(a) of such title is amended by adding after the paragraphs added by sections 2001(b) and 2021(b) of this Act the following:

"(31)(A) Except as provided in subparagraph (B), the term 'large capacity ammunition feeding device' means—

"(i) a detachable magazine, belt, drum, feed strip, or similar device which has, or which can be readily restored or converted to have, a capacity of more than 7 rounds of ammunition; and

"(ii) any part or combination of parts, designed or intended to convert a detachable magazine, belt, drum, feed strip, or similar device into a device described in clause (i).

"(B) The term 'large capacity ammunition feeding device' does not include any attached tubular device designed to accept and capable of operating with only .22 rimfire caliber ammunition.".

(c) PENALTY.—Section 924(a)(1)(B) of such title, as amended by section 2021(d)(1) of this Act, is amended by striking "or (s)" and inserting "(s), or (t)".

(d) REGULATIONS.—Section 926 of such title is amended by adding after the subsection added by section 2021(e)(1) of this Act the following:

"(e) The Secretary shall promulgate regulations requiring manufacturers of large capacity ammunition feeding devices to stamp each such device manufactured after the date of the enactment of this subsection with a permanent distinguishing mark selected in accordance with regulations.".

TITLE XXI—SPORTS GAMBLING

SEC. 2101. SHORT TITLE.

This title may be referred to as the "Professional and Amateur Sports Protection Act".

SEC. 2102. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) IN GENERAL.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.

"3701. Definitions.

"3702. Unlawful sports gambling.

"3703. Injunctions.

"3704. Applicability.

"§3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, or conducts a competitive game in which one or more amateur athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization that has governmental authority over a geographical area that is under the authority of the Government of the United States,

"(3) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, or conducts a competitive game in which one or more professional athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(4) the term 'person' has the meaning given such term in section 1 of title 1, and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§3702. Unlawful sports gambling

"It shall be unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law, or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

"§3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States, or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of such violation.

"§3704. Applicability

"Section 3702 shall not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a governmental entity, to the extent that the particular scheme was in operation in the period beginning September 1, 1989, and ending August 31, 1990, in such governmental entity pursuant to the law of any governmental entity;

"(2) a commercial casino gaming scheme in operation in a gambling establishment (as defined in section 1081 of title 18), to the extent that the particular commercial casino gaming scheme is—

"(A) described in paragraph (1) with respect to a governmental entity, and

"(B) in operation not later than 2 years after the effective date of this chapter, in a governmental entity in which commercial casino gaming was in operation in such an establishment throughout the 10-year period ending on such effective date pursuant to a comprehensive system of State regulation, or

"(3) parimutuel animal racing.".

(b) CLERICAL AMENDMENTS.—The table of chapters for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure ..... 3001",
and

(2) by adding at the end the following:

"178. Professional and Amateur Sports Protection ..... 3701".

TITLE XXII—TECHNICAL CORRECTIONS

SEC. 2201. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) TESTING CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—(1) Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of",

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)",

(3) in subsection (e) by striking "or (e)" and inserting "or (f)",

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but", and

(ii) by striking "this subsection," and inserting "this subsection", and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking "subsection (a) (1) and (2)" and inserting "paragraphs (1) and (2) of subsection (a)", and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section", and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "paragraph (1) or (3) of section 515(a)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended in paragraph (3) by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in section 1201—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),", and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)",

(ii) by striking "personal", and

(iii) in the first proviso by striking "section" and inserting "subsection", and

(2) in section 1204(3) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant",

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications", and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) by striking "crime,," and inserting "crime,",

(2) in section 302(c)(19) by striking a period at the end and inserting a semicolon,

(3) in section 602(a)(1) by striking "chapter 315" and inserting "chapter 319",

(4) in section 603(a)(6) by striking "605" and inserting "606",

(5) in section 605 by striking "this section" and inserting "this part",

(6) in section 606(b) by striking "and Statistics" and inserting "Statistics",

(7) in section 801(b)—

(A) by striking "parts D," and inserting "parts",

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E",

(C) by striking "403(a)" and inserting "501", and

(D) by striking "403" and inserting "503",

(8) in the first sentence of section 802(b) by striking "part D," and inserting "subpart 1 of part E or under part",

(9) in the second sentence of section 804(b) by striking "Prevention or" and inserting "Prevention, or",

(10) in section 808 by striking "408, 1308," and inserting "507",

(11) in section 809(c)(2)(H) by striking "805" and inserting "804",

(12) in section 811(e) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance",

(13) in section 901(a)(3) by striking "and," and inserting ", and",

(14) in section 1001(c) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 2202. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031(g)(2) of title 18, United States Code, is amended by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions" in lieu thereof.

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma which follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293 of title 18, United States Code, is amended by striking "1008,".

(f) ELIMINATION OF DUPLICATE SUBSECTION DESIGNATION.—Section 1031 of title 18, United States Code, is amended by redesignating the second subsection (g) as subsection (h).

(g) CLERICAL AMENDMENT TO PART I TABLE OF CHAPTERS.—The item relating to chapter 33 in the table of chapters for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

SEC. 2203. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) Section 1791(b) of title 18, United States Code, is amended by striking "(c)" wherever it appears and inserting in lieu thereof "(d)".

(b) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting in lieu thereof "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting in lieu thereof "section 3127(2)(A)".

(d) Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the 4th paragraph relating to the definition of the term "State" as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

(f) Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting in lieu thereof "subsection (c)(1)".

(g)(1) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(2) Section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting in lieu thereof "951(c)(2)".

SEC. 2204. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by striking the seventh and thirteenth paragraphs;

(4) in section 711, by striking the second paragraph;

(5) by striking section 754, and amending the table of sections for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160, by striking "white person" and inserting "non-Indian";

(10) in section 1698, by striking the second paragraph;

(11) by striking sections 1904 and 1908, and amending the table of sections for chapter 93 by striking the items relating to such sections;

(12) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391, and amending the table of sections for chapters 105 and 115, respectively, by striking the items relating to such sections;

(14) in section 2257 by striking the subsections (f) and (g) that were enacted by Public Law 100-690;

(15) in section 3113, by striking the third paragraph; and

(16) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 2205. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended, in subsection (a)(3), by striking "issuer" and inserting in lieu thereof "domestic concern".

SEC. 2206. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 2207. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 2208. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(2) in section 1956(e), by striking "Evironmental" and inserting in lieu thereof "Environmental";

(3) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d); and

(4) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph.

TITLE XXIII—DEATH PENALTY PROCEDURES

SEC. 2301. DEATH PENALTY PROCEDURES.

(a) TITLE 18 AMENDMENT.—Title 18, United States Code, is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3596A. Special provisions for Indian country.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c)(2) of this title;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act, committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) of that section or twice the gross receipts described in subsection (b)(2)(B) of that section;

"(4) an offense constituting a felony violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, or the Maritime Drug Law Enforcement Act where the defendant knowingly or intentionally causes the death of another individual in the course of the violation or from the use of the controlled substance involved in the violation;

"(5) an offense under section 922(u) of this title (relating to drive-by shooting);

"(6) an offense under section 36, 2280, 2281, 2332, 2339, or 2340A of this title, or section 902(i) or 902(n) of the Federal Aviation Act of 1958 in which the defendant, as determined beyond a reasonable doubt at a sentencing proceeding under this chapter, intentionally, knowingly, or with reckless disregard for human life, caused the death of another individual; or

"(7) any other offense—

"(A) for which a sentence of death is provided by law; and

"(B) in which the defendant, as determined beyond a reasonable doubt at a sentencing proceeding under this chapter, intentionally or knowingly caused the death of another individual,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified. However, no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORESEEABILITY.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) YOUTH.—The defendant was youthful, although not under the age of 18.

"(6) PRIOR RECORD.—The defendant did not have a significant prior criminal record.

"(7) MENTAL OR EMOTIONAL DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(8) PUNISHMENT OF OTHERS EQUALLY CULPABLE.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(9) CONSENT OF VICTIM.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591(2) or (5) through (7), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n) (aircraft piracy)), unless the above-listed offense is the offense for which the death penalty is being sought.

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to es-

cape apprehension used a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value, unless this is an element of the offense.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value, unless this is an element of the offense.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity, and the defendant was or should have been aware of that old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3) or (4), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court shall permit the attorney for the Government to amend the notice upon a showing of good cause a reasonable time before the sentencing phase of the trial begins.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information

relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (2) or (5)–(7), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3) or (4), an aggravating factor required to be considered under section 3592(d) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it is never required to impose a death sentence and that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for appeal or reflected in the record;

it shall affirm the sentence, provided that if any reviewing court determines that any aggravating factor was not supported by the evidence or is not a proper aggravating factor, the sentence shall be affirmed if the court finds that a remaining aggravating factor found to exist is one allowed under section 3592 and that the remaining aggravating factor or factors found to exist substantially outweigh any mitigating factors found to exist.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant, or upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, the United States Marshals Service, or the United States Department of Justice, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section or to participate in the prosecution or appeal of any capital case if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3596A. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this section shall govern the appointment of counsel for any defendant or applicant against whom a sentence of death may be sought, or on whom a sentence of death has been imposed, for an offense against the United States, and for any defendant or applicant seeking to vacate or set aside a death sentence in a proceeding under section 2254 or 2255 of title 28, United States Code, where the defendant or applicant is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services. Such a defendant or applicant shall be entitled

to appointment of counsel and the furnishing of such other services in accordance with subsections (b) through (g).

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant or applicant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005 of this title. Each counsel so appointed shall continue to represent the defendant or applicant through every subsequent stage of available judicial proceedings, unless replaced by the court with similarly qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment of a Federal court imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within ten days of receipt of such notice, the district court shall proceed to make a determination whether the defendant or applicant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing one or more counsel to represent the defendant or applicant upon a finding that the defendant or applicant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant or applicant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant or applicant is financially able to obtain adequate representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant or applicant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to practice in the court of appeals for at least five years and have at least three years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant or applicant, with due consideration of the seriousness of the penalty and the unique and complex nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(f) ANCILLARY SERVICES.—Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant or applicant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's or applicant's attorneys to obtain such services on behalf of the defendant or applicant and shall order the payment of fees and expenses therefore, under subsection (g). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

"(g) RATE OF COMPENSATION.—Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (f), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of subsections (b) through (f).

"(h) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral Attack on Judgment Imposing Sentence of Death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which sentence of death has been imposed, and the judgment has become final as described in section 3598(c) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within one year of the issuance of the order relating to appointment of counsel under section 3598(c) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding sixty days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was (A) the result of governmental action in violation of the Constitution of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed or in the validity of the sentence under Federal law.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death penalty procedures ..... 3591.".

(c) VOIR DIRE.—Rule 24(a) of the Federal Rules of Criminal Procedure is amended by adding at the end thereof the following: "In death penalty cases, the court shall permit the defendant or his attorney and the attorney for the Government to conduct direct, oral examination of any of the prospective jurors.".

TITLE XXIV—DEATH PENALTY

SEC. 2401. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 2402. DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking "to the death penalty" and all that follows through the end of the section, and inserting "to imprisonment for life. If the death results from an intentional killing, the defendant may be sentenced to the death penalty.".

SEC. 2403. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

SEC. 2404. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 2405. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18 of the United States Code is amended by striking "as provided in section 34 of this title".

SEC. 2406. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18 of the United States Code is amended by striking "as provided in section 34 of this title".

SEC. 2407. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 2408. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18 of the United States Code is amended by striking "any such person

who is found guilty of murder in the first degree shall be sentenced to imprisonment for life".

SEC. 2409. MURDER BY FEDERAL PRISONER.

Chapter 51 of title 18 of the United States Code, as amended by section 1713 of this Act, is amended—

(1) by adding at the end thereof the following:

"§ 1119. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death."; and

(2) by adding at the end of the table of sections at the beginning of such chapter the following:

"1119. Murder by a Federal prisoner.".

SEC. 2410. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 2411. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 2412. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows to the period at the end of the paragraph.

SEC. 2413. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished—

"(1) by imprisonment for any term of years or for life, or

"(2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in serious bodily injury to the President (as defined in section 1365 of this title) or comes dangerously close to causing the death of the President.".

SEC. 2414. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 2415. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 2416. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows before the period at the end of that second to last paragraph.

SEC. 2417. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof "or if death results shall be punished by death or life imprisonment".

SEC. 2418. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18, United States Code, as so redesignated by section 1735 of this Act, is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a) of this title, or if the killing is the result of conduct that constitutes a reckless disregard of human life, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 2419. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

(a) IN GENERAL.—Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1473), is amended by striking subsection (c).

(b) CLERICAL AMENDMENT.—The table of contents for the Federal Aviation Act of 1958 is amended by striking the item relating to subsection (c) of section 903.

SEC. 2420. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18 of the United States Code is amended by striking "a fine of not more than $1,000,000 and imprisonment for life;" and inserting in lieu thereof "by death or imprisonment for life, or a fine of not more than $1,000,000, or both;".

SEC. 2421. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting in lieu thereof "punished as provided in subsection (b).";

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting in lieu thereof "magistrate judge".

SEC. 2422. PROHIBITION OF KILLINGS IN RETALIATION AGAINST WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

SEC. 2423. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114 of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

SEC. 2424. DEATH PENALTY FOR THE MURDER OF PERSONS AIDING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 2409 of this Act, is amended by adding at the end the following:

"§ 1120. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while the assistance is being rendered and because of it,

shall be punished as provided in sections 1111 and 1112 of title 18, United States Code. Whoever attempts to commit such a killing shall be punished as provided in section 1113.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1120. Killing persons aiding Federal investigations.".

SEC. 2425. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking paragraph (3); and

(2) redesignating paragraph (4) as paragraph (3).

SEC. 2426. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§2340. Definitions

"As used in this chapter—

"(1) the term 'torture' means an act committed by a person, acting under color of law, specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within the custody or physical control of the actor;

"(2) the term 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) the term 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958.

"§2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, without regard to the nationality of the victim or the alleged offender.

"§2340B. Exclusive remedies

"Nothing in this chapter precludes the application of State or local laws on the same subject, nor shall anything in this chapter create any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113B the following new item:

"113B. Torture ..... 2340".

SEC. 2427. WEAPONS OF MASS DESTRUCTION.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following:

"§2339. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction against—

"(1) a national of the United States while such national is outside of the United States;

"(2) any person within the United States; or

"(3) any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(A) any destructive device as defined in section 921 of this title;

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by adding at the end the following:

"2339. Use of weapons of mass destruction.".

SEC. 2428. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f) and (g) as subsections (d), (e), (f), (g), and (h) respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)"; and

(3) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

SEC. 2429. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 2430. INTENTIONALLY KILLING A FEDERAL WITNESS IN THE WITNESS PROTECTION PROGRAM.

Section 1512 of title 18, United States Code, is amended—

(1) by inserting after subsection (c) the following:

"(d) Whoever violates this section by intentionally killing an individual provided protection under section 3521 of this title shall be subject to the death penalty."; and

(2) by redesignating subsections (d) through (h) as subsections (e) through (i).

SEC. 2431. DRIVE-BY SHOOTINGS.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding after the subsections added by sections 2021(a) and 2031(a) of this Act the following:

"(u) It shall be unlawful for any person knowingly—

"(1) to discharge a firearm from within a motor vehicle; and

"(2) thereby create a grave risk to human life.".

(b) PENALTY.—Section 924(a) of such title is amended by adding after the paragraph added by section 2021(e)(2)(B) of this Act the following:

"(6) Whoever knowingly violates section 922(u) shall be fined under this title or imprisoned not more than 25 years, or both, and if death results from conduct prohibited by that section, shall be punished by death or imprisonment for life or any term of years.".

SEC. 2432. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

The CHAIRMAN. No amendment to said substitute, as modified, is in order except those amendments printed in part 2 of House Report 102–253. Said amendments shall be considered in the order and manner specified in said report and shall be considered as read. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Said amendments shall not be subject to amendment, except as specified in House Report 102–253. Where House Report 102–253 specifies consideration of amendments en bloc, said amendments shall be so considered and shall not be subject to a demand for a division of the question.

It is in order at any time for the chairman of the Committee on the Judiciary to offer amendments en bloc consisting of amendments, and modifications in the text of any amendments which are germane thereto, printed in part 2 of House Report 102–253. Said amendments en bloc shall be considered as read and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc. Said amendments en bloc shall not be subject to amendment or to a demand for a division of the question.

If amendments numbered 9 and 10 printed in part 2 of House Report 102–253 are both adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House.

The Chair will announce the number of the amendment made in order by House Resolution 247 in order to give notice to the Committee of the Whole as to the order of recognition.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 102–253.

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SENSENBRENNER. Mr. Chairman, with respect to the amendments en bloc made in order if offered by the chairman of the committee, the gentleman from Texas [Mr. BROOKS], would a reservation of a point of order against germaneness lie at the time the gentleman offered that amendment?

The CHAIRMAN. The gentleman is correct.

Mr. SENSENBRENNER. I thank the Chair.

AMENDMENTS EN BLOC OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer amendments en bloc made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments en bloc offered by Mr. STAGGERS: Page 251, strike line 17 and all that follows through line 19 on page 282.

Page 283, line 7, strike "the death penalty" and insert "life imprisonment without the possibility of release".

Page 283, strike line 8 and all that follows through line 22 and insert the following:

SEC. 2403. ESPIONAGE.

Section 794(a) of title 18 is amended by adding at the end the following: "Such person shall be punished by life in prison without the possibility of release if the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

Page 284, line 23, strike "death or by imprisonment for life" and insert "imprisonment for life without the possibility of release".

Page 285, line 15, strike "death or".

Page 286, beginning in line 9, strike "death or life imprisonment" and insert "imprisonment for life without the possibility of release".

Page 286, beginning in line 15, strike "death or life imprisonment" and insert "imprisonment for life without the possibility of release".

Page 287, line 10, strike "death or imprisonment for any term of years or for life" and insert "imprisonment for life without the possibility of release".

Page 287, beginning in line 22, strike "death or life imprisonment" and insert "imprisonment for life without the possibility of release".

Page 288, line 6, strike "death or life imprisonment" and insert "imprisonment for life without the possibility of release".

Page 288, beginning in line 22, strike "death or life imprisonment" and insert "imprisonment for life without the possibility of release".

Page 289, beginning on line 9, strike "death or imprisonment for any term of years or for life" and insert "imprisonment for life without the possibility of release".

Page 289, line 25, strike "death or imprisonment for life" and insert "imprisonment for life without the possibility of release".

Page 292, line 6, strike "death or life imprisonment".

Page 295, beginning in line 11, strike "death or imprisoned for any term of years or for life" and insert "imprisonment for life without the possibility of release".

Page 296, beginning in line 18, strike "death or imprisoned for any term of years or for life" and insert "imprisonment for life without the possibility of release".

Page 298, beginning in line 3, strike "death or imprisoned for any term of years or for life" and insert "imprisonment for life without the possibility of release".

Page 298, in each of lines 14, 18, and 22, and on page 299, line 2, strike "death" each place it appears and insert "imprisonment for life without the possibility of release".

Page 299, line 11, strike "the death penalty" and insert "imprisonment for life without the possibility of release".

Page 300, beginning in line 4, strike "death or imprisoned for life or any term of years" and insert "imprisonment for life without the possibility of release".

Page 300, after line 11, insert the following:

SEC. 2433. RESTITUTION.

Section 3663 of title 18, United States Code, is amended by adding at the end the following:

"(i) Notwithstanding any other provision of law, any defendant sentenced to life imprisonment with possibility of release shall be ordered to pay restitution, which shall include not less than 50 percent of any income received, directly or indirectly, during imprisonment, and which shall be paid to the family or the estate of the victim of the crime for which the defendant is sentenced, unless the victim was engaged in criminal activity at the time of the crime for which the defendant is sentenced. In the event that a defendant is sentenced for the death of more than one victim, the amounts paid to the families or the estates of the victims shall be apportioned by the court.".

The CHAIRMAN. Under the rule, the gentleman from West Virginia [Mr. STAGGERS] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I am opposed to the Staggers amendment.

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, my amendment is an alternative to the death penalty. My amendment is life without release. It is not a simple life sentence. It is life without release. Mine is mandatory, where the death sentence is often or is an option, and it is in an arbitrary manner.

Mine would call for restitution to the victim's family by the criminal who would perpetrate that crime.

I oppose the death penalty, and that is why I am offering what I think is a tough, fair and cost-effective alternative to capital punishment. I oppose capital punishment for a variety of reasons. It does not deter crime. Studies have shown that the critical factor in deterring crime is certainty of punishment, not severity of punishment. Mine is mandatory, so mine is certain.

Capital punishment is imposed, as I said, in an arbitrary manner. The same crime, two different individuals, and you have two different sentences. It is not a consistent type of punishment, so there is always that chance in the criminal's mind that he will get off.

Life imprisonment, as I said earlier, also is a cost-effective alternative. It is less expensive because of the super due process requirement in capital trials to keep a prisoner in prison for his life, as opposed to executing him.

Also there will be those who say that public opinion demands that we have capital punishment, but actually if you ask the public which they would prefer, capital punishment or life without release with the assurance that the criminal would not get out, they would opt for the latter as opposed to the former, so I present an alternative.

The concern in the public mind is protection from the criminal. Mine provides that protection.

Life without release constitutes death by incarceration. In fact if you look at what the criminal mind is thinking, there was a survey of the inmates on death row in Tennessee. Half of those awaiting death responded that a sentence of life without release would be worse in their minds than the death penalty.

Mine is an alternative. I would hope that people will take it seriously and look at being a tough, certain penalty, as opposed to an arbitrary uncertain penalty.

If you want to be tough on crime, vote to protect society through incarceration, not execution, and support my amendment.

Mr. Chairman, my colleagues, today you will have the opportunity to vote for a tough, fair, and cost-effective alternative to capital punishment.

In every instance where the bill now would call for the death penalty as an option, my amendment would provide for a mandatory life sentence without release. Moreover, my amendment would require that the offender pay restitution to the victim's family.

Let me make it clear that this amendment would provide for mandatory life imprisonment without release, where the criminal would spend the rest of his or her life incarcerated. It is not simply a life sentence which we all know allows for possible release. Society would be just as protected as if the death penalty were imposed, because the criminal would remain behind bars and off the streets.

I am an opponent of capital punishment for a variety of reasons, but I do believe in tough and certain penalties for criminals. Studies show that the critical factor in deterring crime is certainty of punishment, not severity. My amendment offers this certainty of punishment through its mandatory feature. The death penalty in the bill is only an option and therefore is by no means certain.

Capital punishment is imposed in an arbitrary manner. For the same crime, one person

is sentenced to death, while another is not. In such a system, there can be no consistency nor fairness.

The fallibility of human judgment is one of the most compelling reasons to oppose the death penalty. It simply does not allow for human error. The history of capital punishment in this country is replete with executions and near-executions of the innocent. The irrevocability and finality of the death penalty stands in stark contrast to any other form of punishment.

Life imprisonment is the cost-efficient alternative to capital punishment. It is less expensive to impose a sentence of life without release than to sentence someone to death. Studies have shown that the super due process required in a capital trial is more costly than a trial where life imprisonment is imposed.

While much has been made of public support for the death penalty, several recent surveys show that this support is fleeting when respondents are presented an option of long-term imprisonment. Surveys conducted in West Virginia, California, New York, Nebraska, and Virginia all revealed a public preference for life without parole, plus restitution over the death penalty.

All of these surveys point to the real concern of Americans over violent crime—protection. Life imprisonment without release provides this protection to society by keeping the criminals behind bars and off the streets without any of the problems inherent in capital punishment.

I would also argue that a sentence of life without release is a worse sentence than death because it is tantamount to death by incarceration. Indeed, in a recent survey of Tennessee death row inmates, half of those awaiting death responded that a sentence of life without release would be worse.

I believe the mass execution of criminals by the State is morally wrong, it cheapens the sanctity of life which our Nation should preserve, not destroy. If you want to be tough on crime, vote to protect society through incarceration not execution vote in favor of the Staggers amendment.

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

Mr. Chairman, the gentleman from West Virginia, as he usually is, is accurate in describing his amendment. His amendment is one that is philosophically opposed to the death penalty in all circumstances, including the assassination of the President, airline hijacking where a death results, acts of political terrorism, drug kingpins, who murder people, and the like. It goes directly against the thrust of both the democratic version of the bill, as well as the amendments to be offered by my colleague, the gentleman from Pennsylvania [Mr. GEKAS] relative to the death penalty.

□ 1700

Let me make this perfectly clear: If you are opposed to the death penalty under any and all circumstances, vote in favor of the Staggers amendment because that is the intellectually honest position for those who are opposed to the death penalty, in any case, to take.

However, if you believe that the death penalty does have a use in certain circumstances where not only a terrible crime has been committed but the jury that sat in judgment of the defendant reaches the conclusion based upon his demeanor and listening to all of the evidence in court that the death penalty is warranted, it would allow them to vote in favor of putting that defendant, whom they have convicted to death.

So I would very strongly encourage people to vote "no" because the death penalty, in my opinion, serves as a useful deterrent.

Mr. Chairman, when we debated an identical amendment last year in the context of the crime bill, it was defeated in the House by a vote of 103 to 322. I would urge my colleagues to be consistent with that vote and to vote down the Staggers amendment.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from West Virginia for yielding to me this time.

I compliment the gentleman on his excellent amendment and I hope it is overwhelmingly approved.

Mr. Chairman, there are 36 States that have the death penalty in America and 14 which do not. And, believe it or not, the 36 who have the death penalty have generally a higher murder rate than the 14 who do not have the death penalty, which is a very good proof or strong evidence that the death penalty is not a deterrent.

Now, the amendment of the gentleman from West Virginia provides not at all that the murderer is on the street; the sentence must be life imprisonment without the possibility of parole. And he adds in the amendment restitution for the victim's family, provision for that, which is really very important.

As the gentleman from West Virginia [Mr. STAGGERS] pointed out, Mr. Chairman, all of the polls indicate that although people might very well be for the death penalty, if offered the alternative of life imprisonment without possibility of parole instead of the death penalty, a sizable majority would select life imprisonment without the possibility of release.

So, Mr. Chairman, I again congratulate the gentleman from West Virginia on his amendment and hope that it is approved.

Mr. SENSENBRENNER. Mr. Chairman, in the spirit of bipartisan cooperation, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, that is just because the gentleman from Wisconsin knows that I am against this amendment.

Mr. Chairman, I accept the generosity of my distinguished friend, the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Chairman, I must rise in opposition to the amendment offered by the gentleman from West Virginia.

This amendment would strike the death penalty provisions of the bill reported by the committee and substitute provisions requiring mandatory life imprisonment without possibility of release. The amendment also includes provisions requiring defendants so sentenced to pay restitution to the families or estates of their victims.

I want to emphasize that I have tremendous respect for my friend from West Virginia, as I did for his distinguished father. He is a hard-working and conscientious member of the Judiciary Committee whom we all greatly admire. I know this proposal reflects his deeply held personal views on this most sensitive of public policy questions. Nevertheless, I must oppose this amendment.

As I have stated in the past, certain crimes are so despicable—so heinous—that those who commit them must rightly pay with their lives. A society cannot send out mixed or ambiguous signals about how certain despicable acts will be treated. The committee bill reflects this philosophy, and I believe it should be preserved. I urge my colleagues on both sides of the aisle to oppose this amendment.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SERRANO].

Mr. SERRANO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Staggers amendment. I believe that it is a fair and honest approach to deal with a very serious problem. I represent south Bronx in New York, and this is an issue that is discussed on a daily basis. Yet nothing in the community has shown yet that a death penalty would be a deterrent to crime, that a death penalty would be in fact something that would deter people from committing these crimes that they commit all the time.

The Staggers amendment, however, speaks to something that those who support the death penalty refuse to deal with, and that is: mandatory imprisonment, life imprisonment without release, without parole.

Mr. Chairman, I submit to you that if we really took the time to study this issue, if we really took the time to really look at what makes people rethink their attitude, the possibility of spending the rest of your natural life in prison would be, for many people, a true deterrent.

Some of the people, unfortunately, that I grew up with were not troubled by the thought of dying; that is how they live in some of these communities. They live with death as part of their daily existence. And yet the

thought of spending their natural life in prison would, I think, in my opinion, be a justified, a proper and a dignified way of dealing with this problem.

After all, is not the idea to try to show society that we are better than a person who commits a crime? Yet how do we answer? "You kill someone, we are going to lower ourselves to your level, we are going to kill you."

Mr. Chairman, I submit to you that the Staggers amendment really affects this.

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

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], the distinguished chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Chairman, I rise in strong support of the Staggers amendment. It would substitute life in prison without possibility of release for the death penalties included in the bill.

I support this substitute amendment, and strongly oppose the death penalty provisions included in the bill. Once again, it looks like we are playing the game of who can be tougher. How many death penalty offenses can we dream up so that our death penalty is bigger than their death penalty.

Many of these offenses will never happen—attempting to kidnap the President, assassination of a Supreme Court Justice. Others, however, are more troubling. The bill includes the death penalty for drive-by shootings. I cannot imagine a Federal interest in these shootings, except to make us look tougher than the other guys.

Drug kingpins? There doesn't even have to be a body, let alone a direct connection to a homicide. This provision is counterproductive. It will tie up cases for years on constitutional grounds and will block the extradition of criminals to stand trial here. And as anyone watching the Noriega trial knows, drug kingpins don't get tough sentences—they get witness fees and protection in exchange for testimony.

In short, Mr. Chairman, these death penalty provisions have no place in this bill. By including them we are playing politics with crime in the worst way.

Let me just make clear what all of us already know about the death penalty.

The death penalty does not deter crime. Anyone who argues that those involved in drive-by shootings would be dissuaded by the death penalty ignores the constant threat of death and violence that these people live under every day.

The death penalty is imposed in an arbitrary manner, dependent on the prosecutor and frequently with racial disparity.

It does not allow for error.

It is expensive and time consuming.

There are not rational arguments in favor of the death penalty.

In sum, the death penalty is unacceptable in a civilized society. I urge my colleagues to reject the death penalty provisions in this bill and to support the Staggers amendment.

□ 1710

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the usually brilliant gentleman from New York [Mr. SCHUMER]. On this issue I think it may be wrong thinking.

Mr. SCHUMER. Mr. Chairman, I rise in opposition to my friend from West Virginia's amendment to strike the authorization for the death sentence and replace it with mandatory terms of life imprisonment. Although I respect the principles and convictions that are motivating him, I must disagree with him.

I support the death penalty. I do believe that for some of the very worst offenses the death penalty is an appropriate form of retributive punishment and may indeed be necessary to ensure that justice is done. In some cases it may also act as a deterrent.

I have looked carefully at this issue since becoming chairman of the Subcommittee on Crime and Criminal Justice, held hearings, and crafted a bill that I think covers those very worst Federal crimes while not mindlessly and needlessly expanding the scope across the board to every conceivable offense. The death penalty is not a panacea—standing alone it certainly will not solve the crime problem—but in certain cases it is totally justified.

So, although I understand that reasonable, well-intentioned people who support law enforcement and are anticrime can and do disagree, I am in favor of the death penalty and therefore must oppose the amendment.

Mr. STAGGERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, once again let me tell my colleagues that this is an alternative. I believe it is a tough, fair, cost-effective alternative. It is mandatory, as opposed to the arbitrary option that the death penalty is. It is not simply life sentence; it is life without release. There is restitution to the victim's family. It does protect society; that is what society wants.

Mr. Chairman, this is an alternative we need, and I would urge a "yes" vote.

Mr. WEISS. Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from West Virginia. In my more than 25 years of public service as a district attorney, city councilman, and Member of Congress I have witnessed, firsthand, the devastating spread of crime. I understand the need to deal aggressively with crime, and I understand the need to provide tough law enforcement protection.

The death penalty, however, is not the answer. It does nothing to reduce crime; what it does do, is enable its supporters to sound tough on crime while avoiding action on the causes of crime. If we are serious about reducing crime, then we must address the varied social and economic problems that are at its root. By supporting the Staggers amendment we can act tough while still showing compassion and respect for the dignity of human life.

At a time when the United States stands nearly alone in the Western World in its use of the death penalty, I am amazed that our debate is not over the elimination of the death penalty, but rather over its expansion. H.R. 3371 would expand the death penalty to 50 additional offenses. Do any of my colleagues really believe that by expanding the number of offenses punishable by death, crime will be reduced? By focusing so intensely on the death penalty, our attention is diverted from the important issues which we must address.

The Staggers amendment replaces the death penalty with a mandatory life sentence without parole. In addition, it provides for financial restitution for the families of the victims. This amendment is tough on criminals. It allows us to put aside the death penalty rhetoric and show our respect for the dignity of human life.

Mr. Chairman, it is my strong belief that there is no place for capital punishment in a democratic society. I urge my colleagues to show respect for human life and support the Staggers amendment.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from West Virginia [Mr. STAGGERS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 101, noes 322, not voting 10, as follows:

[Roll No. 311]

AYES—101

Abercrombie	Jacobs	Penny
Ackerman	Jefferson	Peterson (MN)
Andrews (ME)	Jontz	Rahall
AuCoin	Kildee	Rangel
Berman	Kleczka	Roybal
Bonior	Klug	Sabo
Brown	Kopetski	Sanders
Clay	Kostmayer	Sawyer
Collins (IL)	LaFalce	Scheuer
Collins (MI)	Lehman (FL)	Serrano
Conyers	Levin (MI)	Sharp
Cox (IL)	Lewis (GA)	Shays
DeFazio	Lowey (NY)	Skaggs
Dellums	Markey	Slaughter (NY)
Dixon	McCloskey	Smith (IA)
Dorgan (ND)	McDermott	Smith (NJ)
Downey	McHugh	Staggers
Edwards (CA)	McNulty	Stark
Engel	Mfume	Stokes
Evans	Miller (CA)	Studds
Fazio	Mineta	Swift
Feighan	Mink	Towns
Flake	Mollohan	Unsoeld
Foglietta	Moody	Vento
Ford (MI)	Mrazek	Visclosky
Ford (TN)	Nagle	Washington
Frank (MA)	Neal (MA)	Waters
Gejdenson	Oberstar	Weber
Goodling	Obey	Weiss
Hamilton	Olin	Wheat
Hayes (IL)	Olver	Wise
Hertel	Owens (NY)	Wolpe
Hochbrueckner	Payne (NJ)	Yates
Hoyer	Pelosi	

NOES—322

Alexander
Allard
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Ewing
Fascell
Fawell
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Horn
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levine (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Manton
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Natcher
Nichols
Nowak
Nussle
Oakar
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Shaw
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Williams
Wilson
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Callahan
Carr
Dymally
Holloway
Hopkins
Lewis (CA)
Neal (NC)
Savage
Slaughter (VA)
Waxman

□ 1733

The Clerk announced the following pair:

On this vote:

Mr. Waxman for, with Mr. Lewis of California against.

Mr. DWYER of New Jersey and Mr. LENT changed their vote from "aye" to "no."

Mrs. COLLINS of Illinois, Messrs. HAYES of Illinois, TOWNS, and JEFFERSON, and Ms. PELOSI changed their vote from "no" to "aye".

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will announce its intention to adhere as closely as possible to a 15-minute minimum for votes. The committee has a great deal of business to complete on this bill, and asks for the cooperation of all Members so that we may complete our business as efficiently as possible.

It is now in order to consider amendment 2 printed in part 2 of House Report 101-253.

AMENDMENT OFFERED BY MR. HUGHES

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUGHES: Page 253, strike line 1 and all that follows through line 10.

Redesignate succeeding paragraphs accordingly.

Page 252, line 22, insert "or" after the semicolon.

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

Mr. GEKAS. Mr. Chairman, I ask that the Chair recognize me in opposition to this amendment and grant me the requisite time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] will control 7½ minutes in opposition.

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

Mr. HUGHES. Mr. Chairman, my amendment is to the death penalty provision of the bill. I support the death penalty in select instances of the most egregious of offenses. My amendment would eliminate recklessness as a basis for imposing the Federal death penalty for homicide. The amendment instead provides that the general rule under the bill, "intentionally or knowingly causing the death of another individual," will be the uniform standard.

Overall, the death penalty provisions of the bill are good provisions. They not only restore the Federal death penalty, which has been gradually unavailable for almost 20 years, but expand it considerably.

Under this expansion, which I support, the death penalty extends to many offenses which it did not previously reach.

Under this expansion, the key question is not what is the underlying Federal offense and does it warrant the death penalty. Instead, the question is what is the conduct, and does it justify the death penalty.

The bill appropriately provides the death penalty for virtually any Federal homicide offense if the required circumstances exist.

□ 1740

These circumstances are, No. 1, that Federal jurisdiction is established and, No. 2, that sufficient culpability exists to justify the death penalty.

My amendment relates to the second of these considerations, the degree of culpability.

I commend my colleague, the gentleman from New York [Mr. SCHUMER] the chairman of the Subcommittee on Crime and Criminal Justice, for developing a proper standard of culpability for the imposition of the Federal death penalty. This standard, which applies to all but a few of the death penalty offenses included in the bill, is that the defendant must have "intentionally or knowingly caused the death of another individual."

This standard is applied to the vast majority of the some 50 offenses for which the death penalty is provided in the bill. However, for a few offenses, most of which are offenses created by the bill, not just the extension of the death penalty to already existing offenses, the death penalty can be imposed based on reckless conduct.

Many of my fellow Members are lawyers. Most are not. However, one does not have to be a trained lawyer to know that in any society, any legal system, the death penalty is the ultimate penalty. It is imposed only for the gravest of offenses and based on the highest level of individual culpability.

Our existing Federal murder statute, though currently unenforceable on procedural grounds, unrelated to the policy expressed in the statute, is instructive in this regard.

The Federal murder statute presently on the books begins by stating

that "murder is the unlawful killing of a human being with malice aforethought." That law draws a line between first-degree and second-degree murders, the line that separates death penalty offenses from non-death penalty offenses. Death penalty offenses are described as those perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing.

Those of us in law school remember the debate over how much time is required for premeditation. From 1981 until this year, I chaired the Subcommittee on Crime which developed the forerunner of the death penalty provisions we are considering today. We wrote many of the provisions in the bill today.

Last year in hearings on that legislation we held an extremely valuable hearing in which our witnesses were constitutional scholars who are experts on the death penalty. Of the four that we had on one panel who were constitutional scholars, two were selected by me and two were selected by my colleague, the gentleman from Florida [Mr. McCOLLUM] to make sure we had a bipartisan, objective panel on the question of what kind of death penalty statute we should draft.

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

Mr. HUGHES. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, what about a situation where we have a drive-by shooting, someone drives by?

Mr. HUGHES. Mr. Chairman, I am going to get to that.

We had a long hearing with lots of controversy and exchange of strong, divergent opinion. In reviewing that hearing, I noted that near the end of the day, I remarked to our four witnesses that, in regard to one question, "I think that is the only thing all four of you have agreed upon so far." The question was the standard that we should apply in death penalty cases. They all agreed, all four experts, that we should develop a knowing standard.

One of our constitutional scholars was a man by the name of Fein, Bruce Fein, a former Reagan administration official of the Justice Department who is recognized as a constitutional scholar throughout the country. Mr. Fein stated:

As a matter of prudence, I generally would be inclined to oppose extending the death penalty to the reckless disregard standard at the Federal level. I think the deterrent effect is, we know that the evidence is inclusive. The importance, in my judgment, of the death penalty as an option is a moral statement which is accomplished whether or not you have the reckless disregard standard.

Moreover, we have already got too much litigation, too many endless 8-, 9-, 10-year appeals trying to flesh out the particular ramifications of the Tison case,—

Tison v. *Arizona, which is the heart of this argument,*

which was limited to the situation where the participant involved in a conspiracy that itself led to the intentional killing of someone.

The bottom line is that what we are doing by extending this to reckless indifference is expanding it in a fashion that was never intended. Those that believe we can do this constitutionally under *Tison* v. *Arizona are mistaken. We cannot do that. And to expand the death penalty to those instances where there was a reckless disregard as opposed to an intent to commit the act which one committed, I am afraid is the wrong way for us to go.*

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

Mr. HUGHES. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I think this is an important amendment and one that my colleagues should take seriously. I, like the gentleman in the well, support the death penalty. But I also support hundreds of years of western jurisprudence which says that one has to intentionally and knowingly kill somebody before the ultimate punishment can happen, death. And what the bill is moving into the area of is punishing people by death who did not intentionally and knowingly kill somebody. That lowers the standard for the ultimate penalty of all, and I think it is extremely imprudent.

I applaud the gentleman for his statement.

Mr. HUGHES. Mr. Chairman, there is so much misunderstanding about this so-called drive-by killing.

People do not express an intent to kill or to steal or do anything else. That knowing standard is gleaned from the circumstances. We can have a drive-by killing and from the circumstances glean an intent to kill, but to expand that to recklessness, I do not think meets constitutional muster, No. 1. And No. 2, it is a path that we should not chart.

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

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

Mr. Chairman, as that great philosopher said, this was Yogi Berra who said, "This is deja vu all over again." This is the very same argument we had last term and the term before on the workability of a proper death and capital punishment statute.

The gentleman from New Jersey insists now, as he did last term, that the only kind of death penalty that our society can muster grit enough to use is one where an intentional killing is part of the scene.

We argued last year, as we argue now, I said, "What about the drive-in killing, the drive-by killing?"

The gentleman argued against my point at that time, when I said that when someone drives by a crowd on a corner and indiscriminately shoots out the window and someone dies at his hands, that individual should be able to go before a jury to have that jury determine whether or not the death penalty ought to apply.

Reckless disregard for life is recognized by the same hundred years of western law that the gentleman from Kansas refers to as being part of a death sentence case. Reckless indifference for life, if it causes death of our fellow human beings, in an indiscriminate shooting case or a rape case or a burglary case, should give the jury the right to bring back the death penalty.

What about a case where a rape, a brutal rape occurs and the rapist, in his own mind, or he can say that he did choke his victim on top of that to keep her quiet? And the lady dies at his hands. Should he be heard to say, pursuant to what the gentleman from New Jersey says, "I didn't intend to kill, I only intended to keep her quiet?"

I say to my colleagues that his action, reckless disregard, indifference for the life of that individual should raise this killing that I just described, this rape killing to a point where a proper jury in a proper case can deliberate as to whether or not to impose the death penalty.

If one is against the death penalty, vote for the Hughes amendment. It eviscerates it. It takes the teeth right out of it.

If one is for the death penalty in proper, reasonable cases, as our society demands, as 80 percent of the American people time and time again in every kind of recorded poll possible indicate in favor of the death penalty, then vote against this element that the gentleman from New Jersey is talking about.

If I may further state one thing, in our amendment, the one that we will have a chance to debate and upon which to vote tomorrow, we have a general standard that is adopted in most of the States that have the death penalty. And that standard says that if indeed a death occurs at the hands of a criminal who utilized a reckless disregard for human life or such aggravated recklessness that the death should be elevated to a point where the jury should decide on death or life as the ultimate punishment, then that standard should be applied.

□ 1750

What the gentleman from New York and the gentleman from New Jersey have done in their bill is to acknowledge that we are right, because they have put into their bill a smathering, a sop to us that indeed the drive-by killer they say, who from within the confines of the automobile shoots indiscriminately should be punishable by death, but if he steps out of the car and walks a few paces, parks the car, walks out and then shoots indiscriminately, under their bill the death penalty

would not apply. Under ours, however, it would.

One further statement. Today's killing, did Members read about or hear about today's killing, the mass killing I believe in Texas. Ladies and gentlemen, this is the perfect example of why Members should support the Gekas amendment tomorrow or tonight and reject the Hughes amendment. In this case an individual drove a vehicle into a restaurant, stepped out of the vehicle and then began to shoot indiscriminately and killed 22 people, and he himself died either at his own hand or else somehow or other. Ladies and gentlemen, this is a stark example of why Members should reject the Hughes amendment and adopt the Gekas amendment tomorrow, because under the Hughes doctrine that is being offered here today it is possible that the jury would never be able to deliberate as to this case if this fellow were ever brought to trial, and he cannot now of course be, as to whether or not he should receive the death penalty for that heinous act. Our amendment, trust me, would cover that situation.

We were successful in convincing Members last term and the term before. This is no time to abandon the toughness that we require in capital punishment cases, in cases involving murder, and all of those serious crimes about which we hear so often.

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

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

Mr. SCHUMER. I thank the gentleman for yielding and also rise in opposition to the amendment.

While I certainly do not believe, as the gentleman from Pennsylvania does, that a reckless standard should be applied across the board, I think there are some instances where recklessness is the appropriate standard. One of them would be terrorism. An example is a terrorist hijacks an airplane, tells everyone, to get off the plane and then blows it up, not realizing someone is in the bathroom and they die. That is a standard where I think intent does not work.

I have a great deal of respect for my colleague from New Jersey, but I think that the Tison case, at least in my reading, can allow in certain instances a recklessness standard to prevail.

So I urge opposition to the amendment.

Mr. GEKAS. Reclaiming my time, I thank the gentleman for his support. It is astounding to receive his support, but I do so gladly. I think the argument has been made.

Mr. SCHUMER. If the gentleman will yield further, he received that support from subcommittee through to full committee, if the gentleman will recall.

Mr. GEKAS. Yes, and that is what I am saying. I am astounded that we have come this far together. It is wonderful.

At any rate, there is no need to argue the case any more. Most of the States have this standard. The common law incorporated it, and 100 years, as the gentleman from Kansas said, of Western law is incorporated into this standard of reckless disregard of rights.

Reject the Hughes amendment and support the Gekas amendment when it appears on the docket.

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

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] has 30 seconds remaining and the gentleman from Pennsylvania [Mr. GEKAS] has 30 seconds remaining.

Mr. GEKAS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Chairman, I thank the gentleman for yielding this time.

In 30 seconds I rise to point out in *Tison* v. *Arizona* 481 U.S. 137 at 157 the court holds:

> * * * reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making * * * a capital sentencing judgment.

And the court reference is precedent going back to 1547, for the proposition that you do not need intent to kill to impose the death penalty.

Mr. HUGHES. Mr. Chairman, I yield myself my remaining 30 seconds.

Mr. Chairman, I just love the rhetoric in this Chamber anymore. Intent to kill is gleaned from circumstances. You can have a drive-by killing and have it an intent to kill. People do not express an intent to kill verbally. You glean it from the circumstances.

The gentleman from Pennsylvania [Mr. GEKAS] would have the death penalty reserved for a situation where a couple of kids on New Year's Eve are out driving along and shoot a gun up in the air, and they kill somebody in a tenement building. Is that what Members want to reserve the death penalty for? That is ridiculous.

The CHAIRMAN. All time has expired.

The quesiton is on the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of the House Report 102-253.

AMENDMENT OFFERED BY MR. HUGHES

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. HUGHES: Page 252, strike lines 7 through 14.
>
> Redesignate succeeding paragraphs accordingly.

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 7½ minutes and a Member opposed will be recognized for 7½ minutes.

Mr. MCCOLLUM. Mr. Chairman, I rise to claim the 7½ minutes in opposition.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 7½ minutes in opposition.

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

Mr. HUGHES. Mr. Chairman, I yield myself 5½ minutes.

Mr. Chairman, the purpose of this amendment is to strike the provisions of the bill that provide the dealth penalty for dealing in large amounts of illegal drugs, even when no death results.

I support the death penalty. I was a State prosecutor for 10 years before I came to the Congress. In one of the last cases I tried, I successfully sought the death penalty. The so-called drug kingpin provision which is the subject of this amendment should not be confused with the provisions of the same name which we enacted as part of the 1988 Drug Act.

That provision—which we identify as the Gekas amendment after our friend and colleague from Pennsylvania—was limited to major drug offenders who intentionally killed. I supported that provision.

Today, however, we are asked to extend the death penalty to drug cases where no one died, not even by accident.

There's not much point in drawing out the debate on this question. Each Member has probably already made up his or her mind whether he or she thinks we should execute people simply because they deal in drugs.

The fact is, however, there is no reason to believe that the courts would uphold such a provision.

In previous crime and drug bills, we have debated whether we can, and should, provide the death penalty when a person supplies another with drugs and an accidental death results from taking the drugs.

That's not what this provision is about. Deaths which occur in the course of drug crimes are in the bill, but this amendment does not alter those provisions.

Earlier we debated the question whether a reckless killing—as opposed to an intentional one—could form the basis of a valid death penalty. That's not what is involved here either.

This goes much further. No death need occur. The Supreme Court has drawn few bright lines in death penalty cases, but it has drawn one here. For example, the Court has thrown out the death penalty for rape, despite the fact

that is unquestionably one of the most violent and reprehensible crimes.

In determining what is and what is not cruel and unusual punishment within the constitutional prohibition, the Court is guided by whether a substantial number of States have enacted such a death penalty.

No State has the death penalty for simply being a drug dealer, another fact which indicates that the Supreme Court would reject it.

I'm not alone in this view. Less than 2 years ago, the head of the Criminal Division of the Department of Justice, in testimony before the Senate, expressed doubts whether such a provision would be constitutional.

Similar concerns were expressed by constitutional scholars in hearings last year by the Subcommittee on Crime, which I then chaired on a proposal substantially the same as that we are considering in my amendment to strike.

Perhaps because of this doubt, no such provision was in the President's crime bill as it was sent to us in the last Congress. The President's bill was developed, as it should be, by the Department of Justice. Later, the death penalty for drug trafficking without a resulting death was proposed by the drug czar, Mr. Bennett. It was only after Mr. Bennett proposed it that the Department of Justice, no doubt feeling the political winds that blow on such hot button issues, began to defend and support the proposal.

Apart from the questionable constitutionality of the measure, it may prove to be counterproductive. If we really are going after the true superdrug kingpins, we are talking about the Escobars and Ochoas in Colombia and the Kun Sahs in the Golden Triangle of Southeast Asia.

In Colombia's on-again, off-again agonizing over international extradition, we are now in an off-again stage. The surest way to make this repudiation of extradition permanment is to impose a death penalty provision.

Is that what we really want? If my amendment is successful, these kingpins will still face a mandatory life sentence without possibility of release. That's already in our laws. Do we want to give up the prospect of locking up Pablo Escobar or Jorge Ochoa for life in the Marion penitentiary? Do we want to, in exchange for an empty gesture of putting an unenforceable death penalty on the books, leave Escobar and other kingpins in Colombia, living in the lap of luxury in so-called prisons which they design, construct, staff, and control?

The death penalty must be used as a measured response. We must not, no matter how great our frustration over our drug problem use the death penalty in situations where it is not justified and appropriate. Under our system of justice, punishment must be, both morally and constitutionally, proportionate to the crime. The death penalty for selling illegal drugs, even in large amounts, does not meet that standard.

□ 1800

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I understand and support the gentleman's argument. It is a very correct argument.

I would like to ask the gentleman a question. Is it correct that there is no death penalty for kidnaping currently?

Mr. HUGHES. That is correct.

Mr. SMITH of Florida. Is it correct that there is no death penalty for rape currently in the United States on the Federal level?

Mr. HUGHES. The gentleman is correct.

Mr. SMITH of Florida. Therefore, if there were to pass this provision of the bill allowing a deathless penalty where no death occurs to create a capital punishment, we would have an imbalance to the extent, if I am correct, that a woman might be kidnaped and raped, taken halfway across the country, brutally beaten, viciously assaulted, raped repeatedly, and when the person is caught would not be subject to the death penalty, but somebody who may have trafficked in some drugs at some point where no death occurs would be subject to the death penalty? Is that correct?

Mr. HUGHES. The gentleman is right. I do not have any sympathy for drug traffickers. We ought to put them in the slammer for a long time. That is not at issue.

It is trying to develop something that makes sense that provides a culpability that will pass constitutional muster.

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

I would like to make it very clear that what this vote is all about that we are discussing here.

The gentleman from New Jersey, for whom I have the utmost respect, my former chairman of the Crime Subcommittee when I served on it with him for a number of years, wants to strike from this bill the drug kingpin death penalty that this body passed overwhelmingly in the last Congress, but which did not become law for various reasons of the conference committee that we had with the other body. We put this into the bill this time not in the same form as it was last time when I offered it, but essentially the basic provision and drift is there.

I would hope that we would keep that drug kingpin death penalty and allow the opportunity for it to be perfected to put it back in its form from the last Congress once again in a few amendments down the road.

But what this amendment, what it does now, is provide for the death penalty simply when there is drug dealing in such large quantities as to constitute twice the amount of narcotics necessary presently under present law to get a life sentence. That is a huge quantity of narcotics. That is many kilos of cocaine; that is a whole lot of heroin; that is an enormous amount. It is so much that I cannot imagine how anyone could come to the conclusion other than that if you traffic in this large quantity of narcotics that the deaths not only of one or two people will result but the deaths of many people will result.

There is a precedent clearly for this sort of thing. There is also a precedent for the death penalty when there is no death that results, but that is not what we are expecting here. The precedent when no death results, the clearest one, is espionage, treason. We have had that death penalty and it has been constitutional for years. We have a death penalty, and we think it is perfectly constitutional, where there are terrorist acts that are concerned. We just discussed some of those.

But here is a case where a narcotics dealer is trafficking in huge quantities of narcotics, and nobody could deny the fact that that is the case, that death does result from this sizable transaction that would be involved in something like this.

So I urge my colleagues to strongly support the provision in the bill. Let us enhance it later, but let us support this provision and keep this drug kingpin death penalty and defeat the Hughes amendment.

Mr. CAMPBELL of California. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am happy to yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like at this stage to engage in a colloquy with my colleague. Before doing so, I would like just to establish the predicate for the inquiry I will be making.

The issue is a fair one to ask, whether the death penalty may constitutionally be imposed for a crime when there is no proven individual killing, and I grant that the Supreme Court has held the death penalty inappropriate in the case of simple rape in Coker versus Georgia, and in that case the Supreme Court said that horrible as rape was there was no nexus to a death. Nevertheless, when the court revisited the issue in Tison versus Arizona, which has been referred to previously in the debate, in the Supreme Court in 1987, the Supreme Court held, and I quote, "The apparent consensus that substantial participation in a violent felony under circumstances likely to result in

the loss of innocent human life may justify the death penalty even absent an intent to kill," and then in the holding part of the case said, "We hold," and this is at page 157, "We hold that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment." So the reference to a highly culpable mental state engaged in conduct which carries a grave risk of death appears from the Supreme Court's opinion in Tison versus Arizona to be an adequate predicate for the imposition of the death penalty even though you may not be able to prove any single individual died.

I present this to my colleague, the gentleman from Florida, because I know, and all Members of this House know that it was he who originally authored this language and who has been the pioneer of this provision in the law, for which he deserves more credit than he has been given. It is my purpose in engaging the gentleman in this discussion to ask whether it is his belief, as the author of this provision, that to deal in drugs of the amount specified in the bill at this point does indicate a grave risk of death.

Mr. McCOLLUM. Absolutely. No question about it.

Mr. CAMPBELL of California. And the sources of death, I take it, that would be brought about from this kind of drug-dealing would include death from an overdose, death from habit, death from the kind of criminal activity engaged in the sale of this drug?

Mr. McCOLLUM. Yes. The gentleman is correct.

Mr. CAMPBELL of California. In conclusion, is it an acceptable statement to the best of the gentleman's interpretation of the evidence the gentleman has heard in his Crime Subcommittee and in the Committee on the Judiciary that engaging in the sale of drugs of the amount provided in this part of the statute carries with it, "a grave risk of death"?

Mr. McCOLLUM. Yes. The gentleman is correct.

Mr. CAMPBELL of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yielded 30 seconds to our colleague, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Ms. Chairman, in the Tison case which was pointed out by our law professor friend, Justice was pointed out by our law professor friend, Justice Campbell, a death did result. There was killings.

What the amendment by the gentleman from New Jersey is trying to do is to make sure that in the case of a drug kingpin there has to be a killing. There has to be a death. That seems to be, again, consistent with American jurisprudence that death results. Otherwise, we are going down a never-never land of potentially putting in the death penalty for all sorts of crimes in our society we do not like where death does not result, and that is a very dangerous trend to go down.

□ 1810

Mr. McCOLLUM. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank my colleague for yielding me this time.

Once again, Mr. Chairman, I rise in opposition to the amendment, although I understand how deeply the author feels about it.

Again, I think in this crime bill we have tried to craft a carefully done death penalty. I think there will be some people on the one side who say it goes too far. Some people on the other will say it does not go far enough. I think if the Members read it carefully, they will agree that it is carefully done, but a very tough bill.

I would say on the kingpins, we do indeed occasionally feel that the death penalty is appropriate because of society's approprium against certain people. Treason and espionage do not have to result in death and they have a long part of American and Anglo-Saxon jurisprudence in terms of the death penalty.

So I say to my colleagues that those who deal in huge amounts of drugs, the Ochoas and the Escobars, know that they are killing people. We all know that they are killing people. We also know that they probably more than anybody else, perhaps more than a poor mule on the street who gets involved in a shooting incident, deserve society's ultimate punishment.

So I feel again the amounts here are double those of the administration bill aimed simply at those who are at the very top of these drug enterprises. They are selling death on our streets and they do indeed deserve society's ultimate approprium, the death penalty.

Mr. McCOLLUM. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me just say this. Some situations are so horrible that they demand the extreme penalty. One of them is espionage. That is death to the country potentially, and dealing in huge amounts of narcotics is death on the installment plan to an awful lot of people. Either we get serious about drug kingpins and dealing with this tidal wave of narcotics, or we do not. It seems to me the death penalty is getting very serious about it. I think that is what the American people want, and it is what I want.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, the Hughes amendment is clearly correct. The death penalty for drug trafficking is clearly unconstitutional.

No one has been executed in the United States for a nonhomicidal offense in nearly a quarter century.

Some 38 States have the death penalty; none has it for drug trafficking.

Every single one of the 2,400 persons on death row in the United States is there for murder.

Just 2 years ago, when this administration sent up its first crime bill, it did not even ask for the death penalty for drug trafficking. In 1989, the Justice Department's chief anticrime spokesperson testified that the death penalty for drug trafficking where no death resulted was of "questionable" constitutionality.

Well, it is worse than questionable. In 1977, the Supreme Court held that the death penalty for rape of an adult woman was unconstitutional. The Court specifically noted that rape was probably the most serious offense short of homicide, yet no life is taken in rape and that was controlling.

Chief Justice Rehnquist, just this past June, said that if a crime does not result in death, the death penalty may not be imposed.

It is all easy to get into a bidding war over the death penalty and that is what we are in today. But we have a responsibility to get beyond symbolism. The Hughes amendment is correct. The Government cannot kill somebody who did not kill.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of the time.

Look, we all want to get the Ochoas and the Escobars. If you think you are going to get them by creating a death penalty, you are kidding yourselves. Countries do not extradite to this country because of that. We can beat our chests and suggest that we are doing something tough, but what we are doing is self-defeating.

Put aside the constitutional question. If you want to do something tough about the Escobars, and the Ochoas, you put them in the slammer for life, and that is what what the law provides.

What you are going to do is you are going to make it impossible for us to extradite them to this country and prosecute them for their offenses.

Now, on the constitutional issue, the Tison case was a horrendous homicide. You know, read Tison. There was a death and Sandra Day O'Connor in her opinion read an intent to kill from all the circumstances, because the Tison brothers when they broke their father

out of jail knew he was going to kill, and it was the totality of circumstances that meant that was so.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 317, answered "present" 1, not voting 9, as follows:

[Roll No. 312]

AYES—106

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
AuCoin
Berman
Bonior
Boucher
Cardin
Clay
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
Dellums
Dixon
Dorgan (ND)
Downey
Edwards (CA)
Engel
Evans
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Glickman
Gonzalez
Green
Hamilton
Hertel
Hoyer
Hughes
Jacobs
Jones (GA)
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Markey
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moody
Mrazek
Nagle
Neal (MA)
Oberstar
Obey
Olver
Owens (NY)
Owens (UT)
Payne (NJ)
Pease
Pelosi
Penny
Peterson (MN)
Rangel
Roybal
Sabo
Sanders
Sawyer
Scheuer
Schroeder
Serrano
Sharp
Skaggs
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Towns
Unsoeld
Vento
Visclosky
Washington
Waters
Weber
Weiss
Wheat
Wise
Wolpe
Yates

NOES—317

Alexander
Allard
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Boehner
Borski
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Ewing
Fascell
Fawell
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Manton
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Olin
Ortiz
Orton
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—9

Callahan
Dymally
Fazio
Holloway
Hopkins
Savage
Slaughter (VA)
Waxman
Whitten

□ 1832

Messrs. PETERSON of Florida, JONTZ, SIKORSKI, and RINALDO changed their vote from "aye" to "no."

Mr. ABERCROMBIE, Mrs. SCHROEDER, and Mr. SWIFT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part 2 of House Report 102-253.

AMENDMENTS EN BLOC OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments is en bloc as follows:

Amendments en bloc offered by Mr. GEKAS: Page 251, strike line 17 and all that follow through the end of the bill, and insert the following:

TITLE XXIII—DEATH PENALTY

SEC. 2301. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 2302. DEATH PENALTY PROCEDURES.

TITLE 18 OF THE UNITED STATES CODE IS AMENDED.—

(1) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(c) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(d) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(e) an offense constituting a felony violation of the Controlled Substances Act (21

U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(f) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: *Provided*, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense or who is mentally retarded.

"§3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (f), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2332 (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591(c)-(e), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591 (a), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (b) or (f), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591(c)-(e), an aggravating factor required to be considered under section 3592(d) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to

the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within ten days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (1) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which sentence of death has been imposed, and the judgment has become final as described in section 3598(c) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within ninety days of the issuance of the order relating to appointment of counsel under section 3598(c) of this title. The court in which the motion is filed, for good cause

shown, may extend the time for filing for a period not exceeding sixty days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"Notwithstanding sections 1152 and 1153 of this title, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction."; and

(2) in the table of chapters at the beginning of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty procedures ..... 3591.".

SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Subsection (a) of section 1116 of title 18 of the United States Code is amended by inserting a period after "title" and striking the remainder of the subsection.

SEC. 110. MURDER BY FEDERAL PRISONER.

Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Subsection (a) of section 1958 of title 18 of the United States Code is amended by deleting the words "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting in lieu thereof "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of subsection (a) of section 1959 of title 18 of the United States Code is amended to read as follows: "for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both";

SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof "or if death results shall be punished by death or life imprisonment".

SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2331(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1473), is amended by striking subsection (c).

SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act is amended by striking subsections (g)-(r).

SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18 of the United States Code is amended by striking "a fine of not more than $1,000,000 and imprisonment for life;" and inserting in lieu thereof "death or imprisonment for life and a fine of not more than $1,000,000;".

SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking the words "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting in lieu thereof "punished as provided in subsection (b).";

(3) by adding at the end thereof a new subsection (b) as follows:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting in lieu thereof "magistrate judge".

SEC. 124. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114(a) of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder as defined in section 1111 of this title, be punished by death or imprisonment for life, and, in the case of manslaughter as defined in section 1112 of this title, be punished as provided in that section, and".

SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," before "shall be punished".

SEC. 127. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon,—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 128. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking out paragraph (3); and

(2) renumbering paragraph (4) as paragraph (3).

SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (6); or

"(8) attempts to do any act prohibited under paragraphs (1)-(7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he has on board his ship any person who has committed an

offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action he should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his intention to deliver such person and the reason therefor. If the master delivers such person, he shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) As used in this section, the term—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft: *Provided*, That the term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (4); or

"(6) attempts to do anything prohibited under paragraphs (1)-(5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 130. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture ..... 2340.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this section; or

(2) the date the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 131. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2332. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2332. Use of weapons of mass destruction.".

SEC. 132. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), deleting "(c)" and inserting in lieu thereof "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting in lieu thereof "shall be punished by death or imprisonment for any term of years or for life".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting in lieu thereof "shall be punished by death or imprisonment for any term of years or for life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting in lieu thereof "shall be punished by death or imprisonment for any term of years or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder as defined in section 1111 of this title, the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112 of this title;".

SEC. 135. DRIVE-BY SHOOTINGS.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding the following new section:

"§ 931. Drive-by shootings

"(a) Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle;

shall be punished by imprisonment for up to 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) For purposes of this section, "drug trafficking activity" means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 45 of title 18, United States Code, is amended by adding the following:

"931. Drive-by shootings.".

SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever, in the course of a violation of subsection (c) of this section, causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder as defined in section 1111 of this title, be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter as defined in section 1112 of this title, be punished as provided in that section.".

SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by adding the following new section:

"§ 2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and adding the following

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

SEC. 138. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

Strike subtitle B (relating to list of veniremen) of title XIX.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendments.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will control the 10 minutes in opposition.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, I have a point of parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. GEKAS. Mr. Chairman, we have an indication under the rule that there are 20 minutes allocated to this issue. Does that mean 10 and 10? We read it one way, and then another, on another sheet.

The CHAIRMAN. The Chair will advise the gentleman from Pennsylvania [Mr. GEKAS] that there are 20 minutes allowed under the rule for his amendment, equally divided and controlled.

The rule also provides for a perfecting amendment that the Chair anticipates the gentleman from Texas [Mr. BROOKS] will offer, which will be separately debatable for 10 minutes, equally divided and controlled.

Mr. GEKAS. We understand, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] is recognized.

Mr. GEKAS. Mr. Chairman, the amendment which we now offer to the Members is the same one substantially as was approved by this body last term by an overwhelming margin, 271 to 159. It is one that contains a workmanlike, workable, satisfactory, judicially proper death penalty to apply evenhandedly in those vicious cases where it is warranted. To my colleagues I say, "Mind you, it is important to note that on this occasion, and any other occasion we have ever argued about the applicability of the death penalty, it was never a statute where we imposed the death penalty, but rather one in which we want to give a jury that is deliberating on a capital case the option as to whether or not to impose the death penalty."

Mr. Chairman, the irony of all that we are discussing is this: that we are at a stage of the proceedings in discussing the death penalty where a jury has already convicted an individual of murder in the first degree. They have already found that this individual has in

cold blood killed a fellow American citizen, has destroyed a human life. Now we are at a proceeding where they, the jury, should or should not be given the right to determine whether the death penalty should be applied.

Mr. Chairman, that is where our amendment comes in. We are saying now that the jury has found this individual guilty of murder in the first degree, has destroyed that life. Maybe it is that kind of a serious case which should allow them to impose the ultimate penalty of death. Our amendment covers those Federal statutes like bank robberies, and aircraft hijackings, and kidnaping, and even rape for the first time where a death occurs as a result of that rape and permits a jury, even in a child molestation case where a death occurs and is so recklessly indifferent to the life of that victim that the jury should be given the right to impose the death penalty. Those kinds of cases are given full implementation in our amendment as an option to the jury for the imposition of the death penalty in a proper case.

Mr. Chairman, that is an important element for the Members to consider as they vote on this amendment.

□ 1880

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

Mr. GEKAS. I yield to the gentleman from Missouri

Mr. SKELTON. Mr. Chairman, let me ask the gentleman this: Is this really not and extension of what we used to know in the previous case law as the felony murder rule?

Mr. GEKAS. Yes; the gentleman is correct. The felony murder rule, which has always been a part of our jurisprudence, is embodied in what we are talking about in those serious cases like bank robbery, rape, and kidnaping, where a death occurred. Even if a defendant in his wildest dreams is going to be able to say, "I didn't intend to kill," if the circumstances are those where the jury is satisfied that a reckless indifference to life has occurred, the death penalty should be an option for the jury.

Mr. SKELTON. Mr. Chairman, let me give the gentleman a hypothetical.

Mr. GEKAS. I yield again to the gentleman from Missouri.

Mr. SKELTON. Suppose a defendant is attempting a rape and in the process there is a struggle, the victim falls and hits her head on the fireplace, for instance, and a death results. Certainly it is not intended, but it comes about as a result of the felony that the defendant is attempting. Would the death penalty be a choice for a jury in a situation such as that?

Mr. GEKAS. I would be a question of fact for the jury to determine. My position is that in those kinds of cases the jury should be given that choice under proper direction by the judge. I am certain that a judge in a case like I described, where the rapist begins to choke the victim to keep her quiet, in his own words, but kills her, there I would be ready to say that in that type of hypothetical every judge in the country would direct that the jury would have the option of the death penalty. In the gentleman's case it is less certain, but we still have those kinds of facts which should give the judge the discretion as to whether or not to give directions in that regard.

Mr. SKELTON. Let me give another hypothetical, if the gentleman would yield again. Suppose a defendant holds up a bank and on the way out the door his gun drops, discharging accidentally and killing a bystander. Would it apply there?

Mr. GEKAS. In my judgment again this would be a question of fact for the jury. The judge under proper previous Supreme Court cases where remoteness of the action might be so severe that he could not include it in the felon murder kind of example that you had elicited here, might not include that, but I would consider that is still a question of fact for the jury under proper guidance by the court. What we want to do is to include those where there is an intentional shooting, an intentional firing of a gun, even if there is no intentional killing.

Mr. SKELTON. Such as, as I raised the question a moment ago, of a drive-by killing?

Mr. GEKAS. Yes, that is correct.

Mr. SKELTON. Mr. Chairman, I thank the gentleman very much.

Mr. GEKAS. Mr. Chairman, the other important difference which the Members must consider as they look at the present bill and determine whether or not they want to adopt and vote for the Gekas amendment is this: As we know, this second proceeding in which the jury has to deliberate to determine whether or not the death penalty should be applied in this bifurcated hearing, in the second hearing under strict instructions by the judge the jury must find aggravating circumstances and/or mitigating circumstances, and if the aggravating circumstances outweigh the mitigating circumstances, they would be empowered to find the death penalty.

Now, here is where the bill that is before us unamended, the one I am trying to perfect or trying to make workable, this bill that is before us now, says that in a rape-murder case like the kind I described, or a bank robbery case, the kind I described, or a kidnaping-murder case of the kind I described, under the working of the bill, that jury that is deliberating must find that the aggravating circumstances on top of the circumstances under which they have already found a kidnaping occurred or a burglary occurred or a rape occurred or a robbery occurred.

That is too much to ask of a jury that is acting on behalf of society, and the Supreme Court has said in the Phelps that it is sufficient in an aggravated circumstance if the jury in looking at this case seizes upon that very act of which they found him guilty of murder in the first degree in the first place, the underlying crime of kidnaping, rape, or robbery. That should be enough.

The Gekas amendment takes into consideration the Phelps case and says that that jury which has found this individual guilty of murder in the first degree, which has already determined that it is a heinous and violent crime, rape/murder or a kidnaping/murder, now in this second case they are permitted under our amendment to say that underlying circumstance of kidnaping or rape was so aggravating that they feel it outweights the mitigating circumstances that may be present and they find the death penalty.

That is an important salient difference between the bill and the amendment we offer. I repeat that what I offer is what we approved in the last term and the term before, and the bill that comes up before us today without the Gekas amendment is weak in that regard and is flawed in that regard and in other regards.

Mr. Chairman, I ask the Members for adoption of the Gekas amendment.

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

Mr. BROOKS. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

There are several differences between the committee bill, which I have maintained has a tough, strong death penalty provision, and the amendment offered by the gentleman from Pennsylvania, and I think it is worth looking at a bunch of them.

First and most important, the amendment offered by the gentleman from Pennsylvania takes every death penalty count in the bill—there are 50 or 52—and moves it to a standard of recklessness for everything. While, as I have stated before, recklessness is occasionally an appropriate standard, it is not always an appropriate standard.

The gentleman mentioned earlier that the terrible tragedy that occurred in Texas today made it the reckless standard. That is untrue. Any prosecutor worth his salt could show that madman who did the terrible killing in Killeen, TX, was intentionally killing people. I would say to the gentleman from Pennsylvania and my colleagues that if we want to do something about preventing the kind of killing that went on today in Texas, then we should vote for an assault weapons ban which limits the number of clips in the gun which could be used. The madman today by reports had 14 gun clips and

was able to spray and spray and spray and kill. That is our chance to do something about that tomorrow. But today the recklessness standard is not disposative.

Let me give my colleagues an example of a recklessness standard where the death penalty would be allowed under the amendment offered by the gentleman from Pennsylvania. A person is driving recklessly in his car, goes through a red light, crashes into another car, and kills an IRS agent or any other Federal agent. The death penalty? How many of us think that in that instance there should be a death penalty?

Let us say kids on a Saturday night joy ride shoot a gun in the air and unfortunately it kills somebody on the ground a mile away. Should those kids get the death penalty? I do not think so.

To go to a recklessness standard across the board is not right. By voting for this proposal in the bill, I say to my colleagues, we have a tough death penalty standard, one we can be proud of, but we do not have to go so far as to include instances that, if this should become law, we would rue the day we would do something like that.

There are procedural problems in the amendment offered by the gentleman from Pennsylvania as well. If a lawyer in the case made reversible error in a capital case, the judge could not reverse it if the defendant's lawyer brought it up. Let us say the judge sees glaring reversible error in the courtroom, unless the defendant's lawyer brought it up, capital punishment could ensue. That is wrong.

In our desire to be tough, as we should be, let us not work ourselves into a frenzy where we will be doing things that will be unconstitutional and unconscionable.

Mr. Chairman, I urge that the gentleman's amendment be defeated.

Mr. BROOKS. Mr. Chairman, I have an amendment at the desk made in order under the rule.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time on this amendment, of course.

Mr. GEKAS. Mr. Chairman, I understand that we on this side have some time left. Is it the intent of the Chair that that time should be totally consumed before we go into the perfecting amendment, or is that necessary?

The CHAIRMAN. We will essentially suspend action on the amendment offered by the gentleman from Pennsylvania and take up the amendment to the amendment offered by the gentleman from Texas. We will then return to the gentleman's amendment for the time remaining.

Mr. GEKAS. I thank the Chair.

□ 1850

AMENDMENTS EN BLOC OFFERED BY MR. BROOKS OF THE AMENDMENTS EN BLOC OFFERED BY MR. GEKAS

Mr. BROOKS. Mr. Chairman, I offer amendments en bloc to the amendments en bloc offered by the gentleman from Pennsylvania [Mr. GEKAS].

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. BROOKS to the amendments en bloc offered by Mr. GEKAS:

(1) in section 102 of the Gekas amendment, strike from subsection (a) of section 3598 "Notwithstanding any other provision of law," and capitalize "this";

(2) add at the end of subsection (a) of section 3598: "This section shall not effect the appointment of counsel and the provision of ancillary legal services under sections 848(q)(4) through (10) of title 21, United States Code."; and

(3) in section 121 of the Gekas amendment, strike "(g)-(r)" and substitute "(g)-(p), (q)(1)-(3), and (r)".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes, and a Member opposed to this perfecting amendment will be recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the Brooks perfecting amendment.

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] will control the time in opposition.

The chair recognizes the gentleman from Texas [Mr. BROOKS].

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Mr. Chairman, is the time allocation here 10 minutes for the Brooks amendment for the gentleman from Texas [Mr. BROOKS], and 10 minutes for our side?

The CHAIRMAN. Under the rule, 10 minutes total is allowed, to be divided 5 and 5.

Mr. GEKAS. Mr. Chairman, is the 5 minutes now allocated to the gentleman from Wisconsin [Mr. SENSENBRENNER]?

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] rose to state his opposition and to request the time. That is correct.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

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

Mr. Chairman, in 1988, as part of the Anti-Drug Abuse Act, the House passed and President Reagan signed legislation providing competent counsel in all Federal death penalty, Federal collateral review, and Federal habeas corpus cases. These straightforward provisions gave counsel necessary resources and reasonable compensation. Since they became effective, the 1988 provisions have begun to mitigate the widely reported problems of inadequate counsel in capital cases—at least at the Federal habeas stage—which result only in additional litigation and delay.

Mr. Chairman, I think it should be noted that the author of that sensible and moderate 1988 measure was none other than the gentleman from Pennsylvania [Mr. GEKAS]. Now he is on the floor attempting, in effect, to kill his own legislative child.

In its broad weep, this year's Gekas amendment would repeal the counsel provisions in the 1988 law that this body adopted only just a few years ago. More specifically, while current law provides competent counsel in Federal habeas corpus proceedings, the amendment does away with it completely—and creates nothing but a vacuum in its place.

My amendment does only one thing—it preserves the 1988 language providing counsel at all Federal stages of death penalty litigation. It does not change the 1988 language, nor does it affect any other aspect of the gentleman's lengthy amendment to H.R. 3371. Providing competent counsel at any stage of the death penalty process insures that fewer mistakes will be made. As errors are minimized, so is delay—and the process of capital punishment as authorized in the law can be carried out more quickly. My amendment moves us toward these goals, and I urge its adoption.

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

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

Mr. Chairman, an amendment to the Gekas death penalty provisions submitted by Mr. BROOKS seeks to keep in effect the capital counsel standards under the Anti-Drug Abuse Act [ADAA] of 1988—in 21 U.S.C. 848. These would be repealed in the Gekas provision as part of a general repealer for the separate ADAA death penalty procedures, which is designed to ensure that the same standards and procedures will apply to all Federal capital offenses.

The Brooks amendment will result in inconsistent counsel standards for Federal capital cases, which will be impossible for the courts to apply, since there are significant differences between the Gekas provisions and the ADAA standards.

For example, the Gekas provisions give the defendant a right to two lawyers at trial—by cross-referencing 18 U.S.C. 3005—and give the defendant a right to a new lawyer at the start of collateral proceedings. There are no comparable rights for the defendant under the ADAA provisions. The Gekas provisions apply the counsel compensation standards that Congress has provided for all Federal proceedings under the Criminal Justice Act, 18 U.S.C.

3006A, which give courts legislative guidelines concerning appropriate compensation levels, while also providing procedures for authorizing any greater amount of compensation that may be needed to ensure a fair defense in a case. The ADAA provisions waive these legislative guidelines and leave the compensation decision to the unguided determinations of individual judges. Under the Brooks amendment, there would be no way for a court to determine which of these contradictory provisions apply.

The Brooks amendment may be motivated by a misrepresentation that a defense lawyer made at a subcommittee hearing, which claimed that capital defendants would not be entitled to ancillary services, such as expert witnesses and investigative costs, under the Gekas proposal. However, this representation was simply false. The general standards of the Criminal Justice Act 18 U.S.C. 3006A, apply under the Gekas provisions, including the rule of 18 U.S.C. 3006A(e) requiring courts to provide necessary expert, investigative, and other ancillary services in all Federal proceedings, both capital and noncapital. Keeping a separate provision that reiterates this requirement for capital cases only is pointless and unnecessary.

Similarly, keeping the ADAA provisions is unnecessary to ensure representation of Federal capital defendants in collateral proceedings. The Gekas provisions explicitly extend the right to appointed counsel for Federal capital defendants to collateral—section 2255 motion—proceedings, and also set counsel experience standards at all stages of litigation which are comparable to those of the ADAA provisions.

An alternative purpose of the Brooks amendment may be to retain the ADAA counsel provisions for application to State capital cases. However, this is simply out of place in a Federal death penalty title. Both the Edwards habeas proposal reported by the Judiciary Committee and the Hyde substitute contain extensive provisions governing provision of counsel in State cases. Any issues relating to counsel in State cases should be addressed in the context of those proposals.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to my friend, the gentleman from Pennsylvania [Mr. GEKAS].

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

Mr. Chairman, with the assertion to my good friend, the gentleman from Texas [Mr. BROOKS], that I fully expect this particular issue with so many different colorations to it will appear in our conference later on, I would like to suggest to the Chair that I want to accept this amendment at this juncture.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time on the perfecting amendment.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. BROOKS] to the amendments en bloc offered by the gentleman from Pennsylvania [Mr. GEKAS].

The amendments en bloc to the amendments en bloc were agreed to.

The CHAIRMAN. We will now return to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The gentleman from Pennsylvania [Mr. GEKAS] has 1 minute remaining, and the gentleman from Texas [Mr. BROOKS] has 6½ minutes remaining.

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

Mr. Chairman, we close this debate exactly as we opened it. The Gekas amendment, which has been tested in the test tube of the Chamber of the House of Representatives on several occasions before and which has been approved overwhelmingly, is up for consideration again. I ask for the same kind of response. We owe it to the American people. We feel that, together with the Senate, who have passed a similar version, we are well on our way for the first time in a long time in the application of a proper death penalty to those serious murderers about which we read every day.

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

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

□ 1900

Mr. CHAPMAN. Mr. Chairman, may I inquire of the gentleman if he is aware, because I do not know, if the provisions of the gentleman's amendment as would be incorporated in this bill and become a part of the Federal statute, if this culpability requirement exists in any State criminal laws anywhere in the country? Is there a reckless-disregard, a gross-negligence standard that results in the death penalty under any State statutes anywhere in the country?

Mr. GEKAS. Mr. Chairman, yes, in most of the States that have the death penalty, the standard which we spoke about, the reckless disregard appears in those statutes.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, even with the Brooks amendment, I would say, and I know that the good chairman of the committee agrees with me, that this amendment, the Gekas amendment, is not acceptable.

Again, the recklessness standard is the main difference between the Gekas bill and the universal recklessness standard as opposed to the committee bill which has reckless in some instances but not all.

I do want to reiterate to my colleagues that a recklessness standard goes too far in more instances than one would like. Recklessness, driving, killing a Federal worker, death penalty. Do we want that?

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

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

Mr. HUGHES. Mr. Chairman, it seems to me that if under Gekas, if a person is out drinking, robs a bank, leaves the bank and kills a pedestrian who runs in front of him as he is leaving the scene, Gekas would preserve the death penalty. What does that do to the other death penalty statutes that we have created for the most egregious of offenses?

Mr. SCHUMER. Mr. Chairman, reclaiming my time, not only would I agree with the gentleman, but while I disagree with the gentleman from New Jersey on all the applications of Tison, I would say to my colleagues, and this is a point I was not able to make before, that if we pass the Gekas amendment, the likelihood of this death penalty provision being declared unconstitutional is very hard.

Therefore, I would say to my colleagues that while the Supreme Court has certainly loosened up in terms of the death penalty and when it is allowed and when it is not cruel and unusual and what the procedures ought to be, I doubt they would go this far and we will be back here next year and the public would still be saying, "Why haven't you done anything like this?"

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, under the Gekas amendment, the present law which is that the prosecution must advise the defense before the trial that they are going to ask for a death penalty, under the Gekas proposal, the trial can be over and the person found guilty and then the prosecution springs it on the defense that the death penalty was asked for. That is very unfair.

The defense might have handled the case entirely differently.

Mr. BROOKS. Mr. Chairman, I want to thank the gentleman from Pennsylvania [Mr. GEKAS] for graciously accepting the perfecting amendment, but that is just a small part of the bill.

The gentleman from New Jersey [Mr. HUGHES], and the gentleman from New York [Mr. SCHUMER], and the gentleman from California [Mr. EDWARDS], all chairmen worked long and hard, brought a lot of wisdom, expertise, time, study, and effort to work out this common ground on appropriate procedures for carrying out the death penalty.

I believe that the amendment of the gentleman will upset the balance that they have tried to reach to further the goal of fair and certain application of the death penalty.

I would hope that we would not pass the Gekas amendment.

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

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Pennsylvania [Mr. GEKAS], as amended.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 206, answered "present" 1, not voting 13, as follows:

[Roll No. 313]

AYES—213

Alexander	Gekas	Myers
Allard	Geren	Nichols
Andrews (NJ)	Gibbons	Nussle
Andrews (TX)	Gilchrest	Oxley
Applegate	Gillmor	Packard
Archer	Gilman	Pallone
Armey	Gingrich	Parker
Aspin	Goss	Patterson
Bacchus	Gradison	Paxon
Baker	Grandy	Peterson (FL)
Ballenger	Guarini	Petri
Barrett	Gunderson	Porter
Barton	Hall (TX)	Poshard
Bateman	Hammerschmidt	Pursell
Bentley	Hancock	Quillen
Bereuter	Hansen	Ramstad
Bevill	Harris	Ravenel
Bilbray	Hastert	Ray
Bilirakis	Hayes (LA)	Regula
Billey	Hefley	Rhodes
Boehlert	Henry	Richardson
Boehner	Herger	Ridge
Borski	Hobson	Riggs
Broomfield	Horton	Rinaldo
Browder	Houghton	Ritter
Bruce	Hubbard	Rogers
Bunning	Huckaby	Rohrabacher
Burton	Hunter	Ros-Lehtinen
Byron	Hutto	Roth
Camp	Hyde	Rowland
Campbell (CA)	Inhofe	Santorum
Campbell (CO)	Ireland	Sarpalius
Chandler	James	Saxton
Clinger	Johnson (TX)	Schaefer
Coble	Kasich	Schiff
Coleman (MO)	Kolbe	Schulze
Combest	Kolter	Sensenbrenner
Condit	Kyl	Shaw
Cooper	Lagomarsino	Shuster
Coughlin	Lancaster	Skeen
Cox (CA)	Lent	Skelton
Cramer	Lewis (CA)	Smith (OR)
Crane	Lewis (FL)	Smith (TX)
Cunningham	Lightfoot	Snowe
Dannemeyer	Livingston	Solomon
Davis	Lloyd	Spence
DeLay	Lowery (CA)	Stallings
Dickinson	Luken	Stearns
Dingell	Machtley	Stenholm
Donnelly	Manton	Stump
Doolittle	Marlenee	Sundquist
Dornan (CA)	Martin	Swett
Dreier	Martinez	Tallon
Duncan	McCandless	Tanner
Early	McCollum	Tauzin
Edwards (OK)	McCrery	Taylor (MS)
Emerson	McDade	Taylor (NC)
English	McEwen	Thomas (CA)
Erdreich	McGrath	Thomas (GA)
Espy	McMillan (NC)	Thomas (WY)
Ewing	Meyers	Traficant
Fawell	Michel	Upton
Fields	Miller (OH)	Valentine
Franks (CT)	Miller (WA)	Vander Jagt
Frost	Molinari	Volkmer
Gallegly	Montgomery	Vucanovich
Gallo	Moorhead	Walker
Gaydos	Morrison	Walsh
Weldon	Wylie	Young (FL)
Wolf	Yatron	Zeliff
Wyden	Young (AK)	Zimmer

NOES—206

Abercrombie	Hayes (IL)	Orton
Ackerman	Hefner	Owens (NY)
Anderson	Hertel	Owens (UT)
Andrews (ME)	Hoagland	Panetta
Annunzio	Hochbrueckner	Pastor
Anthony	Horn	Payne (NJ)
Atkins	Hoyer	Payne (VA)
AuCoin	Hughes	Pease
Barnard	Jacobs	Pelosi
Beilenson	Jefferson	Penny
Bennett	Jenkins	Perkins
Berman	Johnson (CT)	Peterson (MN)
Bonior	Johnson (SD)	Pickett
Boucher	Johnston	Pickle
Boxer	Jones (GA)	Price
Brewster	Jontz	Rahall
Brooks	Kanjorski	Rangel
Brown	Kaptur	Reed
Bryant	Kennedy	Roe
Bustamante	Kennelly	Roemer
Cardin	Kildee	Rose
Carper	Kleczka	Rostenkowski
Carr	Klug	Roukema
Chapman	Kopetski	Roybal
Clay	Kostmayer	Russo
Clement	LaFalce	Sabo
Coleman (TX)	Lantos	Sanders
Collins (IL)	LaRocco	Sangmeister
Collins (MI)	Laughlin	Sawyer
Conyers	Leach	Scheuer
Costello	Lehman (CA)	Schroeder
Cox (IL)	Lehman (FL)	Schumer
Coyne	Levin (MI)	Serrano
Darden	Levine (CA)	Sharp
de la Garza	Lewis (GA)	Shays
DeFazio	Lipinski	Sikorski
DeLauro	Long	Sisisky
Dellums	Lowey (NY)	Skaggs
Derrick	Markey	Slattery
Dicks	Matsui	Slaughter (NY)
Dixon	Mavroules	Smith (FL)
Dooley	Mazzoli	Smith (IA)
Dorgan (ND)	McCloskey	Smith (NJ)
Downey	McCurdy	Solarz
Durbin	McDermott	Spratt
Dwyer	McHugh	Staggers
Eckart	McMillen (MD)	Stark
Edwards (CA)	McNulty	Stokes
Edwards (TX)	Mfume	Studds
Engel	Miller (CA)	Swift
Evans	Mineta	Synar
Fascell	Mink	Thornton
Fazio	Moakley	Torres
Feighan	Mollohan	Torricelli
Fish	Moran	Traxler
Flake	Morella	Unsoeld
Foglietta	Mrazek	Vento
Ford (MI)	Murtha	Visclosky
Ford (TN)	Nagle	Washington
Frank (MA)	Natcher	Waters
Gejdenson	Neal (MA)	Weber
Gephardt	Neal (NC)	Weiss
Glickman	Nowak	Wheat
Gonzalez	Oakar	Williams
Gordon	Oberstar	Wilson
Green	Obey	Wise
Hall (OH)	Olin	Wolpe
Hamilton	Olver	Yates
Hatcher	Ortiz	

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—13

Callahan	Moody	Towns
Dymally	Murphy	Waxman
Holloway	Roberts	Whitten
Hopkins	Savage	
Jones (NC)	Slaughter (VA)	

□ 1922

The Clerk announced the following pair:

On this vote:

Mr. Roberts for, with Mr. Waxman against.

Messrs. REGULA, EWING, GUARINI, and BILBRAY changed their vote from "no" to "aye."

So the amendments en bloc, as amended, were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MC COLLUM

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM:

Page 252, beginning in line 19, strike out "knowingly or intentionally causes the death of another individual" and insert ", intending to cause death or acting with reckless disregard for human live, engages in such a violation, and the death of another person results".

Page 252, after line 14, insert the following:

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act, committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise, or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person.

Redesignate succeeding paragraphs accordingly.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCOLLUM) will be recognized for 7½ minutes, and a Member in opposition will be recognized for 7½ minutes.

Mr. BROOKS. Mr. Chairman, I am opposed to the amendment. I rise in opposition.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will be recognized for 7½ minutes.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. HATCHER) having assumed the chair, Mr. SKAGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3371) to control and prevent crime, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO SIT ON THURSDAY, OCTOBER 17, 1991, DURING THE 5-MINUTE RULE

Mr. GEJDENSON. Mr. Speaker, having checked with the minority, the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Wisconsin [Mr. ROTH], I ask unanimous consent that, during tomorrow's business while the committee is under the 5-minute rule, the Committee on Foreign Affairs be granted permission to mark up the Export Administration Act.

The SPEAKER pro tempore (Mr. HATCHER). Is there objection to the re-

quest of the gentleman from Connecticut?

There was no objection.

ANNOUNCEMENT OF MOTION TO INSTRUCT ON H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

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

Mr. DANNEMEYER. Mr. Speaker, according to House rule XXVIII, clause 1, as amended on January 3, 1989, in the 101st Congress, I serve notice to the House that tomorrow, October 17, I will offer a privileged motion to instruct conferees to H.R. 2686, the Interior appropriations for fiscal year 1992, that: the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill, H.R. 2686, be instructed to agree to the provisions contained in amendment numbered 212 of the Senate amendments.

ANNOUNCEMENT OF TRAGEDY IN KILLEEN, TX

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

Mr. EDWARDS of Texas. Mr. Speaker, I am deeply saddened by the tragic news that comes from my district today, that at 12:40 p.m., Texas time, a lone gunman killed at least 22 citizens in Killeen, TX. The innocent victims were having lunch in a family restaurant when the gunman crashed a pickup truck through the front of the restaurant and began firing indiscriminately.

This is a deep human tragedy, and my thoughts and prayers go out to the victims, their families and loved ones.

In this one incident, less than a half an hour, more citizens lost their lives than in the month the 25,000 soldiers from Killeen fought for their country in Desert Storm.

Each Member of this House must search his or her own conscience as to how to respond to this incident. For myself, I will only ask that each and every one of you extend your thoughts and your prayers with those who were victims of this tragic, senseless crime.

APPOINTMENT OF CONFEREES ON H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1992

The SPEAKER. The Chair appoints the following conferees on the bill, H.R. 2521, and without objection, the Chair reserves the right to appoint additional conferees: Messrs. MURTHA, DICKS, WILSON, HEFNER, AUCOIN, SABO, DIXON, DWYER of New Jersey, WHITTEN, MCDADE, YOUNG of Florida, MILLER of Ohio, LIVINGSTON, and LEWIS of California.

There was no objection.

THE WATERED-DOWN CRIME BILL

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

Mr. SHAW. Mr. Speaker, 7 months ago President Bush sent Congress a crime bill that was tough on crime, fair to crime victims, and reasonable in protecting Americans' individual rights.

But the crime bill we are debating today is so watered down that the President will not sign it in its current form. I know I will not vote for it unless we make some major changes.

We need real exclusionary rule and habeas corpus reforms that will free the justice system to do its job—put criminals behind bars and protect the rights of law-abiding Americans.

Mr. Speaker, we have real crime problems in this country. Drug-related mayhem continues to plague our cities.

The State's attorney in my district Michael Satz, in Florida has written me and urged me to vote against this bill because he knows it will hinder, not help those who want to make our streets safe. Let us get to work and put together a crime bill that will achieve that important goal.

Mr. Speaker, crime should not be a partisan issue. Let us work together to craft an anticrime bill. This is not such a bill.

Mr. Speaker, I am including in the RECORD a copy of Mr. Satz's letter, as follows:

FORT LAUDERDALE, FL,
October 11, 1991.

Hon. E. CLAY SHAW,
Congressman, 2338 Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR CONGRESSMAN SHAW: I am writing to you to express my strong concerns with regard to the Crime Bill that was recently reported out of the House Judiciary Committee.

That portion of the Bill referred to as the Fairness in Death Sentencing Act would effectively require a racial quota system for capital punishment. Under this provision, if a capital defendant can show that a disproportionate number of persons of one race or national origin have been sentenced to death, or that a disproportionate number of murderers of victims of a certain race of national origin have been sentenced to death, then a prima facie case of racial discrimination has been established and the State must prove by clear and convincing evidence that identifiable, non-racial factors explain the statistical disparities. This provision places an unreasonable and impossible burden of proof upon the State and would adversely effect capital punishment litigation. Further, because it is fully retroactive, this provision will inure to the benefit of the more than 2,500 capital defendants now on death row in the United States, 324 of which are in Florida prisons. Passage of this provision will not further racial equality in capital sentencing, but will improperly inject race into capital charging and sentencing decisions in a constitutionally impermissible manner. Furthermore, our already overburdened courts will be further greatly burdened by post-conviction pleadings claiming racial discrimination in sentencing. The Fairness in Death Sentencing Act is a legislative attempt to overturn the United States Supreme Court's decision in *McClosky v. Kemp*, 481 U.S. 279 (1987), which explicitly *rejected* the use of statistical analysis as a sole basis for measuring racial equality in death penalty cases, and I would urge you to vote against it.

Equally troublesome is the Berman Amendment which would eliminate all procedural default, retroactivity, and exhaustion-of-state remedies limitations on raising race-related claims in federal habeas petitions attacking capital sentences that are brought within a year of the bill's enactment. This would have devastating consequences for the integrity of the capital sentences that are now in effect. Specifically, current procedural default rules would have *no* applicability to capital defendants who could deliberately withhold a timely race-related claim with the intention of asserting it in Federal Court years after a State Court has reviewed a conviction and sentence. Title XXII would also overturn the United States Supreme Court's decision in *Allen v. Hardy*, 478 U.S. 255 (1986). In *Allen* the Supreme Court refused to apply retroactively the rule established in *Batson v. Kentucky*, 476 U.S. 79 (1986), which provided that prosecutors may be required to explain and provide a non-invidious reason for the use of peremptory challenges to strike potential jurors from a particular racial group. Thus, prosecutors would be forced to explain and defend peremptory challenges exercised in cases tried years ago. Unless defeated, the Berman Amendment may well thwart the orderly and rational administration of justice as envisioned by the Supreme Court and will provide capital defendants under sentence of death with yet another means of avoiding the execution of their lawfully imposed sentences.

Furthermore, the habeas corpus reform proposal which was reported out of the House Judiciary Committee would provide greatly increased opportunity for delay, abuse and repetitive litigation in both capital and non-capital cases. Indeed, the purpose of this provision is to overturn the United States Supreme Court's decision in *Teague v. Lane*, 489 U.S. 288 (1988). This would enable a defendant to file successive habeas corpus petitions raising new claims even where those new claims have no bearing on the defendant's guilt. This provision would also set a general one-year time limit for filing a federal habeas corpus petition and includes an automatic stay provision where execution dates are set, therefore causing more delay. Furthermore, this provision would allow re-litigation of claims that have been rejected in earlier habeas corpus petitions.

It is for these reasons that I would respectfully urge you to vote against the Crime Bill reported out of the House Judiciary Committee.

Yours very truly,

MICHAEL J. SATZ,
State Attorney.

□ 1930

CRIME BILL ANALYSIS

The SPEAKER pro tempore (Mr. HATCHER). Under a previous order of the House, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Speaker, I thank the Chair for the opportunity to address the House for 5 minutes this evening about the crime bill that is under consideration right now.

We are going to be in a series of very crucial amendments tomorrow and perhaps continued into next week on this bill. We discussed a lot today about the death penalty, but the most critical amendments that are not related to that are coming up right away.

I think it is important for us to spend a moment or two tonight before we go out reflecting on what we are about to engage in on the debates that are coming up for the next couple days.

One debate that is going to occur right off the bat tomorrow is on habeas corpus reform. The issue before us in this instance is going to be one of whether or not we clearly pass a provision that the law enforcement community of this Nation wants and say is absolutely necessary to stop these endless appeals or we are not going to do that.

There is no reason why we should not adopt the Hyde amendment which essentially incorporates what we have been debating in this body for a number of years now, but never have gotten it finally to the President for signature. It is a good solid amendment that is supported by all the law enforcement associations around the Nation that I am familiar with; the Attorneys' General Association, the Association of District Attorneys, the association of all kinds of police organizations. The reason why they support this particular version is because they understand that what is in the bill that is there now, if we do not take it out and adopt the Hyde proposal, will actually in the name of doing good do harm, will actually provide more hoops that will have to be followed, will provide more opportunities for delay in the carrying out of the death penalty sentences in particular, and do the things that we need to do in order to balance this program effectively. So that is No. 1, a very crucial amendment, up early in the session tomorrow and the one I urge my colleagues to support strongly because it is what we did before. It is what we should do again in this body.

The second amendment I think of very grave importance that is going to be up tomorrow is one I will offer on the exclusionary rule. It passed this body overwhelmingly in the last Congress. It has failed to pass the Senate a number of times, and I do not know why it has not passed the other body, but in our House what we are going to be considering is a very simple thing. The present law that the Supreme Court has laid out, and it is really a rule of evidence, it is not a law in a sense, says that evidence that is seized by police officers in a violation of your constitutional rights against search and seizure may not be admitted into court unless there are certain exceptions to that, unless this, that, or the other. The basic thrust of it is that in cases where there is a search warrant, the court has ruled that if you have a search warrant and there is a reasonably objective belief by the police officer that he is performing his duties not in violation, but in conformity with the constitutional requirements, then the evidence should be allowed in for the very simple reason, the only reason the rule is there, is to deter police from unconstitutional searches and seizures.

Now, two circuit courts, the Supreme Court has never had a chance to rule on this, but two circuit courts, the 5th and the 11th, have already ruled the same standard ought to be applied to searches where there are no warrants, which we normally allow to happen, like consent searches where you knock on someone's door and you ask them to come in and search because you have probable cause or you believe that something has happened on their premises and that sort of thing.

There is no reason why the standard should be different between the two types of otherwise legal searches. We do not need to have evidence thrown out in technicalities, as it is now being thrown out, when we have so much violent crime and drug-related crime in America.

So I urge my colleagues to adopt the McCollum exclusionary rule amendment, as we did in the last Congress last year, tomorrow when we debate it and put the uniformity in throughout the Nation between the jurisdictions of the Federal circuits and with the Supreme Court for both normally legal searches with and without warrants, make the same basic rules apply.

Now, the third and I think very critical amendment I would like to call to your attention is one which I also will offer tomorrow striking a provision from this bill known as the Fairness In Sentencing Act, or in the last Congress known as the Racial Justice Act, and substituting what we call the Equal Justice Act.

Nobody believes in race bias in sentencing, especially in the death penalty area. We all oppose that, and what my amendment does is offer the kind of restraints that will keep us before the fact from having courts sentence on the basis of race in any way, shape, or form. It will be against the law. The amendment provides protection on voir dire questioning, in being able to change venue and providing the basis for certification by jurors after the court has given them instructions not to consider racial matters, that they did not and will not consider them. It goes through a whole litany to make sure that race is not included in any way, shape, or form, in death penalty sentencing matters.

But what it also does is to strike a provision in this bill that is there in the name of fairness in race matters, but which instead is a sneaky backdoor way to end the death penalty, because what it does in the present form unamended is set up a structure whereby you create an inference through statistics that you have racial bias without considering any individual case, without considering whether it was discrimination or not in that case, and just on the basis of a State or Federal jurisdiction having a statistical imbalance between those who are eligible to receive the death penalty and those who historically have received it, that inference can only be rebutted by other statistics.

Now, I do not know how you do that, nor do the prosecutors around the country.

The bottom line is that there is no way to rebut it, because you cannot rebut it by aggravating circumstances or otherwise.

So I urge the adoption of the McCollum equal justice amendment in lieu of the amendment in the bill called fair sentencing tomorrow. If we adopt those three amendments, we will have gone a long way to making a truly tough criminal violent crime bill that we can be proud of and have adopted what the President has proposed in his proposals to us for several years and get on with the debate with the Senate and get on with what we need to do to have a tough criminal law.

FAIR TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, 3 weeks ago today the fair trade caucus met with Ms. Carla Hills, America's representative on the Mexican Free-Trade Agreement and the GATT talks. At that time I must admit I was disturbed by Ms. Hill's remarks, in particular when she failed to answer the question of how much it was going to cost the United States of America if free trade was enacted. Only after being informed by a staffer did she actually realize that we were going to lose $1 billion in revenues that are coming from tariffs, revenues that will have to be made up at the expense of the American taxpayer, even to cut vital programs like Medicaid and veterans' benefits or new taxes on the American taxpayer.

But something I find equally disturbing is at that time I asked Ms. Hills to supply the names of herself and her

staff members involved in these talks and made a very simple request, and that is I wanted to know if any of these people involved in the negotiations had a family member, an immediate family member who was on the payroll of a foreign nation, a foreign corporation, or foreign financial interest.

□ 1940

You see, my constituents are often disturbed at some of the negotiations that take place on some of the tradeoffs that have been made and often question why these things are taking place.

Again, it has been 3 weeks since I made this request of Ms. Hills. If there is no one on her staff who has a family member who is on the payroll of one of these corporations, I think that is sufficient time for her to write me and tell me so.

We have the frank, that is one of the privileges of this office. Rather than just buying stamps and having it float through our budgets, we are able to send letters by just signing our name in the top right-hand corner.

I would like to put Ms. Hills on notice, since I have the frank and since I have what I feel is a very efficient staff, that she will be getting a letter from me every day until I get a response and that she could save the taxpayers a great deal of money and certainly us a great deal of time if she would respond to my inquiry.

DISCUSSION ON MOTION TO INSTRUCT CONFEREES ON H.R. 2686, INTERIOR APPROPRIATIONS, FISCAL YEAR 1992

The SPEAKER pro tempore (Mr. HATCHER). Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 5 minutes.

Mr. DANNEMEYER. Mr. Speaker and Members, today the House voted 286 to 135 to instruct conferees on H.R. 2686, the Interior appropriations for fiscal year 1992. This was the instruction to adopt the Helms language that the Senate adopted overwhelmingly earlier this year. And in effect it was designed to give instructions to the National Endowment for the Arts that Congress means business, that American taxpayers no longer want to see our tax dollars used to produce pornographic literature.

Mr. Speaker, I take this time to advise my colleagues that even though within the past few hours the House voted overwhelmingly to adopt the language that I have described, I am advised in the last half hour or so the conferees have met and they have struck out this language to which I am referring.

Now, this is arrogance of the worst order. I do not know what is going on in the minds of these conferees. I do not know how we can get their attention any more, because candidly a vote of 286 to 135 is better than a 2-to-1 margin.

How much more indication do we need to give to these people?

I think what is going on here is just another example of the arrogance of this institution, which can only be defined as an imperial Congress. It has almost reached the point where Congress, as an institution, says to the people of this country, "Don't call us, we'll call you. Just send your tax dollars here. By the way, make sure that when the IRS calls, you be courteous to them because if you are not courteous you might find yourself on the short end of the stick."

This arrogance by liberal Democrats who control this place has just got to stop. How much longer are the American public going to be faced with a reality that when the House votes up or down to instruct conferees, that they do what they have done now?

I am advised my colleague from Oklahoma, Mr. SYNAR, is also a little bit displeased with the work of the conferees because, if I understand correctly, he got the House to adopt an amendment relating to adjusting grazing fees. So there were people in the conference committee who wanted to get rid of that increase on grazing fees and also in this instance on the use of taxpayers' money to fund pornographic material, and so I guess there was a swap here of some accommodation of corn for porn. I am not sure of the relationship, but that seems to be the relation between those two interesting coexisting ideas.

Mr. Speaker, I have taken the time earlier today in this proceeding to advise the House that tomorrow I will again seek recognition under a privileged motion to instruct conferees on the same motion that the House voted on today. It is my hope and desire that the House will vote consistently tomorrow on this same motion. Under the rules of the House, I am required to give notice of my intention to make this motion to instruct conferees. And perhaps somewhere along the line the conferees will get the idea that the House is serious about wanting to make sure, as we can, that taxpayers' money is not going to produce pornographic material under the aegis of the National Endowment for the Arts.

I might also add that we will have another chance at the conference report itself when it comes to the floor of the House. But no one knows when that event will take place. We are about a month away from adjournment for the year. Those of us who have been here for a while know the game that is played very well; the managers of the bill, the conferees, may very well decide that they will wait to bring the conference report to the floor of the House until the closing hours of the session prior to adjournment, when Members want to go home to be with members of their families and are no longer interested in listening to those of us who claim that there is something in the conference report that should be there that is not there. I do not know when they will bring this conference report to the floor of the House. The past pattern is what I have observed around here over the past few years, and it seems that is the way the railroad is run.

I am saying to my liberal Democrat friends, "Cut it out," the American people have had enough of this use of taxpayers' funds to produce pornographic material, and I hope to get the attention of the body tomorrow and, hopefully, by the same margin of 286 to 135 we can again get the attention of the conferees as to how they should proceed with this issue.

THE 1992 YEAR OF THE WETLANDS RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. JEFFERSON] is recognized for 5 minutes.

Mr. JEFFERSON. Mr. Speaker, I rise today to introduce legislation to proclaim the year 1992, "Year of the Wetlands."

Lately, the issue of wetlands conservation has become so politically charged that even attempts to define the term "wetlands" generate considerable controversy. Vice President DAN QUAYLE offers the following wetlands test: "When it's wet, it's wet."

But amidst the debate and confusion, there remain two overriding facts: First, wetlands are an invaluable economic and environmental resource of this country—a part of every American's national heritage. And second, this Nation's wetlands have disappeared and continue to disappear at an alarming rate.

The year of the wetlands resolution, I am introducing today aims to promote the conservation of our Nation's wetlands by heightening public awareness of wetlands' great value and diversity and fostering public and private involvement in conservation initiatives.

Wetlands are truly a national resource; they can be found in every county of every State in the Union. Depending on where you are from, they are variously called swamps, marshes, bogs, fens, peatlands, bottomlands, wet meadows, sloughs, and potholes.

And wetlands' functions and values are as diverse as their names: They are critical habitat to fish and wildlife, including many rare and endangered species; they convey flood waters, thereby reducing flood damage to nearby communities, they filter out pollutants and help prevent soil erosion; and they provide recreational, educational, and research opportunities for millions of Americans.

However, wetlands are not solely an environmental resource, but an important economic resource as well. In fact, our Nation's fishing and shellfishing industries depend, too large degree, on the harvest of wetlands-dependents species. In the Southeast, for example 96 percent of the commercial catch and over 50 percent of the recreational harvest are fish and shellfish that depend on the estuary-coastal wetlands system. The U.S. commercial fisheries harvest alone is valued at more than $10 billion per year. In addition, waterfowl hunters spend over $300 million annually to harvest wetlands-dependent birds. Wetlands also sustain furbearers like muskrat, beaver, and mink, supporting a fur harvest worth $300 to $400 million per year. Finally, they provide fertile ground for the cultivation of timber and food products.

Yet for many years, wetlands were viewed as wastelands: fetid, insect-infested swamps that should be eliminated. And eliminated they were: more than one-half of America's original wetlands have been destroyed—over 100 million acres. They have been drained and converted for agricultural uses, filled for residential and industrial development, and used as dumping grounds for household and industrial wastes.

Even with out present knowledge of wetlands' economic and environmental importance, wetlands continue to disappear steadily. According to the U.S. Fish and Wildlife Service's most recent national survey, the Nation lost an average of 460,000 million acres of wetlands annually during the period between 1954–74.

The loss of wetlands means not only foregone benefits, but actual economic and environmental costs. In my State of Louisiana, wetlands serve as the incubator for 90 percent of the commercial fish and 42 percent of the recreational fish that are landed in the Gulf of Mexico. Yet we are losing between 40 and 70 square miles of our State's coastal wetlands each year, a loss that jeopardizes a multibillion-dollar fishery. Wetlands loss has also meant the destruction of an important flood conveyance mechanism in our State; a significant loss given the degree of flooding we have experienced in recent years.

The destruction of this important economic and natural resource can be stopped. But public education and outreach is essential. This conclusion was borne out by the National Wetlands Policy Forum in its final 1988 report, "Protecting America's Wetlands: An Action Agenda." The forum found that much of the public, including many landowners, lacked information and understanding of the functions and values of wetlands and the appropriate techniques for protecting and managing them. The report recommended substantial research and outreach by both the public and private sectors to fill these information gaps.

Given the fact that three-fourths of wetlands in the continental United States are privately owned, public outreach and public-private involvement in wetlands conservation is essential.

One outstanding example of this kind of public-private initiative is the Society for Environmental Education formerly known as the Louisiana Nature and Science Center. The Society for Environmental Education is proposing the establishment of a Natural Center for Wetlands Education: A center for environmental education and research located adjacent to the Bayou Sauvage Urban National Wildlife Refuge. In partnership with government, business, universities, and citizens organizations, the National Center for Wetlands Education will serve as a leader and a model for public-private initiatives to foster public awareness stewardship of this important natural resource.

I believe that the year of the wetlands resolution will provide a propitious context for the growth of such public-private initiatives and will serve as a spark to galvanize public awareness and heighten involvement in wetlands conservation.

But let us not delay. Even as I speak, this Nation continues to lose valuable wetlands. In fact, since the beginning of this 102d Congress, nearly 225,000 acres of wetlands have disappeared. We must act now to enlist the support and participation of the American people to stem this tragic loss and to truly conserve this vital national resource.

SOVIETS ARE READY TO AMEND THE ABM TREATY TO ALLOW SDI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KYL] is recognized for 5 minutes.

Mr. KYL. Mr. Speaker, in the October 14 to 20 issue of Space News there is a very interesting headline that reads: "Soviets Warm to Joint Missile Defenses." It is a very important story because up to now one of the primary objections to the United States proceeding with the strategic defense initiative has been the possibility that the Soviets and the United States could not agree upon changes to the ABM Treaty of 1972, with the result that if the United States intended to proceed with the SDI Program, we would have to unilaterally leave the ABM Treaty in order to deploy those defenses, and we have wanted to negotiate with the Soviets over the issue rather than take unilateral action, if possible.

Mr. Speaker, the Space News article points out the fact that the Soviets have warmed to the idea of negotiating treaty changes, or even a new treaty with the United States, to permit the deployment by both countries of a strategic defense kind of system including both ground-based and space-based assets. This is primarily as a result of the invitation of President Bush to the Soviets to begin such negotiations and the response by President Gorbachev, who said—and I am quoting now—that "the Soviet Union is prepared to consider proposals from the United States on nonnuclear antimissile defense systems," the first time that the Soviet Union has taken the position that they are prepared to talk with us about amending the ABM Treaty to allow the deployment of antimissile defenses.

Gorbachev's statement, incidentally, was reiterated by the Deputy Chairman of the State Committee on Defense of the Russian Federation, Maj. Gen. Viktor Samoilov, who said recently—and again I am quoting:

> I think this ABM project is realistic. This is a practical proposal; it is not nearly a political theoretical one whereby we can creatively work together. An integration of joint efforts towards an ABM agreement is both full of promise and full of interest for us.

Mr. Speaker, I recently received a briefing from the officials, the U.S. officials, that made up the Bartholomew trip to Moscow. They confirmed to me that the leader of the Central Government of the Soviet Union, as well as key republics, are very interested in strategic defense, and I may add not just ground-based defenses, but space-based as well. As I said, this is very important because it represents the first time that the Soviets have expressed a willingness to renegotiate the ABM Treaty to allow a strategic defense system, but it comes at a very important time for the U.S. Congress because, Mr. Speaker, as you are aware, we are currently in conference on the defense authorization bill.

One of the critical issues for us to determine is how much we are going to fund the SDI Program of the President this year. The President has requested a program of over $5 billion. The Senate has indicated that they are willing to fund the program at a level of about $4.6 billion, and the House conferees have responded to the Senate's offer with a fair proposal, except in one regard, which I think can get us to an agreement in the conference, and, therefore, present the President with a bill on SDI that he can sign. The only thing that is short in this agreement right now is a provision for adequate funding for Brilliant Pebbles.

Mr. Speaker, as my colleagues know, brilliant pebbles is the spaced-based component, the space-based interceptor component of our SDI Program, and I take just a moment to note that the President's program is now called by the acronym of GPALS, which stands for global protection against limited strikes. The idea of global protection requires a series of satellites, these space-based interceptors, in order

to make the SDI system work. So, with the exception of providing adequate funding for the space-based interceptor part of the program, I believe that we are almost together on the appropriate kind of language and funding for the United States to go forward with the SDI Program this year.

Given the fact that the Soviets have now indicated a willingness to negotiate, the United States has already put a program on the table in Geneva in the last week; it was in the papers this morning, a program which would provide limits on the time, and the space, and the type of development of such a program. It would clearly provide the Soviets with protection against their deterrent. In other words, this system is not robust enough to prevent the Soviets from succeeding should they decide to throw everything they have at us.

That is not the idea of GPALS. GPALS is there primarily to protect against accidental launch or the launch, for example, of a Third World country such as Iraq.

Mr. Speaker, I would close by noting that the Soviets recognize the threat from Third World countries just as much as the United States does. Again quoting from Maj. Gen. Viktor Samoilov when he recently said, and I quote:

> We realistically appraise that by the year 2000, about 15 to 20 more governments and states will have missiles with more than a 5,000, or up to a 5,000-mile range. I think this is a very serious source of threat in the future.

Mr. Speaker, I might add that Secretary Cheney and the President agree with that assessment, as does CIA Director Webster. Those Third World countries are going to pose a threat to the United States in the future, and that is why it is important for us this year to proceed with the development of the strategic defense initiative.

DOBROSLAV PARAGA: PARAGON OF VIRTUE IN THE NEW CROATIA?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, the conflict in Yugoslavia now has dragged beyond the 100th days and 1,000th death mark, and as optimistic as one wishes to be, the light at the end of the tunnel is very dim and threatened by nationalistic winds that now are reaching gale force levels.

The Republics involved are becoming more alienated, and extremist splinter groups in both the Republic of Croatia and the Republic of Serbia are on the upsurge as a rational end to the bloodshed seems less and less attainable.

Mr. Speaker, I rise before you today to speak of one such splinter group that has garnered more than its fair share of press over the last few months, the Croatian Party of Rights [HSP], and its leader, Dobroslav Paraga.

As you can recall, Mr. Speaker, Dobroslav Paraga was honored for his human rights initiatives in Yugoslavia in the 101st Congress via Senate Resolution 169.

What I find of interest, Mr. Speaker, though, are his current activities as the head of the HSP, an ultranationalist movement in Croatia which claims to have more than 10,000 soldiers in its paramilitary wing, the Croatian Defense Force [HOS], and which boasts that it models itself after the Ustachi movement in the Second World War.

The Ustachi were responsible for the deaths of hundreds of thousands of Serbians, Jews, and gypsies, and were even viewed in disgust by Hitler's SS forces as being too savage in the carrying out of their duties. In fact, Mr. Speaker, more people were killed per capita population in Yugoslavia through the genocidal actions of the Ustachi than in any other area during the Second World War, even Germany and Poland.

I have seen many articles in the several newspapers that I read every day of the reemergence of nazism in various areas of the world.

The newly united Germany is experiencing a larger and larger problem with its skinhead neo-Nazi movement, which as recent articles state, is showing a growing intolerance for foreign workers—or Gast Arbeiters. This extremism has included attacks on foreigners, and the provision of emergency sanctuary by the German Government in order to provide full protection for these people in this growing environment of intolerance.

I have also read of the rise of the neo-Nazi movement in South Africa. The forces who support the continuation of apartheid have embraced the neo-Nazi movement as the vehicle by which they physically and verbally express their views. Once again, the insidious history of the Nazi menace has, as in Germany, led to attacks and physical harassment of not just blacks, but also South African Government forces.

The neo-Nazi movement in the United States is also of great concern. The actions of these groups within our own country, while protected under the Constitution, have also led to human rights violations on other citizens of our great Nation.

Mr. Speaker, these are serious problems. However, I believe that given the history of genocide in Yugoslavia, and given the current state of instability in that country, the neo-Nazi movement in Croatia poses the greatest threat of all.

The HSP maintains the view that the President of the Republic of Croatia, Franjo Tudjman, a verdant nationalist himself, and his government are corrupt and incompetent. In addition, the HSP believes that the current regime in Croatia has not done enough to press Croatia's demands for independence, and has branded Tudjman a traitor.

This in and of itself does not seem to be that great a threat, but since Croatia's attempt at independence has become stalled in the current conflict, Paraga's party is gaining more and more converts, and more than one source has indicated that the HSP poses a very real threat to Tudjman. Whether this is done legally through an electoral process, or more than likely through an assassination and coup attempt, it only would serve to exacerbate the already serious situation in Yugoslavia, and, in addition, virtually guarantee the violation of the human rights of the Serbian minority within Croatia.

Last Thursday, Blaine Harden, of the Washington Post, wrote of Mr. Paraga's party, and of its policies and rise of popularity within Croatia. While I will be quoting from this article, Mr. Speaker, I also ask that the entire article be included in the RECORD at the end of my text, and also that all subsequent material that I use be included in the same manner.

Mr. Paraga denies that the neo-Nazi HSP is a reincarnation of the Nazi-backed Ustachi of the Second World War. I beg to differ and quote from Harden's article.

At the beginning of the article, Mr. Harden writes of the HSP:

> On the wooden stocks of their automatic weapons, some fighters have carved out the U symbol of Croatia's notorious government, that in 1941–45 collaborated with Adolf Hitler and forcibly converted Eastern Orthodox Serbs to Catholicism. Hundreds of thousands of Serbs not converted were expelled from the fascist state or murdered in death camps.

Mr. Harden continues a few paragraphs later:

> As the war intensified, the initials of the wartime Ustachi regime were scrawled on more and more buildings across Zagreb.
>
> At a posh hotel wedding reception here on Saturday night, at about the time Croatia's president was ordering a mobilization of all Croats to fight the "Serbo-Communist hordes, two young men stood at a large table and raised their stiff right arms in the "Sieg Heil" salute of Nazi Germany.

But, Mr. Speaker, perhaps the most enlightening probe into the psyche of the Serbian minority within Croatia comes in Mr. Harden's final paragraph:

> The symbols, rhetoric and territorial ambitions of the Party of Rights provide ample reasons for Serbian concern.

Mr. Speaker, the second article from which I will quote was run on the Reuters newswire last Friday. The reporter, Andrej Gustincic, reports from Zagreb regarding Paraga's party:

> His Party wants an independent state of Croatia whose borders would include the neighboring republic of Bosnia-Herzegovina.
>
> Its borders would coincide with those of a nazi-puppet state during World War II run by fanatical Croatian fascists called "Ustache," who killed hundreds of thousands of Serbs, Jews, and gypsies.

Mr. Gustincic then quotes Mr. Paraga:

We recognize the validity of the wartime Croatian state but reject its regime. We are not Ustache. We do not have the Ustache ideology and we don't sing Ustashe songs.

Gustincic continues:

But HOS uniforms bear the Ustashe motto "Za Dom Spremni" (Ready to Serve the Homeland) and some of the soldiers wear badges saying "Ustashe renaissance."

I will add, Mr. Speaker, that "Za Dom Spremni" is the Serbo-Croatian equivalent of "Sieg Heil."

The next article from which I quote was written by Paul Koring in the September 25 Toronto Globe and Mail:

Although the Party of Rights rejects allegations that it is a reincarnation of the Nazi-backed Croatian nationalist movement known as Ustasha, at least some of its red bereted members—festooned with grenades and wielding submachineguns outside the party headquarters—freely, and with apparent pride, claim to be Ustashe.

They also wear, and the party has as its emblem, a version of the red and white checkerboard crest used by the Ustasha, which killed thousands of Jews and Serbs during the Second World War.

In an October 7 article in the Chicago Tribune, reporter Ray Moseley also reports on Mr. Paraga's Croatian Party of Rights:

Western Diplomats and the Croatian Government view his activities with distaste. Diplomats said his army, which he calls the Croatian Defense Forces, sabotaged a cease-fire more than a week ago by capturing an army barracks at Bjelovar. That prompted the army to renew its offensive against Croatia.

The Defense Forces sometimes fight alongside the Croatian National Guard, Paraga said. But diplomats said that they also pursue objectives contrary to government policy.

Mr. Moseley continues:

Paraga says President Tudjman is guilty of "high treason" for having agreed to cease-fires. He says there can be no truce until all of Croatia is liberated.

Despite such statements, the government tolerates his activities. It would appear to have little choice, because any attempt to bring the Defense Forces under government control probably would touch off a war among Croatians.

Mr. Speaker, this alone is of great concern, but as the article continues, Mr. Moseley helps put the HSP in context to other neo-Nazi movements on an international scale:

He [Paraga] said there are party branches in several U.S. cities, including Chicago, and in Canada and Australia. In Croatia itself, he said, the party has more than 100,000 members.

Critics say the party is descended from the fascist Ustashi movement that governed Croatia as a Nazi-puppet state in World War II. The party's last prewar secretary, Ante Pavelic, founded the Ustashi and served as Croatian president during the war.

Paraga denies that the Ustashi were fascists or even under the control of Nazi Germany. He does admit that the Ustashi espoused racial policies and sent many Jews to their deaths, but says his party does not share such racial views, nor does it consider itself as a successor movement.

Mr. Speaker, the rise of a neo-Nazi movement on this scale, and in a country as unstable as Yugoslavia can only spell trouble. Is it any wonder that the Serbian minority within Croatia is fighting for its rights? Given the past history of the Ustashi, the specter of a popular movement on this scale is more than enough motivation for the Serbian minority in Croatia to demand its autonomy.

Just as a comparison, Mr. Speaker, if you took the claimed size of Mr. Paraga's party, it makes up about 2 percent of the Croatian population, and is growing. In a country the size of the United States, this would be a party of over 5 million people.

On another scale, I doubt any other neo-Nazi movement in the world can claim the size of Mr. Paraga's.

Mr. Speaker, back in September, the Croatian Government was accused of assassinating the HSP's second in command, Ante Paradzik. This served to exacerbate the tensions between the current regime and Mr. Paraga's Party of Rights.

Last week, there was an alleged bombing attempt on President Tudjman's palace. Having heard this, I contacted various members of the administration, and asked that a United States military investigative group determine on whose shoulders the blame fell, whether it was a Serbian, federal army, or Croatian attempt at Mr. Tudjman's life.

Mr. Speaker, the rise of Mr. Paraga's party adds another element to the already complicated situation in Yugoslavia. If such a party were to gain more power, and as I have stated, this is not an impossibility, I shudder to think of the deaths and destruction that would occur.

□ 2020

I would like to think that we, in this day and age, have left the heinous legacy of the Second World War and of the Nazi Party behind. However, this legacy appears to be alive and thriving in the Republic of Croatia under the leadership of Dobroslav Paraga, once champion of human rights, now champion of the neo-Nazi Ustache movement in Croatia, and a man who was recognized and honored by Senate Resolution 169 of the 101st Congress.

Mr. Speaker, we need to look at this whole picture with a great deal of real concern.

MICROENTERPRISE, SELF-EMPLOYMENT AND ASSETS ACCUMULATION AS A POLICY OPTION

The SPEAKER pro tempore. (Mr. HATCHER). Under a previous order of the House, the gentleman from Mississippi [Mr. ESPY], is recognized for 60 minutes.

Mr. ESPY. Mr. Speaker, I have come to the floor today to talk about a much needed new direction in social welfare policy. In particular, I want to talk about microenterprise development, self-employment programs, individual development accounts, employee stock ownership plans, HOPE 1, and other initiatives which represent a new approach to helping those who are still left out of our Nation's economic mainstream.

In these days of legitimate budget constraints, in these days of stressful economic situations, in these days of growing demands on current programs, new initiatives tend to be buried before they are born—they are left on the cutting room floor before the movie ever comes to the screen for a preview showing.

New initiatives do not have an advocacy group ready at a moments notice to spring into action in support of the effort; new initiatives do not have a constituency forming a solid base of support; new initiatives must struggle to be heard over the hue and cry of existing programs that are desperately underfunded, underutilized or undermined by opponents.

I have taken the time for this special order to speak on issues about which I have very strong feelings. I come to the floor to speak on issues close to my heart. I strongly believe that we need new approaches to helping those who are poor in our country because the old ways simply don't work.

Despite the billions of dollars we spend, more Americans than ever remain stuck on welfare. Despite the billions that we spend on food stamps—one in eight American children are hungry. Despite the money we spend on antipoverty programs—33 million Americans remain in poverty. One in every five children in America is in poverty.

Generation after generation of Americans live permanently on welfare—given up on by our society, and many giving up on themselves. Mr. Speaker, I say again, it's time we looked seriously at new approaches to our welfare policies, because the current policies don't work.

A few days ago, the State of Michigan announced that it was ending its general assistance welfare program to poor, able bodied adults without children. The State of Maryland is eliminating 24,000 adults from its general assistance program. And other States are doing the same thing. The recipients are usually too young for social security, and too healthy to receive disability.

But most of them are able-bodied, men and women. Most of them could work, and would work, if given the opportunity. But in this economy, work is hard to find. So what are they going to do? What are we going to do?

I believe it's time we adopted policies which help the poor move from depend-

ency—to independence. It's time we adopted programs which help them move from subsistence—to self-sufficiency. It's time we stopped merely giving people fish, and taught them how to fish, and helped them get a rod and a reel. And that's what I want to talk about during this special order.

BUDGET COMMITTEE/HUNGER COMMITTEE

I come to the floor as a member of the Budget Committee and as a member of the Select Committee on Hunger. The Budget Committee expends considerable energy reviewing, analyzing, debating, and projecting Federal spending—or nonspending—options. We are all looking for options that will reduce the Federal deficit, strengthen the U.S. economy, enhance U.S. competitiveness abroad, and improve the quality of life at home.

The Hunger Committee is involved in reviewing all aspects of food and financial assistance programs for low-income persons in our society. As Chairman of the Domestic Task Force of the Select Committee on Hunger, I have held hearings on various social policies issues. In those hearings we have heard numerous proposals for reforming the current welfare programs.

Recently, in both the Budget Committee and Hunger Committee settings, I have heard testimony about microenterprise development, self-employment programs, and asset-accumulation policy. What excites me greatly about the testimony on these concepts, besides the sincerity and dedication of the persons testifying, is the way in which these concepts combine economic and social issues.

From a social policy standpoint, microenterprise development has been recognized and supported for some time by the Select Committee on Hunger, of which I am also a member. Representative TONY HALL, chairman of the Select Committee on Hunger, is the primary sponsor of the microenterprise provisions in H.R. 2850, the Freedom From Want Act. In addition, Representative HALL, Representative FRED GRANDY, Representative BILL EMERSON, and myself are sponsoring H.R. 3450, a bill to help microenterprise development.

From an economic standpoint, I became convinced during Budget Committee hearings that microenterprises have a significant role to play any future economic development strategy for small towns and urban neighborhoods throughout America. During this past summer, as chairman of the Budget Committee Task Force on Economic Development and Natural Resources, I have conducted a series of hearings on "Investments in America's Hometowns." Testimony received by my task force covered all aspects of economic development—infrastructure investments, capital budgeting, revolving loan funds, and microbusiness or microenterprise programs.

MICROENTERPRISES

Microenterprise development or self-employment programs struck me as some of the most exciting proposals. Yet, microenterprise or self-employment proposals seemed to be the economic development proposals that were least well-known among my congressional colleagues.

So, what are we talking about? Why am I excited?

When we talk about microenterprises, self-employment projects, or assets accumulation welfare policies, we are talking about promoting self-sufficiency, building self-esteem, and encouraging the work ethic.

We are talking about bringing economic strength to the lower income levels of the population.

We are talking about encouraging the very American entrepreneurial culture.

We are talking about breaking the cycle of poverty that is growing ever wider, is acting as a drag on the whole economy, and is drawing into its grips more and more of America's productive capacity.

To be specific, we are talking about giving low-income persons a chance to start their own business to be self-employed.

That's just common sense. Yet, current policies in income maintenance programs work just the opposite. Current programs prohibit the accumulation of assets above very limited levels—such as $1,000. Current programs do not recognize self-employment, nor do they encourage self-employment as an employment option that will allow compliance with job requirements. Current programs do not offer business training or technical assistance as a part the jobs programs offered to recipients.

It is time we realize—that while income assistance is essential to maintain a family, we must provide families with more than maintenance. America has long been known as the land of opportunity—we must make as many opportunities as possible available to all Americans.

Microenterprise development is one opportunity, one option that should be made available to all Americans who want to pull themselves up by their own bootstraps. But first, we have to make sure that everyone has some boots.

What is a microenterprise? The definition of a microenterprise is not set in concrete, the term is evolving as groups begin to implement projects, conduct research on the topic, perform evaluations of programs, and propose legislative amendments to support microenterprise efforts. Generally speaking the term "microenterprise" refers to a business which employees five or less persons—one of whom is the owner. Further, the business is usually capitalized with less than $5,000.

What kind of businesses make successful microenterprises? Microenterprises are primarily retail or service businesses. For example, a microenterprise may be involved in dressmaking, auto repair, auto detailing, word processing, computerized billing services, messenger service, shoe repair, cleaning, or maintenance operations.

What is involved in microenterprise development programs? Over 100 community based organizations began developing microenterprise projects during the 1980's. In most cases, the projects involve entrepreneurship training, the provision of technical assistance in the development of business plans, and the establishment of a revolving loan fund to provide capital for business startup.

What sources of funding are available for microprograms? Currently operating microenterprise development of self-employment programs are funded or supported through a variety of sources. Foundation grants, nonprofit organization funding, State funds, and local community funds support current programs.

The Community Reinvestment Act requirements of the banking legislation has led to bank investments in microenterprise programs. Although there is not a specific Federal program funded a microenterprise development, funding from a number of Federal programs can be used to implement and operate a microenterprise or self-employment programs. Federal sources of funding include community development block grant moneys, Job Training Partnership Act moneys, and rural development loan fund moneys.

But these Federal efforts are not nearly enough—and they are often offset by regulations in current programs which penalize the poor for the very activities we need to encourage.

Asset limitations in the current income maintenance programs are a prime example of policies which discourages participant initiative to move out of poverty.

By now, many of my colleagues have heard the story about an unmarried 36-year-old Milwaukee mother who managed to put aside enough nickels, dimes, and dollars from her monthly welfare checks to accumulate more than $3,000 in savings over 4 years. She wanted to send her daughter to college. Because welfare rules prohibit continued receipt of assistance if the family has assets in excess of $1,000, the Milwaukee mother was convicted of welfare fraud and was asked to repay the Government $15,000.

That is ridiculous. It is backward. And it is wrong. That's a perfect example of why our welfare policies work to keep people on welfare, rather than help to get them off—and this Congress needs to do something about it.

Why is asset-accumulation policy important? As Dr. Michael Sherraden so

eloquently stated in his book "Assets and the Poor": "* * * income only maintains consumption, but assets change the way people think and interact with the world." An example, of changing the way a person "interacts with the world" was has been reported by Ms. Kathryn Keeley, president of WomenVenture—an organization that administers a microenterprise program. In testimony before a Joint Budget Committee and Hunger Committee hearing, which I was chairing, Ms. Keely said, "* * * when you get a welfare Mom to go into a school and say I am a business owner, as opposed to I am a welfare Mom, it changes everybody's headset about her."

In my district, I recently met a young woman named Robbie Rabun. She is a perfect example of what can be accomplished with microenterprise programs. One year ago, Ms. Rabun was a welfare mother struggling to raise two sons on $441 per month. Today, because of a microenterprise program which gave her $5,000 seed capital, technical assistance, and a raised level of self-esteem, Ms. Rabun is off welfare. She owns her own car detailing business and earns about $1,800 per month. She is proud, and most of all she is independent. Her business is an asset, and now she has something to leave her children.

There are many more potential Robbie Rabuns in our society. But, the microenterprise program which helped Robbie Rabun was operating under waivers from current welfare program policies. A permanent change in policy is needed to foster more Robbie Rabuns.

On October 9, 1991, at a Select Committee on Hunger hearing, I heard the testimony of two women who are ready to begin their own businesses but are being held back because of current welfare program policies. Both women have been involved in a self-employment investment demonstration [SEID] project. Both have completed a business training program, have developed approved business plans and have arranged for loan financing to start their business.

One of the women that testified, Melody Boatner—a recipient of welfare for 1½ years—plans to start an upholstery business. She needs to acquire a $1,500 sewing machine and a reliable truck; but, these items would place her above the $1,000 asset limit in AFDC. Although she clearly expects her business to be successful and to provide enough profits to support her and her child, she cannot afford to start up the business without welfare assistance during some transition period.

Mary Johnson, the other witness at the Hunger Committee hearing—a welfare recipient for 2 years—testified about her plans to start a computerized medical billing service. The acquisition of the computer equipment and a reliable automobile necessary to operate her business would place her above the $1,000 asset limit in AFDC. Because she has three children and an aged mother for which to care, Ms. Johnson cannot afford to start up her business without welfare assistance during some transition period.

MICROENTERPRISE LEGISLATIVE PROPOSALS

As I mentioned earlier, two major pieces of legislation pending are H.R. 2258, the Freedom from Want Act and H.R. 3450, a bill to amend current AFDC law to help microenterprises. These bills, and others, would change Federal policy so that Mary Johnson, Melody Boatner, and thousands like them will be helped, rather than held back.

Among other things, these bills propose that up to $10,000 in net worth of a microenterprise be excluded for asset eligibility determinations. The bills also propose that only the net profits of a microenterprise be counted as household income. Further, the bills would encourage or, in some cases, require States to include microenterprise training as a part of its JOBS Program.

Another important piece of legislation, H.R. 288, the Act for Microenterprise introduced by Representative CARDISS COLLINS, would create a Micro-Enterprise Technical and Operations Office in Federal banking agencies to serve as a clearinghouse and to encourage banks to lend to microenterprises. Representative COLLINS' legislation would also ensure that a microenterprise loan recipient may remain in either the welfare or unemployment insurance programs for a 1-year transition period, instead of being terminated from the programs immediately.

Thanks to the leadership of Chairman TONY HALL of the Hunger Committee, some important microenterprise provisions were incorporated in the recently passed job training reform amendments—H.R. 3033. In addition, microenterprise or self-employment opportunity amendments to the Food Stamp Program were a part of the Mickey Leland amendments enacted in the Food, Agriculture, Conservation and Trade Act of 1990.

CONCLUSION ON MICROENTERPRISES

Microenterprises or self-employment programs have positive social policy implications—they encourage the work ethic; they help reduce welfare dependency; and they help individuals who participate improve their self-esteem.

Microenterprises or self-employment programs also have positive economic policy implications—they stimulate economic activity, help produce a better educated and more productive workforce, and have the potential of helping to reduce welfare program costs. While we may risk spending $5,000 or $10,000 to help a welfare recipient start a microenterprise, we will spend many times that keeping them, and their children, on welfare.

Evaluations of the current microenterprise demonstration projects indicate persons which choose to participate in the programs generally have a higher than average education level and have been on welfare for more than 2 years. This tells me we are dealing with a select group of persons; but, also we are dealing with a group whose departure from the welfare rolls could have an effect on the reduction of welfare costs which is greater than the portion of welfare rolls which they represent.

Moreover, the influence of this small group of microenterprise program participants will have an ever-widening influence as the participants become models for their dependents and/or other welfare recipients.

From an economic standpoint, it has been documented often that small businesses—microenterprises have a positive affect in stimulating the economy. A study between 1981 and 1986 conducted by small business consultant, David Birch, found that firms with fewer than 20 employees created 88 percent of the new jobs in the United States Rural or inner city urban neighborhoods which have few formal job opportunities are prime areas for microenterprise development.

Self-employment can be an attractive option for low-paid workers, unemployed individuals, welfare recipients, persons suffering job displacement because of base-closings and other defense force or production reductions and persons caught up in the transition of the Nation's agriculture economy.

I am convinced that microenterprises can be a key component of a new welfare strategy in this country—and we will measure its success by how many people are helped off of welfare.

HOPE 1

There are other kinds of assets that the poor need to escape poverty.

That is especially true now, at a time when the disparity between the rich and poor is growing wider each year. Data compiled for Budget Committee members indicates the real income of low income single mothers with children declined substantially between 1979 and 1989 while the real income levels of families in the top 1 percent of the Nation's income levels increased by 95.3 percent.

But wealth is more accurately measured in terms of assets. In the area of assets the disparity between rich and poor is even worse. According to a Federal Reserve report, the top 20 percent of Americans—based on assets accumulation—own almost 80 percent of the wealth in the Nation. At the same time the bottom 40 percent own almost no wealth. They have income but no assets.

And among those Americans with assets, most of them have assets in their home.

That's why I strongly support HOPE 1 [Housing Opportunities for People Ev-

erywhere] and why I hope many more of my colleagues, especially on the Democratic side, will take a second look at this program.

HOPE 1 is designed to help low-income residents of public housing become home owners. It's designed to help them accumulate some housing assets of their own—rather than simply live in a house owned by the Government.

I'm from Mississippi. On the New York Times best seller list, there is a book that chronicles the movement of African-American people from Mississippi and other Southern States in the 1940's and 1950's. During that time, African-Americans began to move off the plantation and into other areas across this country.

Bitter experience taught them that the person who controls where you live, controls your life. They knew that new hardships would come with leaving the plantation—but the hardships of staying were worse.

I support HOPE 1, because I believe that many low-income Americans who live in public housing are worse off than people who were stuck on the plantation. They are effectively trapped into transitional housing, which in many cases is not fit for human beings to live in. But most of all, they are trapped in a cycle of poverty.

The HOPE Program, which we have debated here before, is not for every tenant of public housing. It is not for every public housing project.

But for those who are willing and able to own their own homes, shouldn't we provide some assistance to help them repair the units? Shouldn't we provide some economic development assistance? Shouldn't we teach residents of public housing how to own and manage their own units, rather than just continuing to try and do it for them?

I believe that we should—and I believe that we should give HOPE 1 a chance.

This year, we will provide $60 billion in tax deductions to help middle-income and upper-income homeowners own their own homes. I support that policy, because it helps them accumulate assets. And we need to do the exact same thing for residents of public housing. We need to help them become homeowners as well—and accumulate some housing assets.

INDIVIDUAL DEVELOPMENT ACCOUNTS

Mr. Speaker, we also spend $40 billion a year helping middle income and working Americans accumulate retirement assets. We give special tax benefits to individual retirement accounts, pension plans, and other vehicles to help Americans accumulate the assets they will need for retirement.

So I want to call my colleagues' attention to provisions in the Freedom From Want Act, introduced by my colleague TONY HALL which will do the same thing for the poor.

Like we have individual retirement accounts [IRA's] to help middle-income Americans accumulate assets—we need individual development accounts [IDA's] to help low-income Americans accumulate assets.

IDA's work the same way as IRA's. They would allow the poor to save money for designated purposes—for housing, for education, to start a small business, or for retirement. The government would provide matching grants as incentives to the poor to save—and we will start to help the poor accumulate the assets they need to escape poverty.

With IDA's, the Milwaukee mother who is now convicted of welfare fraud for saving for her child's education will be given a matching grant and encouraged to save even more. That way, she can accumulate funds for her child's education, so that the likelihood of her child living on welfare is decreased. That way, we break the cycle of dependency.

With IDA's the welfare recipient who is now encouraged to spend every dime she receives on consumption today will be encouraged to save for the future. With IDA's, our policy will recognize that economic well-being does not come through spending, but rather that it is achieved through saving, through investment, and through accumulation of assets.

IDA's would be optional, interest-bearing accounts in the name of one person. They would be held in federally insured financial institutions. Money could be withdrawn only for specific purposes.

Most of all, persons would receive matching grants, based on their overall income, to encourage them to save.

For example, under the IDA demonstration project in the Freedom From Want Act, persons whose income is less than half of the poverty level would receive a 9-to-1 match. For every $100 they managed to save, the Federal Government would match it with $900—up to a maximum of $1,800.

Just as we now encourage Federal employees to save by providing matching contributions, we should do the same thing for those Americans who need to save the most.

That's what IDA's will do. Like microenterprises, and HOPE 1, IDA's will help the poor accumulate the assets they need to break the cycle of poverty.

ESOP'S AND GUARANTEED WORKING WAGE

Mr. Speaker, I want to mention just one more asset based initiative which I believe we need to seriously look at in this Congress—one to help those Americans who are already at work—who work hard—but who still don't have enough income to save and accumulate the assets they need to build a firmer economic foundation.

The first idea is for a guaranteed working wage. The guaranteed working wage is based on a simple, but profound principle—Americans who work, and who work hard, should be rewarded with an income that allows them to live above the poverty level.

Currently, the work ethic doesn't work for nearly 11 million Americans who live in families where someone works during the year—but where they don't earn enough to escape poverty. The guaranteed working wage would redesign and expand a tax credit which is already very popular in the Congress—the earned income tax credit.

A guaranteed working wage would guarantee every full time, year round worker a working wage sufficient, along with existing benefits under the food stamp program, to support his or her family above the poverty line.

A guaranteed working wage would benefit those Americans who work hard every day, who earn too much to qualify them for assistance programs, but not enough to get their families out of poverty.

A guaranteed working wage would end the perversity where some people are actually better off by not working. It would end the idea many people have, which is true, that it's often more beneficial to stay on welfare than to go to work.

Like the present earned income tax credit, a guaranteed working wage would provide a wage supplement for every hour a poor person works—but the size of the supplement should also increase with the size of the family being supported. The maximum supplement should be enough to close the gap between the poverty level and what the family could earn by working full-time, all year at the minimum wage, plus food stamp benefits.

By ensuring that every American who works full-time has an income sufficient to pull his or her family out of poverty, we will be making real the promise that America is a country where hard work leads to success. By implementing a guaranteed working wage, we will help millions of working Americans move above more subsistence, and we will help them be more able to accumulate the assets they need to move up the economic ladder.

ESOP'S

The last initiative I want to talk about is also for those Americans who work. It's also about promoting the work ethic, and about helping more people in our country accumulate assets so that they can have a real piece of the economic pie. I'm referring to an idea which has been around for a few years, but whose promise and potential we have yet to realize—employee stock ownership plans.

Today I added my name to the list of cosponsors of H.R. 2410, an important bill introduced by my colleagues BERYL ANTHONY, CASS BALLENGER, and DANA ROHRABACHER.

This legislation would enhance ESOP's in our country, by opening up the possibility of employee ownership to employees of one-third of the corporations in America that are now unable to participate because they are subchapter S corporations. It would eliminate the tax on early distributions from ESOP's; allow double contributions to accounts of low-paid ESOP participants; and encourage the transfer of closely held small company stock to an ESOP from an estate. It would also allow American workers the opportunity to bid equally with foreign interests trying to acquire U.S. corporations.

I'm proud to add my name as a cosponsor of this legislation. More workers need to own stock in the companies where they work.

When they own stock, workers have a greater stake in the future of the company.

When they own stock, workers work harder, and pay more attention to quality.

When they own stock, workers realize that they, too, will share more in the fruits of their labor. There is more in it for them than just a paycheck.

When they own stock, workers start to think more like owners, and the result is often more efficient companies, with better motivated workers, and a more equitable distribution of profits.

There is a growing list of companies which have compiled impressive records of growth since implementing ESOP's, partly due to encouragement by the Congress in the mid-1980's. But I believe that now is the time for Congress to do more.

Last year, there were 9,000 ESOP's in the country. In many, employees are involved in the decision making of the company. By purchasing stock in their companies, workers have assumed more of the risk—and they are entitled to receive more of the reward.

With ESOP's, workers acquire business assets. They don't just work for a weekly income, they work for the long term growth of the company, and their own assets.

In conclusion, with ESOP's, with the guaranteed working wage with IDA's, Microenterprises, and HOPE 1, working and low income Americans can accumulate assets.

With asset based programs, they can join the ranks of the haves, and leave the ranks of the have-nots.

With asset based programs—those who are often left out and stuck on the river bottom are given the opportunities they need to realize their own potential, and move into the economic mainstream.

With asset based programs, the poor and low-income Americans are not a permanent drain on the financial resources of middle income Americans—rather they are helped to join the ranks of middle income Americans. With asset based programs, those who are stuck on the river bottom are not just given an inadequate, meager, and stigmatized hand out—they are given a hand up.

So I want to urge the Congress to offer equal economic opportunity to all Americans. I want to urge all of my colleagues to take a fresh look at asset based welfare policies, where success is not measured by how many people we feed—but by how many people we help acquire the means to feed themselves.

It is time for the United States to rebuild its economic strength at home. And I believe we can best do that by promoting what makes America great—the work ethic, savings, investments, and the accumulation of assets.

In the end, I believe that we need to realize that Americans who are in poverty, who are on welfare, who work hard but still can't make ends meet are just like other Americans. They don't deserve our scorn, they deserve our assistance.

We spend billions of dollars each year helping better off Americans accumulate assets. Now it is time we turned our attention to helping those on the bottom accumulate the assets they need to pick themselves up. It's time we stopped just giving poor people fish—but start teaching them how to fish and help them to acquire a rod and a reel.

Nobody can ever spend their way out of poverty. Just like our country can never borrow its way out of debt. To get out of poverty, the poor need savings, they need investments, they need assets. But most of all, they need a government willing to rethink old policies, throw out those that don't work, and try something new.

I am convinced that we can solve the problems facing our country. We can rebuild our economy. We can significantly reduce the number of Americans who live in poverty. But we have to be willing to change our attitudes towards those who need help. Americans don't want a hand out. They want a hand up. Asset based welfare policies are the way to go. I look forward to working with all of my colleagues on these programs in the days and months to come.

□ 2050

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. BOEHNER) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 60 minutes each day, on October 29, 30, 31, and November 5, 6, 7, 12, 13, and 14.

Mr. MCCOLLUM, for 5 minutes, today.

Mr. DANNEMEYER, for 5 minutes, today.

(The following Members (at the request of Mr. SCHUMER) to revise and extend their remarks and include extraneous material:)

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. JEFFERSON, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 60 minutes each day, on November 1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, and 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BOEHNER) and to include extraneous matter:)

Mr. BROOMFIELD in two instances.
Mr. DICKINSON.
Mr. DUNCAN in two instances.
Ms. SNOWE.
Mr. MCEWEN.
Mr. BURTON of Indiana.
Mr. MACHTLEY.
Mr. GEKAS.
Mr. KYL in two instances.
Ms. ROS-LEHTINEN.
Mr. GREEN of New York.

(The following Members (at the request of Mr. SCHUMER) and to include extraneous matter:)

Mr. MCMILLEN of Maryland.
Mr. PEASE.
Mr. MILLER of California.
Mr. MURTHA.
Mr. LANTOS.
Mr. LEHMAN of Florida.
Mr. AUCOIN.
Mr. KOSTMAYER.
Mr. HAMILTON.
Mr. KOLTER.
Mr. SISISKY.
Mr. ROWLAND.
Mr. FEIGHAN.
Mr. SERRANO in two instances.
Mr. DINGELL.
Mr. ROSTENKOWSKI.
Mr. ECKART.
Mr. TORRES in three instances.
Mrs. SCHROEDER in two instances.
Mr. TOWNS.
Mr. TORRICELLI.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1415. An act to authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes;

H.R. 2608. An act making appropriations for the Departments of Commerce, Justice, and State, the judicary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes; and

H.R. 3280. An act to provide for a study, to be conducted by the National Academy of Sciences, on how the Government can improve the decennial census of population, and on related matters.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 107. Joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day."

A BILL AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill and joint resolutions of the House of the following titles:

H.J. Res. 230. Joint resolution designating October 16, 1991, and October 16, 1992, each as "World Food Day";

H.J. Res. 303. Joint resolution to designate October 1991 as "Crime Prevention Month"; and

H.R. 2519. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, et cetera, for the fiscal year ending September 30, 1992, and for other purposes.

ADJOURNMENT

Mr. ESPY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Thursday, October 17, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the speaker's table and referred as follows:

2210. A letter from the Comptroller General, the General Accounting Office, transmitting the status of budget authority that was proposed for rescission by the President in his fifth special impoundment message for fiscal year 1991, dated June 28, 1991, pursuant to 2 U.S.C. 685 (H. Doc. No. 102-152); to the Committee on Appropriations and ordered to be printed.

2211. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report on the status and accomplishments of the runaway and homeless youth centers for fiscal year 1990, pursuant to 42 U.S.C. 5715(a); to the Committee on Education and Labor.

2212. A letter from the Administrator, General Services Administration, transmitting the annual report of personal property furnished to non-Federal recipients for fiscal year 1990, pursuant to 40 U.S.C. 483(c); to the Committee on Government Operations.

2213. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2214. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2215. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2216. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2217. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2218. A letter from the Secretary of the Interior, transmitting a report entitled "Wetlands: Status and Trends"; to the Committee on Merchant Marine and Fisheries.

2219. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend sections 5315 and 5316 of title 5, United States Code, to raise the position of Chief Counsel for the Internal Revenue Service, Department of the Treasury, from Level V to Level IV of the Executive Schedule; to the Committee on Post Office and Civil Service.

2220. A letter from the Director, Office of Personnel Management, transmitting the Agency's annual report on drug and alcohol abuse prevention, treatment, and rehabilitation programs and services for Federal civilian employees covering fiscal year 1990, pursuant to 5 U.S.C. 7363; to the Committee on Post Office and Civil Service.

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. DINGELL: Committee on Energy and Commerce. H.R. 1885. A bill to amend the Securities and Exchange Act of 1934 to protect investors in limited partnerships in rollup transactions, and for other purposes; with an amendment (Rept. 102-254). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MINETA (for himself, Mr. ROE, Mr. HAMMERSCHMIDT, and Mr. SHUSTER):

H.R. 3566. A bill to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. ERDREICH:

H.R. 3567. A bill to amend the Public Health Service Act to provide grants for the purpose of funding certain biomedical training and research exchange programs; to the Committee on Energy and Commerce.

By Mr. HOCHBRUECKNER:

H.R. 3568. A bill to amend title 38, United States Code, to revise the formula for payments to States for care furnished to veterans in State homes; to the Committee on Veterans' Affairs.

By Mrs. JOHNSON of Connecticut:

H.R. 3569. A bill to amend the Federal Election Campaign Act of 1971 to reduce multicandidate political committee contributions to congressional candidates, and for other purposes; to the Committee on House Administration.

By Ms. KAPTUR (for herself, Mr. KOLBE, Mr. HOUGHTON, Mr. MINETA, Mrs. JOHNSON of Connecticut, Mr. GUARINI, Mr. MOODY, and Mr. GRANDY):

H.R. 3570. A bill to provide for the issuance of super savings bonds to increase national savings and reduce Federal debt owed to foreign creditors; to the Committee on Ways and Means.

By Mr. VALENTINE (for himself, Mr. APPLEGATE, Mr. BILBRAY, Mr. COSTELLO, Mr. GUARINI, Mr. HUBBARD, Mr. HUCKABY, Mr. HUTTO, Mr. JACOBS, Mr. JOHNSON of South Dakota, Mr. JONTZ, Mr. KOLTER, Mr. LANCASTER, Mr. LAUGHLIN, Mr. LEWIS of Florida, Mrs. LLOYD, Mr. MCMILLAN of North Carolina, Ms. NORTON, Mr. PERKINS, Mr. RAHALL, Mr. ROSE, Mr. SOLOMON, Mr. STENHOLM, and Mr. TRAFICANT):

H.R. 3571. A bill to require the President to submit to the Congress each year an integrated justification for U.S. foreign assistance programs, and for other purposes; jointly, to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, Agriculture, and Rules.

By Mr. BLILEY:

H.R. 3572. A bill to amend chapter 110 of title 18, United States Code, with respect to the sexual exploitation of children; to the Committee on the Judiciary.

By Mr. MCMILLAN of North Carolina:

H.R. 3573. A bill to suspend for a 3-year period the duty on DNCB; to the Committee on Ways and Means.

By Mr. MCMILLEN of Maryland (for himself and Mr. BARNARD):

H.R. 3574. A bill to establish a Real Property Asset Disposition Council, and for other purposes; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

By Mr. MANTON:

H.J. Res. 350. Joint resolution designating March 1992 as "Irish-American Heritage Month"; to the Committee on Post Office and Civil Service.

By Mr. STARK:

H.J. Res. 351. Joint resolution requiring a report under the Nuclear Non-Proliferation Act of 1978 on United States efforts to strengthen safeguards of the International Atomic Energy Agency; to the Committee on Foreign Affairs.

By Mr. JEFFERSON (for himself, Ms. NORTON, Mr. RAVENEL, Mr. LIVING-

STON, Mr. TOWNS, Mr. RANGEL, Mr. HUGHES, Mr. DWYER of New Jersey, Mrs. MINK, Mr. THOMAS of Georgia, Mr. NEAL of Massachusetts, Mr. SCHEUER, Mr. HUTTO, Mr. LAUGHLIN, and Mr. FOGLIETTA):

H.J. Res. 352. Joint resolution to designate 1992 as the "Year of the Wetlands"; to the Committee on Post Office and Civil Service.

By Ms. SNOWE:

H. Con. Res. 222. Concurrent resolution establishing a commission to study compensation and other personnel policies and practices in the legislative branch; to the Committee on House Administration.

By Mrs. BENTLEY:

H. Res. 248. Resolution expressing the sense of the House of Representatives regarding the use of an ambulance maintained by the government of the District of Columbia for use in life threatening situations at the U.S. Capitol; jointly, to the Committees on House Administration and the District of Columbia.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. KLUG.

H.R. 127: Mr. CAMP, Mr. KOLTER, and Mr. PARKER.

H.R. 179: Mr. ATKINS.

H.R. 187: Mr. MACHTLEY, Mr. CARR, and Mr. PALLONE.

H.R. 303: Mr. FEIGHAN.

H.R. 413: Mrs. BENTLEY, Mr. CUNNINGHAM, Mr. BOUCHER, Mr. RUSSO, Mr. DOOLITTLE, Mr. MCDERMOTT, Ms. DELAURO, and Mr. DUNCAN.

H.R. 423: Mr. STENHOLM.

H.R. 489: Mr. KYL.

H.R. 565: Mr. KOLBE, Mr. BOEHLERT, Mr. PURSELL, Mr. JONTZ, and Ms. LONG.

H.R. 744: Mr. DIXON and Mr. MARKEY.

H.R. 786: Mr. CARPER and Mr. OWENS of Utah.

H.R. 1063: Mr. NOWAK, Mr. NEAL of Massachusetts, Mr. TRAFICANT, Ms. NORTON, and Mr. HORTON.

H.R. 1161: Mr. MINETA, Mr. OLVER, and Mr. DE LUGO.

H.R. 1241: Mr. EVANS, Mr. ENGEL, Mr. SANTORUM, and Mr. DOWNEY.

H.R. 1251: Mr. OWENS of Utah and Mr. MINETA.

H.R. 1252: Mr. OWENS of Utah, Mr. MINETA, and Mr. CONYERS.

H.R. 1253: Mr. OWENS of Utah and Mr. MINETA.

H.R. 1269: Mr. CARPER.

H.R. 1310: Mr. HUTTO and Mr. RIGGS.

H.R. 1311: Mr. DELLUMS, Mrs. LOWEY of New York, Mr. NUSSLE, Mr. LAFALCE, Mr. MFUME, Ms. PELOSI, Mrs. JOHNSON of Connecticut, Mr. MCNULTY, Mr. RIGGS, and Mr. LANCASTER.

H.R. 1312: Mr. DELLUMS, Mr. NUSSLE, Mr. JONTZ, Mr. LAFALCE, Mr. MFUME, Ms. PELOSI, Mr. SANGMEISTER, Mrs. JOHNSON of Connecticut, Mr. MCNULTY, Mr. RIGGS, and Mr. LANCASTER.

H.R. 1322: Mr. MINETA.

H.R. 1527: Mr. WASHINGTON.

H.R. 1628: Mr. GINGRICH, Mr. EMERSON, Mr. TORRICELLI, Mr. HALL of Texas, Mr. WEBER, Mr. GILCHREST, Mr. PALLONE, Mr. DE LUGO, Mr. THOMAS of California, Mr. DICKINSON, and Mr. LIVINGSTON.

H.R. 1675: Mr. DIXON.

H.R. 2083: Mr. MATSUI.

H.R. 2238: Mr. SOLOMON.

H.R. 2303: Mr. JEFFERSON, Ms. PELOSI, and Mr. MCCLOSKEY.

H.R. 2382: Mr. GEPHARDT.

H.R. 2385: Mr. CLINGER, Mr. HYDE, Mr. FISH, Mr. STUMP, and Mr. KYL.

H.R. 2415: Mr. JOHNSTON of Florida.

H.R. 2419: Mr. DEFAZIO.

H.R. 2570: Ms. MOLINARI, Mrs. ROUKEMA, Ms. LONG, Mrs. MINK, Ms. WATERS, Mr. AUCOIN, Mr. HAYES of Illinois, Mr. FAZIO, Mr. MCCLOSKEY, and Mrs. BYRON.

H.R. 2632: Mr. VISCLOSKY, Mr. EVANS, and Mr. HENRY.

H.R. 2727: Mr. DELAY.

H.R. 2766: Mr. HANCOCK.

H.R. 2768: Mr. PACKARD, Mr. GORDON, and Mr. DOOLITTLE.

H.R. 2848: Mrs. JOHNSON of Connecticut.

H.R. 2854: Mr. RANGEL.

H.R. 2867: Mr. KYL.

H.R. 2872: Mr. ZELIFF and Mr. SHAYS.

H.R. 2902: Mr. LAGOMARSINO.

H.R. 2903: Mr. LAGOMARSINO.

H.R. 2904: Mr. LAGOMARSINO.

H.R. 2966: Mr. COBLE, Mr. MONTGOMERY, Mr. STENHOLM, Mr. EMERSON, Mr. COX of Illinois, and Mr. VOLKMER.

H.R. 3070: Mr. VANDER JAGT, Mr. MCCOLLUM, Mr. WILSON, Mr. HEFNER, Mr. ABERCROMBIE, Mr. ALEXANDER, Mr. BACCHUS, Mr. BENNETT, Mr. BOEHNER, Mr. BORSKI, Mr. BROWDER, Mr. DOWNEY, Mr. SKELTON, Mr. ORTON, Mr. NEAL of Massachusetts, Mr. MOLLOHAN, Mr. HAYES of Illinois, Mr. HAMILTON, Mr. POSHARD, Mr. SARPALIUS, Mr. WYDEN, Mr. MILLER of Washington, Mr. BARTON of Texas, Mr. BAKER, and Mr. PRICE.

H.R. 3104: Mr. ENGEL.

H.R. 3133: Mr. DELLUMS, Mr. JONTZ, Mr. JEFFERSON, Ms. NORTON, Mrs. UNSOELD, Mr. SANDERS, Mr. EVANS, and Mr. LIPINSKI.

H.R. 3147: Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. JEFFERSON, Ms. NORTON, Mr. SANDERS, Mr. TOWNS, and Mr. LAFALCE.

H.R. 3164: Ms. SNOWE, Mr. SANDERS, and Mr. JAMES.

H.R. 3172: Mr. LAGOMARSINO and Mr. ECKART.

H.R. 3176: Mr. PETERSON of Minnesota.

H.R. 3209: Mr. FROST, Ms. NORTON, and Mrs. JOHNSON of Connecticut.

H.R. 3221: Mr. HAMILTON, Mr. HOPKINS, Mr. RIGGS, Mr. SHAW, Mr. BUNNING, Mr. GEKAS, Mr. DICKS, and Mr. TORRICELLI.

H.R. 3256: Mr. DELLUMS, Mr. ENGEL, Mr. MRAZEK, Mr. MFUME, Mr. FROST, and Mr. SHAYS.

H.R. 3312: Mr. SMITH of Florida, Mr. MCCRERY, and Mr. BACCHUS.

H.R. 3344: Mr. GILMAN.

H.R. 3354: Mr. FISH and Mr. DYMALLY.

H.R. 3409: Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. GEJDENSON, Mr. LANTOS, Mr. TORRICELLI, Mr. LEVINE of California, Mr. FEIGHAN, Mr. ACKERMAN, Mr. WEISS, Mr. FUSTER, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. STUDDS, Mr. MURPHY, Mr. KOSTMAYER, Mr. FOGLIETTA, Mr. MCCLOSKEY, Mr. SAWYER, Mr. ORTON, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH, Ms. SNOWE, Mr. HYDE, Mr. BEREUTER, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Mr. BLAZ, Mr. GALLEGLY, Mr. HOUGHTON, Mr. GOSS, and Ms. ROS-LEHTINEN.

H.R. 3462: Ms. PELOSI, Mr. BARNARD, Mr. FASCELL, Mr. GUARINI, Mr. MAZZOLI, Mr. BEREUTER, Mr. CLEMENT, Ms. HORN, Mr. MARKEY, Mr. GORDON, Mr. JONTZ, Ms. KAPTUR, Mr. JEFFERSON, and Mr. OLIVER.

H.R. 3488: Mr. RINALDO.

H.R. 3516: Mr. GUNDERSON.

H.J. Res. 177: Mr. LEHMAN of Florida, Mr. HOCHBRUECKNER, Mr. COLEMAN of Texas, Mr. MAZZOLI, Mr. HAYES of Illinois, Mr. GRANDY, Mr. MCDERMOTT, and Mr. GUNDERSON.

H.J. Res. 198: Mr. TOWNS, Mr. LIVINGSTON, Mr. JENKINS, Mrs. COLLINS of Illinois, Mr. HAYES of Illinois, Ms. SLAUGHTER of New York, Mr. SMITH of New Jersey, Mr. PRICE, Mr. HUCKABY, Ms. SNOWE, and Ms. NORTON.

H.J. Res. 228: Mr. VENTO, Mr. HOUGHTON, Mr. OBERSTAR, Mr. GORDON, Mr. SABO, Mr. FALEOMAVAEGA, Mr. SPRATT, Mr. BREWSTER, Mr. DOWNEY, Mr. SCHEUER, and Mr. MANTON.

H.J. Res. 242: Mr. GILCHREST, Mr. MAVROULES, Mr. SUNDQUIST, Mr. RAHALL, Mr. COLEMAN of Texas, Mr. FORD of Tennessee, Mr. SLATTERY, and Mr. MOORHEAD.

H.J. Res. 261: Mr. FRANKS of Connecticut, Mr. HAMMERSCHMIDT, Mr. OLVER, Mr. OWENS of New York, Mr. NEAL of Massachusetts, Mr. REED, Mr. REGULA, Mr. SAWYER, Mr. SKEEN, Mr. WALSH, and Mr. WHEAT.

H.J. Res. 271: Mr. KLECZKA, Mr. SENSENBRENNER, and Mr. ASPIN.

H.J. Res. 283: Mr. DOWNEY and Mr. KOPETSKI.

H.J. Res. 291: Mr. ASPIN, Mr. ANDREWS of New Jersey, Mr. ANNUNZIO, Mr. ARCHER, Mr. BATEMAN, Mr. BENNETT, Mr. BEVILL, Mr. BILLEY, Mr. BOUCHER, Mrs. BOXER, Mr. BROWN, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mr. CLEMENT, Mr. CLINGER, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. COSTELLO, Mr. COYNE, Mr. DARDEN, Mr. DE LA GARZA, Mr. DE LUGO, Mr. DIXON, Mr. DONNELLY, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EMERSON, Mr. ENGEL, Mr. ERDREICH, Mr. ESPY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FAWELL, Mr. FAZIO, Mr. FEIGHAN, Mr. FORD of Tennessee, Mr. FROST, Mr. FUSTER, Mr. GAYDOS, Mr. GEPHARDT, Mr. GILMAN, Mr. GONZALEZ, Mr. GRANDY, Mr. GREEN of New York, Mr. GUARINI, Mr. GUNDERSON, Mr. HAMILTON, Mr. HARRIS, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HORTON, Mr. HUNTER, Mr. HUTTO, Mr. HYDE, Mr. IRELAND, Mr. JEFFERSON, Mr. JONES of North Carolina, Mr. JONTZ, Ms. KAPTUR, Mr. KASICH, Mr. KILDEE, Mr. KOLTER, Mr. LAFALCE, Mr. LANCASTER, Mr. LEHMAN of California, Mr. LEWIS of Florida, Mr. LIPINSKI, Ms. LONG, Mr. MCCLOSKEY, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCHUGH, Mr. MCMILLAN of North Carolina, Mr. MCNULTY, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mr. MFUME, Mr. MILLER of Ohio, Mr. MINETA, Mrs. MINK, Mr. MOAKLEY, Mrs. MORELLA, Mr. MRAZEK, Mr. MURPHY, Mr. NATCHER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. NOWAK, Ms. OAKAR, Mr. OLVER, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PAXON, Mr. PAYNE of New Jersey, Mr. POSHARD, Mr. QUILLEN, Mr. RAHALL, Mr. RANGEL, Mr. RAVENEL, Mr. ROE, Mr. ROGERS, Mr. ROYBAL, Mr. SAWYER, Mr. SCHEUER, Mr. SERRANO, Mr. SHAYS, Mr. SKEEN, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. SOLARZ, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STOKES, Mr. TALLON, Mr. TAUZIN, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mrs. UNSOELD, Mr. VALENTINE, Mr. VENTO, Mr. WALSH, Mr. WILSON, Mr. WOLPE, Mr. WYLIE, AND Mr. YATRON.

H.J. Res. 326: Mr. DYMALLY, Mr. FROST, Mr. HEFNER, Mrs. PATTERSON, Ms. PELOSI, Mr. PERKINS, Mr. TALLON, Mr. TORRES, Mr. LAGOMARSINO, Mr. ROSE, Mr. NATCHER, and Mr. BROWDER.

H.J. Res. 340: Mr. BRUCE, Mr. JONTZ, Mr. TAUZIN, Mr. PASTOR, Mr. GORDON, Mr. LAGOMARSINO, Mr. MCDADE, Mr. CARPER, Mr. COSTELLO, Mr. SAVAGE, Mr. DORNAN of California, Mr. WYDEN, Mr. SMITH of Florida, Mr. ARCHER, Mr. LANTOS, Mr. MURPHY, Mr. GILMAN, Mr. MOAKLEY, Mrs. MEYERS of Kansas, Mr. MATSUI, Mr. BORSKI, Mr. GALLO, Mr. HUNTER, Mr. MILLER of Washington, Mr. SISISKY, Mr. NATCHER, Mr. CONYERS, Mr. HAYES

of Illinois, Mr. APPLEGATE, Mr. YOUNG of Florida, Mr. ANDERSON, Ms. KAPTUR, Mr. HUGHES, Mr. CALLAHAN, Mr. MCMILLEN of Maryland, Mr. MCEWEN, Mr. DYMALLY, and Mr. BUSTAMANTE.

H. Con. Res. 89: Mr. SANTORUM, Mr. OWENS of Utah, Mr. MINETA, and Mr. CONYERS.

H. Con. Res. 188: Ms. SLAUGHTER of New York, Mr. LEVIN of Michigan, Mr. GEJDENSON, and Mr. FROST.

H. Con. Res. 202: Mr. LEWIS of Florida and Mr. SMITH of Florida.

H. Con. Res. 208: Mr. SANDERS, Mr. STOKES, Mr. PAYNE of Virginia, Ms. KAPTUR, Mr. RAHALL, Mr. EVANS, Mrs. VUCANOVICH, Mr. BORSKI, and Mr. RAMSTAD.

H. Con. Res. 216: Mr. SOLARZ.

H. Res. 233: Mr. PORTER and Mr. STENHOLM.

H. Res. 244: Mr. MACHTLEY, Mr. SHAYS, Ms. MOLINARI, Mr. FRANK of Massachusetts, Mr. GOSS, Mr. PAYNE of Virginia, and Mr. WELDON.

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. Con. Res. 210: Mr. SARPALIUS.

H. Res. 194: Mr. FISH.

PETITIONS, ETC.

Under clause 1 of rule XXII.

125. The SPEAKER presented a petition of the Board of Education, Honolulu, Hawaii, relative to rights of children; which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

REPORT OF THE SECRETARY GENERAL ON HIS MISSION OF GOOD OFFICES IN CYPRUS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. FEIGHAN. Mr. Speaker, I would like to share with my colleagues the most recent report of U.N. Secretary-General Javier Perez de Cuellar regarding his good offices mission in Cyprus.

On October 8, 1991, the Secretary-General reported to the Security Council on the progress in preparing for a high-level meeting between the leaders of the two Cypriot communities, as well as leaders of Greece and Turkey, to reach an overall agreement on an outline for a settlement.

I was encouraged by the Secretary-General's report, especially his description of the positive attitudes demonstrated by the leadership of Greece and Turkey and the Republic of Cyprus. I was disturbed, however, by the observations about the reactions of Turkish-Cypriot leader, Rauf Denktash. According to the Secretary-General, Mr. Denktash renewed the claim that each community will possess sovereignty after the establishment of a federation, including the right of secession and that Mr. Denktash sought extensive changes in the text of the ideas that were discussed.

These positions, in the Secretary-General's words:

> Would in this context fundamentally alter the nature of the solution . . . which the Security Council has consistently foreseen, most recently in Resolution 649 (1990).

The United States and the United Nations have repeatedly stated their full support for a solution that preserves the independence, sovereignty and territorial integrity of a Federal Republic of Cyprus. That solution should contain adequate guarantees to protect the rights of all Cypriots.

This scenario brings to mind the similar outcome of the Ill-fated March 1990 meeting between Mr. Denktash and President George Vassiliou of Cyprus. After over 100 hours of meetings and preparation on a draft outline during the previous year, Mr. Denktash came to New York, rejected the outline and introduced new terms and approaches that ran counter to the 1977 and 1979 agreements between the communities, and outside the mandate of the good offices mission of the Secretary-General.

While the Secretary-General now reports that there was insufficient progress on which to arrange a high-level meeting, he believes that the ideas advanced by his representatives hold the formula for an overall settlement to the Cyprus issue. The question is whether the parties themselves—but particularly Mr. Denktash—are prepared to work for a comprehensive solution to the Cyprus problem.

The Secretary-General's report follows:

REPORT OF THE SECRETARY-GENERAL ON HIS MISSION OF GOOD OFFICE IN CYPRUS

1. The present report on my mission of good offices concerning Cyprus is being submitted pursuant to the request by the members of the Security Council to provide a full report by the end of August on the substance of the ideas that were discussed and the responses of all concerned, and to provide my assessment of the situation, particularly with regard to whether the conditions are conducive to a successful outcome of a high-level international meeting (S/22744). As the members of the Council are aware, I postponed by presentation of this report until the completion of the two rounds of talks between my representatives and the two parties in Cyprus and Greece and Turkey.

2. In my oral statement of 27 June 1991 to the Security Council. I referred to the discussions which had taken place since the latter part of 1990 with the leaders of the two communities as well as with a senior official of the Turkish Ministry of Foreign Affairs. I recalled that the purpose of these discussions had been to explore ideas that could bring the two sides within agreement range on each of the eight headings of the outline of an overall agreement. I expressed the view that as a result of these discussions clarifications had emerged which should make it possible to advance under a number of headings, notably overall objectives of the agreement, guiding principles of the federation and security and guarantee. I also noted that several headings remained to be dealt with, notable territorial adjustments and displaced persons. I concluded that if it was possible to move forward on the outstanding headings an agreed outline should be within reach.

3. As I informed the Council, as part of my effort to find a way to move forward, I had a telephone conversation with President Ozal of Turkey toward the end of May. He told me that after reviewing the outcome of recent talks he was of the view that a meeting of the leaders of the two communities, Greece and Turkey under my chairmanship could give new and strong impetus to my efforts and help the two sides reach agreement on an outline of an overall agreement. In my statement of 27 June, I informed the Council that I was attracted by the idea of a high-level international meeting that would result in an agreed outline provided it was thoroughly prepared to ensure its success. To this end, I proposed that my representatives undertake two rounds of discussions with all concerned in July and August to work out a set of ideas that would bring the two sides within agreement range on all of the headings. I proposed to review the situation at the conclusion of the second round at the end of August to assess whether the conditions were ripe to proceed to a high-level meeting and to consult the Security Council accordingly. This approach was endorsed by the members of the Council in the Statement issued by its President on 28 June 1991 (S/22744).

4. During my visit to Turkey in early July, I discussed the Cyprus problem and my approach for proceeding with Prime Minister Yilmaz and President Ozal on 7 and 8 July respectively. Both the President and the Prime Minister agreed that it was important to make a strong and renewed effort during the remainder of my mandate and they assured me of their desire to help me in this endeavour.

5. During a visit to Greece and Turkey in mid-July, President Bush of the United States of America spoke with Prime Minister Mitsotakis, President Ozal and Prime Minister Yilmaz in support of my mission of good offices on Cyprus. On 2 August, it was announced that Greece and Turkey had agreed to attend a well-prepared meeting concerning Cyprus chaired by the Secretary-General and that the Greek and Turkish leaders would work in support of the Secretary General's efforts to narrow the differences in advance of such a meeting which was planned for September provided adequate progress was made. On 5 August, I made a public statement welcoming the personal effort by President Bush in support of my mission of good offices and the commitment of the Greek and Turkish leaders to help me make progress in advance of a high-level meeting.

6. As the members of the Council will recall, during the second half of 1990 and the first quarter of 1991 my representatives had a number of separate meetings with the leaders of the two communities and their representatives to explore elements of an outline of an overall agreement. In addition, between October 1990 and February 1991, one of my representatives had a series of discussions with a senior official of the Turkish Ministry of Foreign Affairs. This process proved helpful in putting together an initial set of ideas and provided the starting point for the discussions during the summer.

7. During the first round, my representatives met with senior Turkish and Greek officials in Ankara from 23 to 26 July and in Athens on 27 and 28 July respectively, and separately with the two leaders in Nicosia from 29 July to 3 August. They presented ideas for each of the headings (except transitional arrangements) taking into account the above mentioned previous discussions and attempting to respond to the legitimate interests and reasonable concerns of both parties. In areas where during the previous discussions the two sides appeared to be relatively close, the ideas were elaborated fully. This was particularly the case for the overall objectives of an agreement, the guiding principles of the federation, the powers and functions of the federal government, the federal legislature, the federal judiciary, and security and guarantee. In areas which had not yet been adequately discussed, a variety of options were presented to stimulate discussion. I am referring in particular to displaced persons, the federal executive and territorial adjustments.

8. During the first round, the complete text of the idea was discussed fully in Ankara, Athens and separately with the two sides in Cyprus. In Nicosia, my representatives also informed the two sides of their respective actions to the various ideas. The objective of this process was not to obtain their approval but to seek their reactions and suggestions on the basis of which these ideas would be

further elaborated and amended for the second round of talks.

9. During the first half of August, the ideas were revised in the light of the previous discussions. Concrete ideas were elaborated in the areas which previously contained options (displaced persons, territorial adjustments and the federal executive). In addition, ideas on transitional arrangements and goodwill measures that would be implemented during the transitional period were also prepared.

10. The objective of the second round of talks was to seek broad agreement of the two sides to a set of ideas that would bring them within agreement range and thereby make possible a high-level international meeting.

11. My representatives began the second round in Athens on 17 August where they reviewed the outcome of the July talks and the most recent text of ideas with Foreign Minister Samaras and other senior officials of the ministry. The Minister indicated that he was encouraged with the way the talks were proceeding and expressed the hope that the high-level meeting could be held in September as tentatively planned.

12. They then had meetings in Ankara from 21 to 24 August. In addition to reviewing the situation with Foreign Minister Giray, they had intensive discussions with Senior Foreign Ministry officials during which they considered in detail the text of the ideas covering each of the eight headings of the agreement. The Turkish officials reiterated their desire to work in support of my effort and their wish that the high-level meeting take place in September. These discussions proved most helpful in refining the text of the ideas. At the conclusion of these talks, it was apparent that, although the two sides in Cyprus remained apart on some issues and the territorial adjustments still had to be further defined, the revised text of ideas which had emerged from the talks in Ankara represented an important step forward which should provide the basis on which an agreement could be worked out.

13. On 26 August, my representatives stopped over in Athens to meet Prime Minister Mitsotakis with whom they reviewed the ideas that would be discussed with the two sides in Cyprus. The Prime Minister conveyed his full support of my effort.

14. My representatives had separate meetings with the leaders of the two communities in Cyprus from 26 to 29 August and again from 7 to 14 September during which they presented to the two leaders the full text of the ideas on each of the eight headings and accompanying goodwill measures and elicited their views.

15. Both leaders agreed that in view of the comprehensive manner in which the ideas had been elaborated it would be possible to omit the preparation of an outline of an agreement and to proceed directly to completing an overall framework agreement. In addition, it was agreed that the preparation of the agreement should be essentially completed to the satisfaction of both sides before convening the high-level meeting. These understandings had also been endorsed by Greece and Turkey.

16. President Vasailiou's reaction to the ideas revealed that although differences remained to be resolved on a number of issues, the set of ideas as a whole provided the basis for working out an overall framework agreement.

17. In the course of the discussions with His Excellency Mr. Denktash, he stated that each side possessed sovereignty which it would retain after the establishment of a federation, including the right of secession, and sought extensive changes in the text of the ideas that were discussed.

OBSERVATIONS

18. As I had reminded the two leaders in my statement of 2 March 1990 (see S/21183, annex II), in operative paragraph 1 of resolution 367 (1975) the Security Council had called on all States and the parties concerned to refrain from any action which might prejudice the sovereignty, independence, and territorial integrity of the Republic of Cyprus, as well as from any attempt at partition of the island or its unification with any other country. In drawing up the mandate of the Secretary-General's mission of good offices on Cyprus, the Security Council thus posited a solution based on the existence of one State of Cyprus comprising two communities.

19. Consequently, the introduction of the concept referred to in paragraph 17 would in this context fundamentally alter the nature of the solution provided for in the 1977 and 1979 high-level agreements and which the Security Council has consistently foreseen, most recently in resolution 649 (1990).

20. Deriving from the position of the Security Council which it reiterated in successive resolutions in 1977 and 1979 high-level agreements between the two parties in Cyprus, and the understandings accepted by both sides (see S/21393, para. 12), the objective of my mission of good offices has been to preserve the sovereignty, independence and territorial integrity of the State of Cyprus; and to establish a new constitutional arrangement for the State of Cyprus that will regulate the relations of the Greek Cypriot and Turkish Cypriot communities on a federal, bi-communal and bi-zonal basis. Each community has been participating in this process on an equal footing and will have the opportunity to express separately its consent to the arrangements reached.

21. The developments of the past few months had raised justifiable expectations that significant progress would be made and that a high-level meeting would take place in September to conclude an overall framework agreement. The set of ideas which my representatives brought to Cyprus at the end of August represent an important step forward which must be preserved and used as the basis for completing the overall framework agreement.

22. It is important that the expectations that were raised over the past few months not be lost. This requires that we proceed without delay to conclude the preparatory work and to convene the high-level meeting. I will therefore request my representatives to resume in early November their discussions with the two sides in Cyprus and Greece and Turkey to finalize the set of ideas. If this effort can proceed in keeping with the basic principles adopted by the Council and accepted by the two sides in the 1977 and 1979 high-level agreements, I am confident that it will be possible to convene the high-level meeting before the end of this year.

23. At the same time, I must again appeal to both sides to refrain from making statements or taking actions that are counterproductive and only make our efforts to find a solution more difficult.

RULE ON H.R. 2950, THE INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rules of the Democratic Caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of title VII of H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991.

TRIBUTE TO DR. NANCY L. NOBLE, PH.D.

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. LEHMAN of Florida. Mr. Speaker, Dr. Nancy Noble is the associate dean of the University of Miami's School of Medicine, one of the Nation's most outstanding health professions training institutions.

Because of national significance of her work in this important position and the contributions she has made to her field, Dr. Noble is being honored by her alma mater, the University of Tennessee, as the "1991 Distinguished Alumna of the Year."

Because of this recognition, and also because of the importance of her work to our community, Dr. Noble is being honored on October 20 by the members of Saint Philip's Episcopal Church in Coral Gables, FL.

Mr. Speaker, I want to join with her many friends in offering Dr. Nancy Noble my warmest congratulations for a job well done. Our community appreciates her efforts.

HONORING THE BRONX COUNCIL FOR ENVIRONMENTAL QUALITY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. ENGEL. Mr. Speaker, I rise today to recognize the 20th anniversary of the Bronx Council for Environmental Quality, a group that has dedicated two decades of service to the community.

It is fitting that the Bronx Council chose the word "quality" to describe its mission. From restoring local waterways to fighting for a greenway of protected open space, the council has been at the forefront of issues that impact on the quality of the environment, and in turn the quality of life of our citizens. Weak or ineffective programs do not satisfy the council members; they fight for quality programs that produce quality results.

Under the leadership of its founder, Theresa Lato, the Bronx Council for Environmental

Quality has raised the awareness our citizens and showed us that it is possible to live in an urban environment that is clean and healthy. It is a valuable lesson that I know will be taught to more and more people as the council embarks on its third decade of service and beyond.

NIGHT COURTS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mrs. SCHROEDER. Mr. Speaker, in my statement earlier I made Members aware of the midnight basketball provision in the crime bill, of its bipartisan support, and of its power to prevent delinquency and to build skills in high-risk youth. I would like to submit for the RECORD the following article because it illustrates another strength of this approach—its flexibility in terms of target population. "Night Courts," by Teri Thompson, originally appeared in the Westword newspaper on October 16, and pointed out that in Aurora, CO, an evening sports program has kept children as young as middle school age off the streets and out of trouble. Hats off to councilwoman Barb Cleland and Allan Horton, Aurora Parks and Recs supervisor of sports programs, for adapting this model to their local need.

The article follows:

[From Westword, October 16, 1991]

NIGHT COURTS

(By Teri Thompson)

In a classic confrontation between liberal and conservative, pro-business and pro-humanity, U.S. Representative Pat Schroeder and syndicated columnist George Will went to the mat last week over a somewhat surprising issue:

Midnight basketball.

Not Thomas vs. Hill, not Gates vs. reality, not even Pirates vs. Braves—midnight basketball.

Seems Will, a professional conservative, was provoked to make a vitriolic attack on the liberal Schroeder in his column Sunday by the legislator's proposal to spend $3 million in federal funds on "midnight basketball leagues" designed to keep young people off the streets and in the gyms, where they can receive drug counseling and job training after their games.

Now unless you are Michael Jordan, $3 million is nothing to sneeze at. But anybody who's voted in a public election in the last two decades knows that John Sununu can wipe out three mil in a couple of junkets to Aspen.

In other words, Schroeder's plan hardly destroys the federal budget, as Will seemed to suggest, and in fact gives badly needed support to a program that has worked in among other places, Chicago, Washington, D.C., Minneapolis, New York City—and Aurora.

Acting on a suggestion by Aurora City councilwoman Barb Cleland, who heard about the big-city programs during a National League of Cities conference in Houston, the Aurora Parks and Recreation department added weekly basketball games to its existing "Teen Scene" program this past summer and is in the process of putting together an expanded program for next summer.

According to Alan Horton, Aurora Parks and Rec's supervisor of sports programs, the fledgling basketball program was a bright light in a summer darkened by violence among kids with no place to go.

After Cleland recommended that Teen Scene sponsor the games, Horton and his staff took the $6,700 put aside for the program (which they called "Summer Heat") and began setting up a staff and reserving space at three of the city's public gyms.

The games were played one weekend night a week, although they weren't held at midnight, as Schroeder has proposed. "We targeted middle school kids, so we ran it earlier in the evening," says Horton. "We got about 25 kids a night, which wasn't as many as we'd hoped for, but we were encouraged, especially since we hadn't had a lot of promotion. We think it can turn into something really important."

Instead of organized games, the drop-in, no-charge program centered on skill development and traditional contests like "Horse" and "Out."

The biggest surprise for Horton was watching the kids develop a rapport with two of the seven Aurora cops who were hired to keep a check on the activities.

Officers Dwight Lott and Nancy Wilson did much more than keep the peace: They also ran the floor. "They were in uniform out there shooting 1 hoops and playing games with the kids," says Horton. They got a different view of each other. It was something to see."

Both boys and girls were allowed to participate in Summer Heat, although expanding the project would probably allow for separate programs with league-type formats and regulation games.

Cleland says she plans to contact Schroeder's office in the next few days to inquire about tapping into the $3 million in federal funds ticketed by the House Judiciary Committee for midnight basketball, and Horton has met with officials from Denver's Parks and Recreation department to discuss the possibility of running a joint operation between the two cities, as well as enlarging the program to include midnight games for older teenagers.

"There've been no promises or anything like that," he says, "but it could grow into something really worthwhile."

Of course, that would require more money, something Horton's department doesn't have in abundance. Although George Will would surely be shocked to hear of a public official actually saving money, Horton didn't even spend all of the $6,700 originally allotted—he came in at $5,000. (Horton did get some help from sponsors like Dairy Queen and Pizza Hut, who chipped in for coupons and t-shirts to give to the kids who won the contests.)

In his attack on Schroeder, Will offers the conservative's typical knee-jerk reaction to public aid—he says long-time lawmakers like Schroeder are too quick to throw money at society's problems—and implies that if these problems deserve to exist at all they should be privately funded.

Cleland and Horton say they will indeed try to secure some private funding and that they welcome help from all sources. They got their first underwriter this weekend—the Denver Nuggets, who agreed to kick in $20,000 to sponsor leagues that may start as soon as this fall.

Meanwhile, if Will is so concerned about taxpayers' money going toward what he thinks should be private endeavors, he might do well to look into the programs that have soaked and will continue to soak the citizens for a good deal more than a mere $3 million—the public subsidy of privately owned sports teams.

He need turn his sharp gaze no further than the Colorado Rockies and their thieving ownership group to find an outrageous example of how the taxpayers are being cheated. Talk about throwing public money at a high-risk project, talk about fraud, talk about underhanded dealings, talk about subsidizing rich people's incomes—you've got all that and more with the Rockies.

True to her style, Schroeder has by no means quietly dismissed Will's attack. In a statement inserted into the Congressional Record last week, she described Will as having entered "the ranks of those peculiar American conservatives who, to paraphrase H.L. Mencken, lie awake at night worrying that somewhere, somehow, an impoverished kid might get a leg up on the world."

In places like Chicago and Washington and New York and, yes even in Aurora, they're giving kids a chance to do just that—somewhere 'round midnight.

U.S. THIRD IN EXECUTION OF CHILDREN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. SERRANO. Mr. Speaker, Amnesty International reported last week that the United States has put more people under the age of 18 to death in the last decade than any other country except Iraq and Iran. Imagine that: We are third only to the "Butcher of Baghdad" and his neighbors in Tehran in the execution of children. Only seven countries worldwide apply the ultimate penalty to youthful offenders.

This astounding revelation is profoundly tragic both on its face, and for what it says about a society that produces children guilty of attrocious crimes. Cannot, instead, we be known for our humanitarian efforts to preserve and protect life, even the life of children who have committed crimes?

Let me be clear about one point, Mr. Speaker: I do not believe that execution is an appropriate punishment for anyone under any circumstances. But the thought that we have so utterly failed to create a great and just society particularly with respect to our children leaves me angered and ashamed.

CAMPAIGN FOR OUR COMMON LANGUAGE

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. DICKINSON. Mr. Speaker, on September 17, 1991, several Members of Congress addressed a large and determined group of official English supporters at a rally on the East Capitol steps with the purpose of promoting English as the official language of the United States. My speech is as follows:

REMARKS OF HON. WILLIAM L. DICKINSON AT ENGLISH RALLY

I am proud to join you in the opening of this "Campaign for Our Common Language."

Nothing is more crucial to the future of our country than maintaining and strengthening our tie of a national language.

A common language is more than a matter of national etiquette, it is also a "pocket book" issue—and a subject of grave economic importance to our country.

Just look at Canada to witness a nation torn apart by official bilingualism. English speakers are stomping on the flag of French-speaking Quebec, and Quebec has outlawed signs in English and has even threatened independence from Canada.

As a result official bilingualism is costing Canada more than half a billion dollars a year!

Here in America, language differences figured prominently in the rioting in a Hispanic neighborhood of Washington, DC last spring. Language minorities are demanding Government services in their native tongues.

Instead of spending our scarce funds on multiple language services, we must redirect our energies to teaching English.

An estimated 25 million Americans cannot read or write at all. That figure is growing by 2 million each year. Already poor reading and writing competence has cost American industry more than 20 billion dollars in lost wages, profits and productivity.

Do you think the Japanese are facing these staggering costs? No, of course not. The rate of illiteracy in Japan is less than one percent. The Japanese realize the value of their language to the economic well-being of their nation.

Setting a clear language policy for this country is not an act of discrimination against anyone. It is common sense for a nation to protect its national language under law, and more than half the nations of the world do just that.

As a matter of fact, it is through a common language that we in this diverse land can ensure equal social, economic and political opportunities for all.

In a country that does not share a common race, ethnic heritage, or religion, we must preserve and protect the most important thing we do share—our common language.

I support official English legislation and have introduced this year the English language amendment to the U.S. Constitution.

By maintaining our common language, we will remain the United States of America, a land of equal opportunity for all.

HONORING FAMILY PRIDE DAY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. ENGEL. Mr. Speaker, an event of special significance is taking place in my district on Saturday, October 19. It is called Family Pride Day and it is being sponsored by the Youth Services Planning Committee of Bronx Community Board No. 10.

In these times of rampant crime and drug abuse, the temptations that confront our young people are astounding. It is more important than ever that our children know they can count on the support and dedication of their family members. That is what Family Pride Day is all about—an affirmation in our community's belief that the strength of our families can overcome any obstacles our young people confront. Family Pride Day goes beyond speeches and rallies to provide families with the tools and knowledge needed to preserve their quality of life.

I congratulate the staff at Community Board No. 10 for conceiving and carrying out the idea of Family Pride Day. I urge my colleagues in Congress to recognize the need to raise awareness about the importance of family values, so that one day we may celebrate a national feeling of family pride.

A CONGRESSIONAL SALUTE TO BETTY MATTOX IN HONOR OF HER SELECTION AS THE 1991 WOMAN OF ACHIEVEMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding woman whom I greatly admire, Ms. Betty Mattox. Ms. Mattox, in recognition of her tireless efforts on behalf of the community has been selected by the San Pedro Business and Professional Women's Organization as its 1991 Woman of Achievement.

Betty, who has been involved in the food service industry her entire adult life, is the president of B & H Foods which owns and operates the Green Burrito Restaurant in Rancho Palos Verdes. She began her food service career by managing the two restaurants she and her husband owned. Later, she went to work for the Los Angeles Board of Education. During an impressive tenure, 22 years spent with Carson High School as first cook and assistant manager, Betty has always assisted and encouraged those working for her. Many were women with no readily marketable skills or formal education, but with Betty's guidance and tutelage, they went on to establish successful careers in their own right.

In addition to these accomplishments, Betty has contributed greatly to her community. She is a 50-year member of the Daughters of Penelope, a national Greek organization, and served as president of the San Pedro chapter. Currently, she offers both her time and her energy volunteering at the San Pedro Peninsula Hospital's gift shop and serving as the treasurer of the San Pedro Business and Professional Women's Organization. She is also a member of the board of directors of the San Pedro Chamber of Commerce auxiliary.

My wife, Lee, joins me in extending our thanks to Betty Mattox in recognition of her contributions to our community. She is truly a very special individual who has devoted her talents and energies to make our State and community a better place. We wish Betty all the best in the years to come.

MISMANAGEMENT OF THE NATIONAL FORESTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. MILLER of California. Mr. Speaker, I urge my colleagues to read the article "The Mismanagement of the National Forests" which appears in the October issue of the Atlantic Monthly. It paints a sobering picture of the condition of our Nation's forests and a very disturbing picture of how Federal Government actions have created the present crisis.

The article describes a Forest Service where promotions are tied to meeting timber quotas—you move up if you mow trees down and are ignored if you try to manage the forests for true multiple use.

The article describes a taxpayer-financed roadbuilding program in the forests so ambitious that the Forest Service has actually built 360,000 miles of roads, eight times the length of the Interstate Highway System. The sole purpose of this orgy of roadbuilding is to make otherwise uneconomic timber profitable to private timber interests.

It describes clearcuts and overcutting. It describes a series of blunders and mistakes.

It cites the dissatisfaction for forest service personnel with the management—or more accurately the mismanagement—of our national forests. Many of these people are speaking up and calling for change so that we may preserve our forests for our future needs and for the generations to follow.

The author documents a Forest Service that has lost its way. In the Pacific Northwest, our national forests no longer are managed to meet the multiple use mandate that by law is supposed to guide the Forest Service. Instead, the agency has been captured by a single special interest group—the timber industry. Together they have perverted the purposes of the public forests and treated them as if they are private tree farms. The public interest in wildlife, fisheries, watershed protection, recreation, science, and America's natural heritage has been ignored whenever it inconveniences timber production.

The author also challenges our assumptions about the economic and fiscal impact of these misguided policies, and whether the timber market even needs the volume generated by Federal forests. She argues that the timber-first philosophy drains the Federal Treasury of millions and costs local economies jobs and tax revenues. Those who believe that true multiple-use management would devastate timber communities should consider his arguments carefully.

The Interior Committee will deal with some of these issues when we consider legislation to protect old growth areas in Washington, Oregon, and California. We will begin to solve one serious problem, but it is clear that there are major issues throughout our whole national forest system.

I commend this article to you. It is food for thought and a call to action.

THE MISMANAGEMENT OF THE NATIONAL FORESTS

(By Perri Knize)

There once was a time when if a tree was felled in the forest, nobody saw, and business went on as usual. But now a tree can't be felled anywhere in the national forests without causing violent tremors all the way to Washington, D.C. There the bureaucrats at the once-proud and formerly revered U.S. Forest Service, the administrators of the national forests, are losing credibility as forty years of forest devastation come to light.

While our government supporters schemes to trade Third World debt for intact Third

World rain forests and dispatches American foresters to Ecuador and Honduras to aid those countries in proper forest management, the Forest Service is deforesting our national timberlands at a rate that rivals Brazil's. What remains of America's original virgin forests is being clipped away daily on our public lands, lands that contain the most biomass per acre of any forests on the planet. We are losing intact ecosystems, watersheds, fish habitat, wildlife habitat, recreation lands, and native-species diversity to a degree that may be irreparable.

Once, the land could accommodate this "management" without attracting much notice. The national forests, unlike national parks, have traditionally provided wood, grass, and minerals to the private sector. But population growth, shifting demographics, and reduced resources mean that foresters are increasingly hard-pressed to find forest areas where nobody will see the clear-cuts.

When I joined the U.S. Forest Service as a volunteer wilderness guard, in the summer of 1983, I, like most Americans, thought the Forest Service was a conservation organization dedicated to preserving the nation's wild lands. I was vaguely aware that the Forest Service sold trees, but was unprepared for the extensive logging roads and cutting I saw on the Beaverhead and Bitterroot national forests, in southwest Montana. Entire mountainsides were shorn of cover, and rough roads crisscrossed their faces, creating terraces that bled topsoil into the rivers when the snows melted in spring. Since that summer I've traveled to national forests all over the United States, from the Carolinas to Alaska, and seen the same and worse: Entire mountain ranges have their faces shaved in swaths of forty to a hundred acres which from the air resemble mange. From the ground these forests, charred and smoking from slash burning, look like battlefields.

I was shocked: the Forest Service seemed more concerned about selling trees than about the vitality of the public's forests. Yet I met many dedicated Forest Service employees at all levels of the agency who were terribly unhappy about the emphasis on timber, and I felt compelled to learn as much as I could about why the Forest Service was pursuing such an apparently destructive policy.

After all, the national forests supply only about 15 percent of the nation's wood, and Forest Service research shows that if that timber were removed from the market, half of the loss would be replaced by wood from private industrial tree farms and half by wood substitutes that are already on the market. Seventy-two percent of all the timberland in the United States is privately owned. This land is far better suited to tree farming than federal land—it is fertile, low-elevation, accessible, and for the most part does not have the intact ecosystems found on public land. Our national forests, although they are richer in biological diversity, have comparatively little value as tree farms. They are for the most part thin-soiled, steep, high-elevation, less accessible lands that produce low-quality timber. They are the lands nobody would take, even for nothing, when the government was divvying up the West.

Despite the abundance of merchantable private timber and the relative low value of public timber, no one has seriously considered ending national-forest logging. With the exception of a tiny minority of passionate nature lovers who are considered extremist, virtually everyone I've interviewed over the past eight years says that ending national-forest logging is impractical if not impossible.

A thoughtful look at the condition of our forests, the needs of our communities, and the national demand for wood products reveals that ending national-forest logging is not only possible but also highly pragmatic. In fact, we can end logging on the national forests and at the same time improve the future economic stability of small communities now dependent on timber dollars, stabilize our wood supply, save and spend more wisely the billions now pouring out of the federal Treasury, and preserve the health of our virgin forests—if we decide to. We can do it because, contrary to conventional wisdom, we don't need national-forest timber—not for jobs, certainly not for the income, and not for the nation's wood supply. Most commercial-timber owners would actually benefit if the government were no longer competing with them: as prices rose, long-term forest planning would become more feasible and profitable. The Forest Service itself would benefit, as it escaped the endless and expensive forest-management planning with an emphasis on timber which inevitably lands it in court. Forest Service employees could begin to inventory and study the national forests, as they were mandated to do in the National Forest Management Act of 1976, though without adequate funding for the job. They could begin repairing the damage of the past forty years, instead of trying to produce board feet that can no longer be cut in an environmentally responsible fashion.

TIMBER MYTHOLOGY

In view of these benefits, why isn't the Forest Service eager to end national-forest logging? Why is it adamant that that cannot or should not be done? The Forest Service rebuffs all such suggestions with three arguments that I call collectively the Great Federal Timber Mythology.

Myth No. 1: Federal timber is needed to meet an ever-escalating demand for wood fiber.

Myth No. 2: Timber sales overall make a profit for the federal Treasury.

Myth No. 3: Federal timber, even if sold at a loss, aids timber-dependent communities.

Last year the Forest Service once again predicted, as it has since its founding, in 1905, that demand for national-forest timber would continue to rise and that timber would remain in short supply. In fact the demand for timber has declined since the invention of the internal-combustion engine and since we began using electricity and fuel oil instead of wood for our energy needs. Many privately held forests logged in the nineteenth century are now regrown. Horse pasture and farmland have returned to forest. We actually have more standing trees today than we did ninety years ago. So whereas the old-growth trees that provide the softwood lumber used for products like fine furniture and musical instruments are indeed in short supply, particularly in the Pacific Northwest, we have plenty of wood fiber that can be made into less-refined products. Most of our ancient trees are not made into pianos and armoires anyway, but are ground into pulp to make disposable diapers and cellophane for cigarette packs. Obviously, small-diameter trees from tree farms would serve that purpose just as well. As for building materials, we can also create them from small-diameter trees. Oriented-strand board, chipboard, finger-joint board, and particle board—made from chips or small pieces of wood—are already available; they are stronger than regular wood and can be made from very young trees grown in rows like a corn crop.

"Crop forests are where our timber supply really comes from," says a former logging manager at Weyerhauser Corporation, who asked not to be named. He explains that the industry wants the old timber on the national forests only because with minimal processing these logs bring a premium price overseas. "As to old growth, everyone has gored that fatted calf long enough. Weyerhauser made a fortune from old growth, but you can't cut the last one and say, 'Gee, that was nice. What do we do now?'"

One sign that we have a glut of wood fiber in the United States is that although we exported 4.2 billion board feet of raw logs last year, we can still find plentiful, cheap toilet paper in the supermarket. Timber has such a low market value in this country that owners of private timberland often find that growing trees doesn't pay—the rate of return isn't high enough. Many are selling off their forests and using the profits to reduce their debt. If timber were scarce—and valuable—this would be a poor business practice.

The Forest Service exacerbates the situation by flooding the market with cheap national-forest timber, driving prices down. One could argue reasonably that the national-forest timber program, by competing with the private sector, is destroying the environmental quality of our private timberlands as well.

It also empties the federal purse. "If we simply gave the loggers fourteen thousand dollars a year not to cut the trees, we'd be a lot better off," says K.J. Metcalf, a retired Forest Service planner in Alaska, about his review of the Tongass forest plan in 1978. He echoed the sentiments of many of the agency's critics. The Forest Service has long claimed that the government makes money on timber sales, but an analysis performed at the request of the House Government Operations Subcommittee on the Environment, Energy, and Natural Resources shows that the Forest Service timber program has lost $5.6 billion over the past decade. Robert Wolf, a retired staffer at the Congressional Research Service, a forester, and a road engineer, analyzed the Forest Service's timber-income accounting system at the request of Representative Mike Synar, the chairman of the subcommittee. At the time this was written, Wolf expected to submit his testimony in September. He says his original intention was to show that sales of national-forest timber were profitable and beneficial. Instead, he found that most of the 122 national forests have never earned a dime on timber, and only fifteen showed a profit last year. The Forest Service claims that it made $630 million on its timber program last year; that claim, Wolf says, stems from inflated revenues and discounted costs.

The "net" revenue figure doesn't make allowances for the 25 percent of gross receipts ($327 million last year) that must be paid to counties from which timber has been removed, as compensation for property taxes lost because those lands aren't privately owned. Nor does it take into consideration road-maintenance expenses—another $80 million. Land-line location (surveying to confirm national-forest boundaries) cost another $24 million. The Forest Service also overlooked some $60 million spent on protection against insects and disease, maintenance of staff buildings, map-making, and fire protection.

Another $575 million—funds earmarked for reforestation, brush disposal, timber salvage

sales, roads built to accommodate timber buyers, and other programs—was depreciated over more years than appropriate for accounting purposes. The Forest Service has used a number of creative accounting gimmicks, including amortizing roads over 240 years. (One year roads on the Chugach National Forest, in Alaska, were amortized over 1,800 years.) The typical life of a logging road, however, is twenty-five years; that's why 60 percent of each year's road-building budget is earmarked for reconstruction. Last year the Forest Service received appropriations of $700 million for the timber program from the federal Treasury, yet spent more than $1 billion. According to Wolf's calculations, after a realistic amortization of costs, the timber program actually generated a net loss to the federal Treasury of $186 million last year.

One reason timber sales don't make money is that most national-forest timber is virtually worthless. Short growing seasons and poor, unstable soils mean that a national-forest tree may need 120 years to reach maturity. "No one in his right mind would pay what it costs to grow it," says Wolf, who now calls the Forest Service timber program "a fraud." Since the Forest Service was founded on the promise that the timber program would make money, to admit losses after so many years of false claims would threaten not only the agency's timber program, and therefore about a third of its 45,000 jobs, but quite probably the existence of the Forest Service itself.

Even in the face of evidence that the timber market is glutted, and that its operations run at a net loss, the Forest Service will justify selling trees as a way to provide small communities with jobs. But national-forest timber isn't keeping people employed; although timber production and logging on federal lands have increased, industry employment has declined. Automation, exports of raw lumber, and competition for foreign labor are the causes. As for small community sawmills wholly dependent on old-growth national-forest timber, their timber supply is limited. The small family mill is destined to go the way of the small family farm, and leveling the national forests won't save it.

The loggers and mill workers who depend on national-forest timber are, like the forests, victims of federal policy. Since the end of the Second World War the Forest Service has fostered in their communities an expectation that federal timber would be available indefinitely, and a way of life has evolved around that expectation. If the Forest Service and the loggers' elected representatives had been honest with their constituents even ten years ago, and warned them that the supply of trees could not support their industry forever, mill owners and loggers might not have invested further in lumber operations that are doomed, national-forest timber or no. These communities were misled, and they deserve aid in adjusting to what is for them a catastrophe.

But aiding those affected by an end to national-forest logging is less problematic than it seems. The jobs that would be lost are not irreplaceable, nor are they as numerous as claimed by the timber industry, which wants to maintain the flow of cheap national-forest old-growth lumber. A study funded by the timber industry predicted that 100,000 jobs would be lost in the Pacific Northwest as a consequence of restrictions to protect the spotted owl. But according to a Forest Service assessment written for other purposes, the true number is closer to 6,000. The industry study counted jobs projected for the year 2000 if logging continued to increase as was once planned, and it included a loss of secondary jobs, such as pumping gas and waiting tables, though the relatively healthy economy of the Pacific Northwest is creating new jobs in many other sectors.

The Forest Service says that only 106,000 jobs nationwide—including approximately 15,000 in the agency itself—are related to national-forest timber. An agency report speculated that these jobs would be replaced in part by new logging jobs when wood production shifted to private industrial lands. And in communities without nearby industrial timberland new jobs could be created, including jobs rehabilitating the national forests, with federal funds saved when national-forest timber was no longer being sold at a loss.

Inevitably, the small communities dependent on national-forest logging must diversify their economies or die. But if we do not end logging before their timber supply is exhausted, the clear-cuts that surround these communities will bankrupt their future. Once the forests are gone, they will have neither the timber industry nor property values nor the recreation potential that could help them build a stable economic future. Logging the national forests results in the loss, rather than the strengthening, of community stability.

So if jobs are being lost despite increased logging, and the U.S. government loses millions a year on that logging, and we don't even need the lumber, why does the Forest Service persist in logging the national forests? When environmentalists, economists, forest planners, and policy-makers say it is not practical to end national-forest logging, they mean it is not practical politically.

POLITICAL REALITIES

The National Forest Management Act of 1976 stipulates that those who are most intimate with the national forests—the public and the local Forest Service team—should work together to decide how they are to be managed. But in practice the forests are ruled by competing and complementary agendas in Washington, D.C. Forest Service administrators are concerned with maximizing their budgets, holding on to their jobs, and preserving the status quo. Congressmen want jobs in their districts and continued timber-industry support for their re-election campaigns. And the White House wants to take care of its friends. All use national-forest timber as a means to achieve their aims.

More than a quarter of the money the Forest Service spends comes from selling timber—whether the sales make money or not—through a little-known law called the Knutson-Vandenberg Act of 1930. The K-V Act allows the Forest Service to retain virtually all its gross timber receipts in order to fund projects like tree-planting, wildlife-habitat improvement, and trail-building, and to buy equipment like computers, refrigerators, and so on. It is a back-door way of funding the agency without going through the appropriations process. Last year K-V money and similar timber funds added $475 million to the Forest Service budget, above and beyond congressional appropriations. Because Congress has limited its funding to timber-sales development, fire fighting, and road-building on the national forests, and has resisted the agency's requests for support of other programs, K-V money is often the only resource on which the Forest Service can rely to finance many of its non-timber activities. Erosion control, campground improvements, and plant and animal inventory, for example, are all funded by timber sales.

HBO TURNS "BABY-SITTERS CLUB" INTO A SERIES OF SPECIALS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mrs. SCHROEDER. Mr. Speaker, wake up, America. Our children are being badly malnourished by the popular culture that so completely engulfs them. Neilson ratings estimate that the average child spends at least 23 hours a week watching television. It is critical that children's programming provide substantial food for thought, not just overly processed pablum.

One of the most obvious causes for concern is that toy manufacturers have, with product-linked programming, transformed Saturday morning cartoons into commercials for ever-expanding lines of toys and accessories. This exploits families who can afford to buy toys constantly, and creates conflict for everyone else.

Last year, Congress passed its first piece of legislation dealing with the regulation of children's television. The Children's Television Act limited the number of commercial minutes in children's TV shows. In addition, and perhaps more important in the long run, parents and other local advocates were given the power to stop FCC relicensure of stations that fail to offer kids' shows with adequate educational value.

Over the next several weeks, I propose that we examine the current television fare for children from a number of perspectives so that we can aid our constituents in assuming this important new responsibility. The following article describes the prevalent practice of restricting children's programming to what networks think boys want to see. Hats off to HBO for its willingness to speak to the interests of girls.

[From the New York Times, Sept. 10, 1991]

HBO TURNS "BABY-SITTERS CLUB" INTO A SERIES OF SPECIALS

(By Bill Carter)

About three years ago, the editors from Scholastic Inc. checked the astonishing monthly sales totals for one of their book series, "The Baby-Sitters Club," and began to ask themselves a question:

"Why isn't our phone ringing?"

Deborah Forte, a vice president of Scholastic, couldn't understand it. Here Scholastic had a series of stories shaping up as the biggest-selling series of children books in at least a generation—if not of all time—and no one was looking to turn the stories into a Saturday morning children's show. The stories, for readers between the ages of 6 and 12, deal with a group of pre- and early-teen-age girls who form their own business as professional baby sitters.

A TARDY MARKETPLACE

"It was curious, because it seems that the marketplace always responds to things that are big hits," Ms. Forte said.

And nobody could question the hit status of "The Baby-Sitters Club." The paperback

series, written by Ann M. Martin, has become a national phenomenon, with sales totals now past 46 million.

Still, no calls.

Ms. Forte and Scholastic decided to take the first step. They went to the children's programmers at the broadcast networks and offered them a television version of a children's series with a built-in national following. "We were on a crusade," Ms. Forte said. "We wanted to get 'The Baby-Sitters Club' on film."

After many meetings and much discussion the crusade eventually did turn "The Baby-Sitters Club" into a television show. But not for a network. "The Baby-Sitters Club" is now a series of specials on HBO, the pay-cable service.

THE STIGMA: MAINLY FOR GIRLS

HBO stepped forward after Scholastic took the unusual step of turning two original "Baby-Sitters Club" stories into first-run home videos, where they proved to be the same kind of unexpected success, together selling about one million cassettes at $12.95 each.

"We finally decided we had to go to home video because the networks turned us down," Ms. Forte said. The reason, she said, was that the show carried a stigma that network programmers cannot get past: "They said the show was targeted too much to girls."

Ms. Forte also noted that another extremely popular series of books for children, "Where's Waldo?" by Martin Handford, begins a run next Saturday morning at 11:30 as a weekly series on CBS.

"Isn't it just amazing that the Waldo books are a series and we aren't?" Ms. Forte said, "The Waldo books sell mainly to boys."

WHY GIRLS ARE THE KISS OF DEATH

It is a pattern that has become familiar to educators, feminists and parents of girls: Children's shows on network television always steer clear of properties they believe will be of special interest to girls.

Why? Not because the network programmers hate girls. "It's because we're broadcasters," said Jenny Trias, the vice president for children's programs at ABC. "A show like this can work HBO because cable is narrowcasting. A show that appeals only to girls, even if it is enormously popular among girls, is less broad than we need."

Ms. Trias said ABC considered "The Baby-Sitters Club," but could think of no way to make it work on Saturday morning. Ms. Trias, and other network children's programmers—many of whom are, indeed, women—have reached what they say is a painful but inevitable conclusion: Girls will watch shows aimed mainly at boys but boys will not watch shows aimed mainly at girls.

The networks who discussed adapting "The Baby-Sitters Club" for Saturday morning took the usual approach: they suggested reworking the premise to include a lot more boy characters.

STEADFASTNESS PREVAILS

Ms. Trias said: "We thought about giving one of the girls a pesky little brother. But anytime you make a translation of popular characters you have to be careful about not being true to the original."

Indeed, Ms. Forte said Scholastic and Ms. Martin were committed all along to being steadfastly true to the themes and format of Ms. Martin's books. "The networks wanted a boys club of some sort," Ms. Martin said. "Boys doing odd jobs or something. And they wanted to change the fact that the club holds its meetings in one of the girl's bedrooms. They didn't see boys watching that. It's not that these were bad ideas; it just would have changed things too much."

Ms. Forte added: "One of the reasons girls are as obsessed as they are with 'Baby-Sitters Club' is because it's a thing they can call their own. There are very few new, exciting things out there for girls in this age group, 7 to 12. These are real girl girls. They've outgrown Barbie dolls. They're looking for something else."

Ms. Martin has tailored the stories to this age group, emphasizing the innocence of the girls without shying away from a certain level of social relevance: many of the girls, for example, have divorced parents, step-siblings and other contemporary living situations. "Basically they're all very sweet, very appealing girls with nice morals," Ms. Martin said.

ENTHUSIASM AT HBO

For HBO, the series is ideal. Sheila Nevins, the vice president for family programming at HBO, said: "We scooped it right up. We're different from the networks. We don't have to try to sell cereal to both boys and girls. If we have one girl who tells her mother there was this great show on HBO, that's enough for us."

The networks obviously need more than one satisfied customer. But there was another reason why the networks were more interested in Waldo than the baby sitters, and it has nothing to do with sexism, said Judy Price, the vice president for children's programs at CBS.

The editors from Scholastic and Ms. Martin all believed that "The Baby-Sitters Club" should not be turned into an animated show. "These books succeed because they are so relatable for the girls," Ms. Forte said. "When real girls are animated they're not real girls anymore."

So they pressed for the series to be live action. Ms. Price said that creates other problems for a network: "live-action shows don't hold up nearly as well in repeats." That is a concern for a network because Saturday morning shows traditionally make 13 episodes and repeat each of them 3 times a year. "Cartoons go on and on," Ms. Price said. "Some animation is timeless."

WHY WALDO IS WHERE HE IS

That explains the preference for a book series like that about Waldo, who is a cartoon character to begin with. CBS will attempt to capture the magic of the Waldo books, which are made up of hugely complicated drawings in which children are asked to pick out Waldo and his friends from the colorful backgrounds.

The series will rely on the books to provide the "lands" Waldo will journey to and will include "time outs" from the stories for children to search for a hidden Waldo.

Ms. Price believes "Where's Waldo" can be a big hit with both boys and girls. But as popular as Waldo is, the books have sold only a fraction of the total racked up the "The Baby-Sitters Club."

That statistic is evidence of an opposite sort of sexism, as Ms. Martin, who began her career as a children's book editor, noted. "Book series are almost always for girls," she said. "Parents are always saying, couldn't you come up with a series for boys? They just don't do as well. Boys don't read as much."

READING AND A LACK OF TV

That leaves open the question of whether girls read more because they like to or because there is nothing on television for them. Ms. Trias said, "I tend to believe they just like reading."

Indeed, Ms. Martin said one of the greatest pleasures she derives from the success of her books is that so many parents tell her they have helped their daughters improve their reading skills.

Despite the failure to interest the networks, Ms. Forte said, "The story has a happy ending for us." Scholastic is pleased with the success of the videos and the relationship with HBO and intends to produce five more stories this year.

And the books will keep on coming. Ms. Martin said she would continue to write one new edition of "The Baby-Sitters Club" each month, in addition to a monthly book in a new, related series, "Little Sisters," which is aimed at younger readers.

Ms. Martin writes one book a month for each series—in longhand on a yellow legal pad—in her New York apartment. She also supervises each script for the video versions. Combined with the hard-cover books for children she has written and some longer special editions, she has now published 86 children's books since 1983.

"I'm getting the writer's version of tennis elbow," she said.

DON'T LET THE CYPRUS PEACE PROCESS FAIL, MR. PRESIDENT!

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. BROOMFIELD. Mr. Speaker, the Cyprus peace talks may be on the rocks, and I want to encourage the administration to do everything possible to reinvigorate the peace process. In building a new world order, President Bush needs to place the longstanding Cyprus dispute at the top of his foreign policy priority list. Although there is a possibility that the talks could be held later this year, I have serious concerns that the chances for peace on the divided island may be slipping away.

It is regrettable that the planned U.N.-sponsored international conference on Cyprus could not be held in September. Secretary General Perez de Cuellar had directed his efforts toward bringing together Prime Minister Mitsotakis of Greece, President Ozal of Turkey, Mr. Rauf Denktash of northern Cyprus, and President Vassiliou of the Republic of Cyprus for high-level discussions concerning the island's future. However, the march toward the international conference appears to have halted in Paris in September at a meeting between Prime Minister Mitsotakis of Greece and his Turkish counterpart, Mesut Yilmaz. During that meeting, the Turkish Prime Minister claimed that his Government had not made certain commitments on a number of outstanding issues in the dispute, and both parties blamed the U.N. mediator for failing to pass the relative positions of one side to the other.

It has often been said that Ankara holds the key to solving the Cyprus problem. Turkey invaded the island in 1974 and still maintains 30,000 well-armed troops there. It sent 60,000 settlers to northern Cyprus and annually gives Mr. Denktash $200 million in economic assistance. Internationally, Turkey is seen as Mr. Denktash's economic and political protector. Although President Ozal has appeared to be sincerely trying to resolve the Cyprus dispute

and personally assured President Bush and Secretary Baker that he would do everything possible, he apparently toughened his government's stand, backing away from crucial agreements that had been reached this summer. The upcoming elections were obviously a factor in the Turkish Government's decision to reconsider its commitments.

It also appears that Rauf Denktash, the intransigent leader of the Turkish-Cypriot community, continues to pose an obstacle to peace. He has suggested that the planning for a future peace conference stop until Greece recognizes the northern part of Cyprus, a breakaway state that only Turkey officially recognizes, as an independent state. In doing so, Mr. Denktash is contradicting longstanding Security Council resolutions requiring the world body to preserve the sovereignty, independence, and territorial integrity of the Republic of Cyprus. Turkey obviously must do more to convince Mr. Denktash that a unified Cyprus will bring peace and economic prosperity to that troubled island.

If peace is ever to come to Cyprus, the time for action is now. Let us hope that President Ozal rededicates himself to the search for peace after the Turkish elections. I strongly encourage him to apply maximum pressure on the leader of the Turkish-Cypriot community, urging him to walk down the road to peace. Mr. Denktash should abandon his efforts to scuttle the current U.N.-backed initiative. It is also time for the White House to exert pressure on the parties to the dispute. The administration must be willing to put pressure on a close ally and hold President Ozal to his solemn promise to work for peace on Cyprus.

In 1989, the Berlin Wall came down and a divided Germany was unified. It is time to eliminate the "Green Line" that divides Cyprus and reunify that island. Putting the troubling Cyprus problem behind us would be an impressive way for our Government to start building the new world order with justice as its guiding principle.

CONGRESSIONAL PERKS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 16, 1991, into the CONGRESSIONAL RECORD:

CONGRESSIONAL PERKS

In recent weeks Americans have been up in arms over congressional perks. The uproar started over special privileges Members receive at the House bank. A General Accounting Office study reported that during a 12-month period ending June 1990, more than 8300 bad checks were written by Members. The House bank covered the checks without penalty by temporarily using funds that other Members had on deposit. Many Members of Congress, including myself, were not aware that this practice was going on.

Next it was revealed that several Members had large unpaid bills at House restaurants. Much of the debt involved events of outside groups arranged through Members, but under the rules the sponsoring Members were liable for the bills. The outstanding funds totalled more than $300,000. Now Members are being queried about congressional perks ranging from parking privileges to haircuts to in-house medical care.

How Serious Is The Problem? Some observers dismiss the entire episode as yet another example of the media blowing something out of proportion and our country's preoccupation with less important matters. Members visiting their districts have been pummelled with hundreds of questions about their checkwriting, while far less attention is given to major national issues such as the President's historic speech on nuclear arms reductions. Many people are amazed that a political turmoil could develop out of what were once considered garden-variety mistakes, such as bouncing a check.

Yet my sense is that such issues resonate with the public because they reinforce their basic suspicion that government is run by insiders for their own personal convenience and benefit. Americans perceive a double standard—Members with perks that no one else has, living in luxury while many Americans are struggling just to get by. Members are viewed as corrupt and arrogant about their power, looking out for themselves while failing to address issues like health care and crime that Americans really care about.

The result is widespread cynicism and a further decline in public confidence in Congress. The legitimacy of individuals attempting to make national policy and run the government is undermined. And that is far from a trivial matter. If Congress does not enjoy public support, it cannot get on with the nation's business.

Solutions: Positive steps have been taken to address specific abuses. The House voted to close the bank and to instruct the ethics committee to review its operations. Members can no longer sign for their meals, and outside groups will have to pay for restaurant services in advance.

Many congressional perks are relics of bygone days, when traveling across town to a bank or barber through the muddy streets of Washington was difficult. But times have changed. I believe that there should be a systematic review of congressional perks to see if they have outlived their usefulness. My general view is that Members of Congress should pay the same as everyone else for meals and haircuts, and should not enjoy special banking privileges and the like.

But I also believe a broader look at Congress is needed. In a word, we in Congress need to try harder. We need to show that we are able to improve the workings of Congress and deal with the issues that people really care about.

In recent years unwieldy congressional procedures have often resulted in frustration and institutional gridlock. We have 200-member conference committees trying to sort out differences between House and Senate versions of a bill, and 2000-page omnibus bills that must be digested and voted on by Members within a number of hours. An increasing array of issues before Congress—global warming, terrorism, and drug trafficking—involve both international and domestic components, and no longer cut neatly across organizational lines. Almost 40 subcommittees in the House and Senate would be involved in crafting a national energy policy. Congress is swamped by technical information, on every thing from the Superconducting Super Collider to arms control verification. Moreover, while the nation faces major long-term challenges such as lagging productivity and declining student achievement, the focus of Congress is primarily short-term, driven by budget numbers and concerns about the next election. There is little systematic debate on broad national spending priorities and how they should be gradually shifted to meet future needs and challenges.

I have introduced a measure to set up a temporary House-Senate committee to study and report recommendations on how Congress can improve its effectiveness and efficiency. The committee would be bipartisan and have equal numbers of Senators and Representatives. Whenever possible, it would draw upon existing staff and unpaid volunteers to minimize costs. The committee would make its recommendations after a few months of study and then go out of existence. It would be composed primarily of sitting Members so they can help move the recommendations through Congress.

The committee is modeled upon the 1945 and 1965 temporary joint committees on congressional organization. Their work has been widely recognized as significant and beneficial, resulting in changes such as streamlining the committee structure, developing a legislative budget, and expanding the research capabilities of legislative support agencies.

I believe that it is important for Congress as an institution to step back periodically to see what steps should be taken to make it work better. Yet with the last major House-Senate overhaul along these lines taking place more than two decades ago, another comprehensive look is overdue. The furor of recent weeks only reinforces that now is the time to put our own house in order.

I do not overestimate the importance of structural reform in Congress; we also need the political will to tackle the tough issues. But I do not underestimate it either. Certainly congressional procedures at times can stymie effective action on national issues as legislation is subjected to numerous obstacles and hurdles. Simply putting all the blame on political will is a prescription to do nothing to try to improve the workings of Congress.

The best way for Congress to enjoy public trust is to earn it. A systematic and thorough review of the operations of Congress can demonstrate that we are serious about improving its effectiveness. I do not take the view that Congress is in shambles or is collapsing, but we can do better.

LEAD POISONING OF CHILDREN IN NEW YORK CITY AND ELSEWHERE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. SERRANO. Mr. Speaker, the children of this Nation are again being besieged with a threat to their health. This time it is lead poisoning, a threat that we thought was gone. According to reports from the U.S. Centers for Disease Control [CDC] and the U.S. Department of Housing and Urban Development [HUD], the Federal Government had never fully addressed the lead problem in public and private housing across the Nation.

Seventy-five percent of all private housing built before 1980 has some lead paint in them. In public housing, HUD has regulated only peeling paint, while studies have shown that

children can get lead poisoning from fine lead dust on window sills and floors.

The CDC lowered the definition of lead poisoning from 30 micrograms of lead per deciliter of blood established in the 1970's, to 25 micrograms of lead per deciliter of blood in the 1980's where it remains. Recently the CDC saw a need to further lower the definition level for lead poisoning because of recent studies indicating young children exposed to levels of lead once thought insignificant were six times more likely to suffer from reading and learning disabilities.

The question becomes; why is lead poisoning a threat again? It has always been a threat in the dilapidated public housing of the poor because peeling paint could be found everywhere. Now, however, studies show that children in middle class homes where renovations are being done are just as likely to get lead poisoning as children living in public housing.

Lead poisoning leads to aggressive behavior, learning disabilities and hyperactivity. Lead poisoning is most common among low-income African-Americans. Mr. Speaker, as many as 180,000 children in New York City alone are at risk of lead poisoning. Many individuals in the Federal Government and the education community wrongly assumed that children of lower-income, non-white households were naturally slower learners. Because of these antiquated racist and elitist ideas about the learning capabilities of different races, this Government has dropped the ball on an environmental and health crisis that threatens one out of every two children living in the inner city.

HONORING IRWIN GOLDFARB

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. ENGEL. Mr. Speaker, I rise today to pay tribute to Mr. Irwin Goldfarb on the occasion of his retirement from the New York City Board of Education.

During his 33 years of service, Mr. Goldfarb served as a teacher, school psychologist, and supervisor of psychologists for special education students. He also served as an adjunct professor at City University of New York for 10 years.

Through all his professional endeavors, Mr. Goldfarb has demonstrated a combination of sensitivity and expertise that has enriched the lives of many young people. His caring is apparent in the fact that since last July he has taken time to work with pre-school children at the Western Queens Child Development Center.

Knowing that his contributions are far from finished, I nonetheless join his colleagues and friends in wishing Irwin Goldfarb a healthy and happy retirement.

A CONGRESSIONAL SALUTE TO NATALIE D. SALAZAR IN HONOR OF HER SELECTION AS THE 1991 WOMAN OF ACHIEVEMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding woman and a remarkable achiever whom I greatly admire, Ms. Natalie D. Salazar. Ms. Salazar, in recognition of her distinguished career and her tireless efforts on behalf of the community and the surrounding area has been chosen by the Wilmington Business and Professional Women's Organization as its "1991 Woman of Achievement".

Natalie, a native of Pasadena, CA, holds a masters degree in criminal justice from the California State University at Los Angeles, and has long been involved in the field of juvenile criminal justice and delinquency prevention. In 1986, she was appointed by the Hon. George Deukmejian, Governor of California to serve as the executive assistant to the director of the Governor's Office of Criminal Justice Planning in Sacramento. She spent her last year in Sacramento staffing the California Council on Criminal Justice State Task Force on Gangs and Drugs. Prior to these posts, Natalie served as the executive assistant to the director for the Los Angeles Community Youth Gang Services Project. She is an acknowledged expert in her field and has rendered valuable assistance to my office whenever expert opinion has been needed.

Actively involved as a member of the Mexican-American Correctional Association, Natalie has always recognized that children are our greatest assets and she works diligent to ensure their future. She is proud of her roots and is prominent amongst the Mexican-American women of California.

My wife, Lee, joins me in extending our thanks to Natalie D. Salazar and to her contributions to our community. She is truly an inspirational individual who has devoted her time and energies to make our community and State a better, safer place. We wish Natalie all the best in the years to come.

TRIBUTE TO DR. RONALD N. LEVINSON

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. MILLER of California. Mr. Speaker, on November 2, 1991, the Graduate School of Professional Psychology of John F. Kennedy University will pay tribute to Dr. Ronald N. Levinson for his contributions to Contra Costa County, CA. It gives me great pleasure to join them by offering this special recognition.

Dr. Levinson has had a distinguished career in the field of clinical psychology, including a number of achievements both in private clinical practice and in sharing his knowledge with others.

As dean of the Graduate School of Professional Psychology at John F. Kennedy University for the past 18 years, Dr. Levinson has created a highly acclaimed program for the purpose of teaching and training therapists and other mental health practitioners. The graduate school has grown under Dr. Levinson's direction from a student body of 30 to more than 500 students on two campuses. Today more than 1,200 alumni from this program work in mental health and community service agencies.

Dr. Levinson began his career in community service with the Economic Youth Opportunity Agency of Los Angeles in the 1960's. He continued his service oriented work with the Peace Corps in the West Indies, the Lane County Community Action Agency in Eugene, OR, the Group Health Cooperative of Puget Sound in Seattle, and as the director of Continuing Care Services for Contra Costs County Mental Health in California. In 1976, Dr. Levinson established the Community Council Center in Pleasant Hill, CA, which is now the largest low-fee mental health clinic in the San Francisco Bay area.

Dr. Levinson is currently a consultant to the Phoenix Programs of Concord, Sunrise House of Concord, and Allied Fellowship in Oakland. He also serves on the advisory board of New Connections in Concord, CA. In addition, Dr. Levinson maintains a private practice and serves as clinical supervisor to master's degree and doctoral students from various Bay area universities such as California State University, Hayward, St. Mary's College, the Wright Institute, and Saybrook Institute.

In recognition of his years of hard work and many accomplishments, Dr. Levinson has been the recipient of several awards, the most recent being the prestigious Koret Foundation Israel Prize.

Mr. Speaker, I am proud to join his family and colleagues in honoring the many achievements that dominate his career. Dr. Levinson has earned our deepest respect and admiration for his service to his community.

HONORING 1991 HALL OF FAME RECIPIENTS OF THE EL RANCHO UNIFIED SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. TORRES. Mr. Speaker, I rise today to recognize three special individuals from my congressional district, Dr. Pedro De La Rosa, Ms. Sylvia Ann Mendoza, and Ms. Judith Burnett Lehman. On Sunday, October 20, 1991, these three individuals will be inducted into the El Rancho Unified School District's Hall of Fame.

PEDRO DE LA ROSA, M.D., CLASS OF 1967

Pedro De La Rosa is the oldest of the six children of Gil and Irene De La Rosa and the eldest of the eleven children of Gil and Sil De La Rosa. He was born in Los Angeles, raised in Pico Rivera and attended Pio Pico Elementary, North Ranchito Elementary, North Park Junior High and graduated from El Rancho High School in 1967.

After graduation and while attending Rio Hondo Community College, he was drafted

into the United States Army and was sent to Fort Sam Houston, where he trained as an Army Medic. He was assigned to Valley Forge General Hospital and provided medical aid to our soldiers wounded in Vietnam. When Pedro returned to Pico Rivera, he had a high desire to continue his education and he decided to become a physician. During his pre-medical studies at U.C. Berkeley, he volunteered many hours at La Clinica De La Raza in Oakland. In the summer of 1973, he learned of a summer school program whose purpose was to encourage minority students to enter into the health professions. He applied and was accepted at Harvard University where he completed his pre-med requirements. In September 1976, he entered the University of Minnesota. While there, he helped to organize the National Chicano Health Organization, a union of latino students whose purpose was the recruitment of more latinos to professional schools. Pedro also volunteered his services to the native American community via his involvement in the Native American Health Clinic designed to help indigent Sioux, Chippewa, and other tribes.

In June 1983, sixteen years after his high school graduation, he received his M.D. degree, returned to Los Angeles and completed his medical internship and residency at Los Angeles County U.S.C. Medical Center. Pedro felt a need to return to the community and joined the Barrio Free Clinic, where as Director of the clinic, he supervised the work of four staff physicians and directed the teaching of physician assistants rotating through the clinic from both Stanford and USC Medical Schools. Now in private practice, Dr. De La Rosa has two offices, one in Montebello and one in Bellflower. He serves as the Chief of Medicine at Bellflower Doctor's Hospital and is on the medical staff at Beverly Hospital.

Dr. De La Rosa's commitment to his community continues by serving in the following organizations: Member, Board, of Directors of the Southern California Family Medical Group; Member, Board of Directors of ADMER (Association of Spanish speaking physicians); and Member of the Bellflower Chamber of Commerce. Dr. De La Rosa resides in Whittier with his wife, Roberta and their three children.

SYLVIA ANN MENDOZA, M.A., C.C.C., CLASS OF 1976

Sylvia Ann Mendoza is the daughter of Ramon and Lupe V. Mendoza, who moved to Pico Rivera in 1954. Mr. Mendoza, a veteran of World War II, received a Purple Heart and has retired from the Southern California Gas Company, while his wife, Lupe had been active in El Rancho P.T.A. and costume shop. Sylvia was born in Pico Rivera and attended South Rancho Elementary, Meller Junior High, and graduated from El Rancho High School in 1976. While at El Rancho, she was involved with the following activities: CSF, Honor Roll, International Club, Pep Commission, Academic Affairs, MGM Program, and Drill Team.

After graduation, Sylvia attended and received her B.A. in Psychology/Communications Arts/Sciences at the University of Southern California, College of Letters, Arts/Sciences. She continued her education at Whittier College receiving her M.A. in Speech Pathology in 1982. Since graduating from Whittier College, her professional experience consists of the following:

1982–1984: Almansor Education Center; Speech and Language Pathologist. Provided speech and language evaluation/remediation of severely emotionally disturbed and learning disabled children and young adults.

1982–1987: La Habra Rehab Associates; Bilingual Speech/Language Consultant for monolingual clinicians. Provided services to the Spanish speaking population.

1984–1988: Ingleside Mental Health Hospital; Consultant. Provided speech and language services on an on-call basis.

1984–1989: Cedars Sinai Medical Center; Staff Speech and Language Pathologist. Treatment of patients who have speech, language and cognitive deficits.

1989–1990: Meadowbrook Neurological Hospital; Director of Speech/Language Pathology. Responsible for the coordination of services, quality assurance, program development, marketing and education.

1990–Present: Simi Valley Hospital; Director of Communicative Disorders. Responsible for the daily operations of the Communicative Disorders Department.

Her outstanding achievements consist of: 1982, Getty Oil Scholarship; 1986–1990, ACE Award of Continuing Education, National Speech/Language Hearing Association; 1989–1990, Top 5 Local Individual Development Vice Presidents, California Jaycees Gold Medallion/Presidential Medallion; 1990–1991, Outstanding Program Manager, California State Speak-Up Chairman, California Jaycees, Gold Nugget/Presidential Medallion; 1990–91, Who's Who in the West; 1991–92, Outstanding Young Women in America; and 1991–92, Who's Who Among Young Professionals.

JUDITH (BURNETT) LEHMAN, CLASS OF 1959

Judith Ann was born in Whittier to Grover and Valta Burnett and attended Whittier Christian Elementary from the 1st to 8th grade and graduated from El Rancho High School in 1959.

When she graduated, she received an academic scholarship to attend Los Angeles Pacific College (now known as Azusa Pacific University). Judith participated in the A Cappella Touring Choir, was a member of the Forensics Society Debate Team and Copy Editor for the Yucca Yearbook. She continued her education at California State University, Los Angeles and graduated with a B.A., General Elementary Credential.

From 1980–1982, Judith served as an Administrator for the American Cancer Society in North San Diego County. Her responsibilities included development and implementation of special events, fund raising programs; planning, implementation and supervision of all public education and patient service programs. Her duties also included recruitment, training and supervision of volunteers, and coordination of all fund raising/program services for Metropolitan San Diego. In 1982–86, Judith joined the staff of the American Diabetes Association as Executive Director and was responsible for administration, fund raising and public relations for San Diego and Imperial Counties.

In 1986, as Western Regional Director for the American Diabetes Association, she acted as liaison between the National organization and the fourteen Affiliates in (13) states of the Western Region. Special assignments included an in-depth Management Study, staffing an Affiliate merger and assuming the role of Acting Vice President for the Southern California Affiliate during the time of the merger. She presently serves as Vice President and oversees all administrative functions of the Affiliate including personnel, payroll, benefits, purchasing, liability insurance, inventory control, and lease/purchase of real estate. She has also facilitated many workshops, particularly in the areas of planning and volunteer development. Judith manages to combine her career with a busy schedule of church and community work, sings in the choir, entertains large groups for both church and work in her home and regularly appears in productions of the Sacramento Covenant Players.

Her professional affiliations and community involvement include: Member, United Way/CHAD Campaign Cabinet; Secretary, National Voluntary Health Agencies; Member National Society of Fund Raising Executives; Member Sacramento Covenant Players and Chair, CHAD Agency Executives Committee. Judith resides in Sacramento and is married to Abram Lehman, a Realtor. They have four children: Brian, Bruce, Brent and Carrie.

Mr. Speaker, I ask my colleagues to join with me in saluting these outstanding individuals who have achieved local, statewide, and national recognition in their various endeavors as alumnus of El Rancho High School.

H.R. 3560, THE CABLE CONSUMER PROTECTION ACT

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. ECKART. Mr. Speaker, yesterday I introduced with Representative COOPER and Representative SHAYS H.R. 3560, the Cable Consumer Protection Act of 1991. This legislation is designed to protect consumers from monopolistic practices by the cable industry and actively encourage the growth of competitive alternatives to cable television.

The cable industry has changed enormously over the past few years. But rapid growth has brought its share of problems. Customer complaints against the cable television industry have multiplied in recent years, including complaints about high rates, poor service, and increasing monopolization. What used to be a hat-in-the-hand, give-me-a-break industry has now become an 800-pound gorilla that has only recently, and only with the threat of congressional action, begun to mend its ways.

For years, the cable industry has had the best of both worlds—little regulation and virtually no competition. It is no surprise that cable rates have skyrocketed. Rates are up 56 percent over the past 4 years for the most basic service and 61 percent for the most popular service, according to the General Accounting Office. Average monthly revenue per subscriber is now close to $30, or over $350 per year. That is a substantial amount to pay for any household but especially for those on fixed incomes, limited income, or even the unemployed.

Our legislation combines two different, yet complementary approaches to solve these problems: Interim reregulation to protect consumers from unwarranted rate increases and procompetitive measures to foster viable alternatives to cable. H.R. 3560 contains provisions designed to sharply curtail abuses within the cable television industry, including rate regulation, tough nationwide customer service standards, a limitation on cities' liability and new rules on franchise renewals. The rate reg-

ulation would lapse as soon as effective competition—the only true protection against price gouging—arose to keep prices down. The bill's procompetitive provisions include mandated access to programs, new authority for cities to award competing franchises, leased access to cable channels by independent programmers, and horizontal and vertical restraints.

Our legislation is supported by a number of cities organizations and consumer groups many of whom worked with us to draft this bill. These groups include the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties and the Consumer Federation of America. These groups and their members are often on the front line with regard to consumer complaints and problems in the cable television industry.

Elements of the current administration have also recognized some of the problems within the cable industry. Just last month, the Justice Department released a study suggesting that 45 to 50 percent of the price increases in the cable industry over the past 4 years were due to cable's market power. Furthermore, the Federal Communications Commission stated in findings in a recent proceeding, "there is currently insufficient competition to provide a check on the quality of service offered by cable operators and responsive measures thus are necessary * * *."

I invite you to support H.R. 3560 and urge swift consideration of it as a part of a comprehensive congressional response to the problems of the cable industry.

SUMMARY OF H.R. 3560, THE CABLE CONSUMER PROTECTION ACT

CONSUMER PROTECTIONS

Rate regulation.—Gives local authorities power to regulate rates where there is no effective competition. Local authorities certify to the FCC that their regulations provide uniform standards and ensure consistent application. Cable operators appeal unreasonable regulation to the FCC.

Effective competition.—No rate regulation where there is effective competition. Effective competition defined as a multi-channel competitor who offers service to at least 80% of the community and actually serves 30%.

Retiering.—Short circuits retiering efforts by cable systems by expanding definition of programming services.

Customer service.—Requires FCC to set tough nationwide customer service standards. Allows cities to enact tougher standards.

Limits liability.—Limits local authorities' liability for acts arising out of their regulation.

Franchise renewal.—Restructures renewal negotiations to give cities a fairer bargaining position.

Equipment compatibility.—Requires that all cable signals be compatible with cable ready television sets and VCRs so that customers are not forced to lease unnecessary equipment. Promotes commercial availability of converters and remotes.

COMPETITIVE PROVISIONS

Access to programming.—Cable programmers barred from unreasonably refusing to deal with any competing video technologies (i.e. wireless cable, home satellite dishes, direct broadcast satellite, etc.) or discriminating in prices, terms and conditions.

Multiple franchises.—Encourages local authorities to award more than one franchise. Communities that have more than one provider of video programming have significantly lower rates.

Leased access.—Requiring cable operators to make channel space available to other programmers at reasonable rates.

Horizontal concentration/vertical integration.—Requires FCC to set reasonable limits on the number of subscribers a cable operator can reach and the number of cable channels a cable operator can own an interest in.

HAPPY 100TH BIRTHDAY TO DR. EDWARD L. BERNAYS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, on November 21 a group of citizens will be commemorating a wonderful, memorable event: The 100th birthday of Dr. Edward L. Bernays.

This 100th birthday will be celebrated at Northeastern University, and it is wholly appropriate that Dr. Bernays birthday be celebrated at a major American University because of the extraordinary contributions he has made to the intellectual and cultural life of our country.

Dr. Bernays is one of the founders of the discipline of public relations, and he has since he first began work in this field been one of those who has labored long and hard to make it the honorable profession it should be in a democracy, where information about public events and issues is essential if we are to have the sort of informed citizenry we need.

During World War I, Dr. Bernays was a pioneer in the use of information by our Government to counter the use of information as a weapon by Germany and its allies. He went on to be one of the first to teach public relations in an academic setting—at New York University—and wrote one of the earliest and most important books in this field, "Crystallizing Public Opinion," in 1923.

Among, those whom he helped to publicize were his uncle, Sigmund Freud, and the great ballet dancer, Nijinsky. In a move that has a very obvious relevance in today's world, he worked hard for the independence of Lithuania in 1919. Few who joined him in that effort are still around today to rejoice in the renewed independence of that nation.

His commitment to social justice was manifest in his serving as counsel to the NAACP 7 years ago and he has continued his commitment in this area throughout his long life. More than 50 years ago he was one of those who assisted Eleanor Roosevelt in her courageous decision to bring Marian Anderson to sing on the steps of the Lincoln Memorial after she had been denied the right to sing at Constitution Hall by the DAR.

I have known Mr. Bernays myself for the past 15 years or so in his capacity as a leader in organizations dedicated to fair treatment for older people. He was a close collaborator of the late Frank Manning, a pioneer in organizational efforts by the elderly to advance their own legitimate interests and I am very proud to say that he has continued to work closely with Mr. Manning's successor as president of the Massachusetts Association of Older Americans, who in her spare time serves myself, my siblings and my nieces and nephew in the capacity of mother and grandmother.

Edward Bernays is a remarkable man and his 100th birthday is an ideal event for multiple celebrations—of his own long and productive life; of the spirit of older people who are increasingly an important part of our cultural, political, and economic life in this country; of the role of public relations properly construed as a contributor to informed debate in this country; and of a great urban university, Northeastern University, which is making its contributions in so many of these fields. Mr. Speaker, since the rules of the House prevent Members from addressing anyone other than the Chair in making remarks of this sort, I express to you my wish that Edward Bernays 100th birthday will be as happy and fulfilling as he is entitled to enjoy.

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. AuCOIN. Mr. Speaker, throughout our Capital City of Washington, DC, there are monuments to commemorate Americans who have served our country in wars against foreign enemies. Our Nation is now in the midst of another war—a war against violent criminals. It is, therefore, fitting that yesterday we dedicated the National Law Enforcement Officers Memorial in Washington, DC's Judiciary Square. I would like to take this occasion to express my gratitude and appreciation to police officers in my home State or Oregon and throughout our country.

Every parent knows the importance of the early lessons that you teach your kids—the basic rules about crossing the street, steering clear of strangers, and taking care of themselves when they first go out on their own. Nothing is more reassuring than that simple bit of tried and true advice: If you're ever lost or in trouble, a police officer will be your friend. It means a lot that we can still count on this during these uncertain times.

There are 12,561 names on the marble walls of this monument. These men and women put their lives on the line for us. Today and every day, police officers risk their lives to protect us, our children, and the very fabric of our society. The National Law Enforcement Officers Memorial is an expression of our Nation's appreciation for these valiant efforts. To the loved ones and comrades of these men and women, let me extend my grateful thanks on this occasion.

ENDING INTERNATIONAL TRAFFICKING IN EXPLOITED CHILDREN

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. BLILEY. Mr. Speaker, I rise to introduce a bill that will provide law enforcement authorities with an important new tool in ending international trafficking in exploited children. The bill is simple and direct: It would prohibit the overseas production and distribution of child pornography where the defendant intended, knew, or had reason to know that the materials were to be imported into the United States. In short, it would extend jurisdiction to overseas producers of child pornography the same way that we extend jurisdiction to overseas drug traffickers.

Offenses involving the production and distribution of child pornography are particularly heinous, because such offenses by definition involve the sexual exploitation and degradation of a young child. Time and again, experts and blue-ribbon commissions have documented the deep and long-lasting emotional and psychological scars that are inflicted on the victims of these offenses. As Justice Byron White has written, child pornography constitutes a "permanent record" of sexual abuse that can haunt the child-victim well into adulthood.

Moreover, child pornography is often used by child molesters as a tool to help lower the inhibitions of intended victims. Thus, a cycle of victimization is created where the photographic or videotape record of the crime against one child is used to assist in the commission of similar crimes against many other children.

The child pornography statutes that we currently have on the books have been tremendously effective in halting the commercial production of child pornography in this country. Almost all of the commercially produced videotapes, magazines, and photographs arrive on our shores from overseas. Even so, the United States remains the world's most lucrative market for child pornography.

Defense for children International estimates that child pornography is at least a $2.5 billion a year industry involving millions of children internationally. According to a 1988 report published by the National Center for Missing and Exploited Children, the child pornography market is part of a larger world of international sexual trafficking in children that relies upon phoney adoption schemes and other scams that cross international boundaries.

Most commercial child pornography is imported into this country from Western Europe and Southeast Asia. Foreign producers often advertise in their own magazines for amateur photographs which appear in future issues of these magazines. There are documented cases of child molesters in this country sending explicit photographs of their victims to foreign magazines which publish and import those photographs back into this country.

It is wrong for child pornography, which is easily used as a tool in the molestation of children here, to enter our borders from overseas. It is also wrong for the United States, by operating as a marketplace for child pornography, to serve as an economic engine for the sexual abuse of children around the globe. Finally, it is wrong that our laws do not directly address the situation where foreign producers publish photographs of American children taken by molesters here.

Mr. Speaker, my bill is simple. It expressly invokes the jurisdiction of the United States to prosecute overseas production and distribution of child pornography where the defendant intended, knew, or had reason to know that such materials were to be imported into the United States. This language of the amendment is modeled upon section 959 of title 21, United States Code, where the United States has claimed such extraterritorial jurisdiction in the area of drug control.

Extraterritorial jurisdiction to prosecute overseas production and distribution of child pornography has been upheld by the Ninth Circuit Court of Appeals in situations where the defendant is an American national[1] or where the use of U.S. mails is involved.[2] The bill builds upon these cases, making their holdings applicable throughout the United States, and claims for the United States the full breadth of jurisdiction available to it under the effects doctrine in international law, also known as objective territorial jurisdiction.

Under the effects doctrine, a State may extend criminal jurisdiction over persons, including foreign nationals, committing criminal acts outside of its borders where the effects of the crime are felt within its borders.[3]

The first section of the bill creates a new section 2258 to title 18, United States Code, prohibiting the production of sexually explicit depictions of a minor for importation into the United States.

New section 2258(a) would prohibit the overseas production of child pornography for importation into the United States. The offense set forth here closely parallels the production offense set forth in section 2251 of title 18, United States Code. Specifically, subsection (a) prohibits the employment, use, persuasion, inducement, enticement, or coercion of any minor to participate in sexually explicit conduct for the purpose of producing a visual depiction with the intent or knowledge that such visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States. The transportation of a minor for such purposes is also prohibited. Actual knowledge is not required for conviction so long as the defendant had reason to know that the materials were to be imported into the United States.

New section 2258(b) prohibits the knowing receipt, transportation, shipment, distribution, sale, or possession with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct if the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct with the intent or knowledge that such visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States. The offense as set forth in subsection (b) closely parallels the child pornography trafficking offenses set forth in section 2252, title 18, United States Code.

New section 2258(c) provides that persons who violate subsections (a) or (b) are subject to fines under title 18, United States Code, imprisonment of no more than 10 years, or both. Persons convicted of a second or subsequent child pornography offense or who have a prior conviction for a sex offense are subject to a fine under title 18, United States Code, no less than 5-years imprisonment and no more than 15-years imprisonment, or both. These penalties are identical to those penalties provided for the production and trafficking in child pornography under sections 2251 and 2252 of title 18, United States Code. Subsection (c) also provides the same penalties for attempts and conspiracies to violate subsections (a) and (b).

The second and third sections of the bill make technical changes to chapter 110 of title 18—concerning child pornography—with no substantive impact.

The fourth section amends 18 U.S.C. 2251(d) and 2252(b)(1) to increase the class of prior offenses that will qualify the offender for an enhanced penalty. Currently, the statutes provide enhanced penalties only where the defendant was convicted of prior child pornography trafficking under that specific statute. The bill would broaden the class of prior offenses to include all child pornography offenses and sex offenses.

The fifth section amends 18 U.S.C. 2251(d) and 2252(b) to provide penalties for conspiracies and attempts as well as completed offenses. The bill would provide the court with full sentencing discretion in cases where the defendant is unable to complete the offense for reasons beyond his control, such as apprehension by law enforcement authorities.

Finally, the sixth section would amend 18 U.S.C. 1961(l) to include the new child pornography statute as a RICO predicate offense. Currently, child pornography offenses set forth in 18 U.S.C. 2251 and 2252 are RICO predicate offenses.

Mr. Speaker, I believe that my bill will provide an important new tool for American authorities to crack down on the producers of child pornography.

[1] *U.S.* v. *Thomas*, 893 F.2d 1066 (9th Cir. 1990).

[2] *United States* v. *Moncini*, 882 F.2d 401 (9th Cir. 1989).

[3] Zagaris & Rosenthal, "United States Jurisdictional Considerations in International Criminal Law," 15 Cal. W. Int'l L.J. 303, 307 (1985); Brierly, "The Law of Nations," 300 (1980) ("An obvious illustration would be that of a man who fires a gun across a frontier and kills another man in a neighboring state; in such a case the jurisdiction of the country from which the gun is fired has been called 'subjective,' and that of the country in which the shot takes effect 'objective territorial jurisdiction.'").

NEA FUNDING IN THE INTERIOR APPROPRIATIONS BILL

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Ms. PELOSI. Mr. Speaker, the ugly issue of content restriction on art is back. As you know, last year this Congress worked hard to reach an agreement on the difficult issue of

restrictions on funding for the National Endowment for the Arts [NEA]. Today, Mr. DANNEMEYER is trying to undo what we worked so hard to accomplish last year. He wants this body to tell the Interior appropriations conferees to support Senator HELMS' restrictive amendment.

I rise to oppose any content restrictions being placed on projects funded by the NEA. I particularly object to the Helms language adopted by the Senate in the Interior appropriations bill. This language again attempts to list forbidden subject matter. Clearly, the determination of "obscene" should be made by the courts—not by a list written by Senator HELMS. Artistic excellence—not content—should be the criteria for Federal funding.

As I have said before, I believe that we must encourage creative expression, not suppress it. Outside regulation of the arts is an infringement on every artist's freedom of expression. In a free and open society, artists have been known to take a new approach when dealing with strong, provocative, controversial issues. We do not always agree with the statement made by a particular artist, nonetheless we all benefit from a new perspective.

I commend chairmen YATES for his thoughtful position on this issue and urge my colleagues to reject Mr. DANNEMEYER'S motion to instruct the conferees to agree to the Helms language.

EQUITY IN THE STATE VETERANS HOME PROGRAM

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to introduce legislation that will promote regional fairness in the Department of Veterans Affairs State Home Program by increasing the per diem reimbursement rate to State veterans nursing homes and domiciliaries in high cost-of-living areas. The bill affirms our commitment to the century-long partnership between the States and the Federal Government in providing care for those who have served our Nation in military service.

The DVA provides funds to States for the construction and operation of long-term care facilities through the State Home Program. Under this program, States can compete for grants that provide up to 65 percent of the cost of construction, provided DVA standards are followed. In addition, the DVA provides a per diem for each veteran under care in a designated State home. The per diem rate for 1991 is $22.44 for nursing home care and $9.59 for domiciliary care. The purpose of the per diem is to equitably distribute the financial burden of veterans' health care between the State and Federal Governments.

The per diem payments to State homes began before the turn of the century. Historically, the payments represented a meaningful share of the cost of care. However, in the recent past, as medical care cost inflation has skyrocketed, per diem rates have increased slowly. The per diem rate is set by Congress and is a fixed amount nationally. While the DVA intended for the State Veterans Home Program to finance 25 percent of the operating costs nationally, the effect of current DVA policy has been the shift of more of the cost of veterans' long-term care to the States. However, not all of the States have been equally affected. In some States, where the salaries of health care professionals, the cost of medical supplies, electricity, construction costs, and other components of the total cost of care have increased most rapidly, the per diem payment covers a smaller share of costs, than in low cost States.

New York, which currently has one State home in Oxford, and one that is scheduled to open in October of 1991 in Stony Brook, Long Island, has the second largest veterans' population in the country. While the State would like to build two to three more State veterans' homes to have additional nursing home beds available to veterans, the State is hesitant to do so since it picks up a larger share of the Federal obligation compared to other States. For example, according to the DVA's 1990 third quarter statistics, the DVA per diem reimbursement for domiciliary care in the Oxford home represented 7.6 percent of the cost of care and 14.5 percent of the cost of nursing home care. This State home is located in upstate New York where medical care and electricity costs are much lower than on Long Island and in New York City, Therefore, the per diems from the DVA will represent an even lower percentage of the cost of caring for these veterans in State homes in these areas. Moreover, these areas have the highest concentration of veterans in the State and consequently the greatest need for such facilities.

My bill would reimburse individual State homes 30 percent of the cost of caring for veterans in these facilities or the current national per diem rate which ever is greater. At the same time, my bill would not adversely affect State home facilities to which the current national per diem rate equals more than 30 percent of the cost of caring for the veterans therein. However, the current requirement that these payments not exceed 50 percent of the total cost of care would remain in effect.

Currently, there are 60 State homes in 37 States. These facilities provide cost-effective quality care and are increasingly relied upon by the DVA to meet the long-term care needs of our aging veterans. The DVA would like to have 30 percent of the long-term care beds provided by the State homes. This increased reliance on State homes cannot be met without an increase in per diem rates. Increasing the per diem rate would encourage more States to build State homes, thereby reducing the strain on the DVA to provide this care. While the DVA pays more money initially, 65 percent of the construction costs, in the long run it is the State that ends up paying the lion's share of the costs because the operational costs of a long-term care facility are much greater than the cost of its construction.

Furthermore, most States pass on the cost of unreimbursed care to the veteran. This means that a veteran in a high cost State would pay more for care in a State facility than in a State with low operational costs. Adding insult to injury, many of these veterans would be entitled to receive medical care at a DVA facility at no cost to them if such care were available.

With the aging of America's veterans population, the DVA will be faced with an even greater need for long-term care facilities in the very near future. I will urge the Veterans' Affairs Committee to look at the issue of long-term care to determine if additional funds should be added to the State Home Program to promote regional fairness and encourage the construction and operation of new State-run facilities. A reasonable per diem payment must come closer to the actual cost of care, if the DVA wishes to encourage the States to build and operate State homes in an era of spiraling health care costs, higher per diems are needed. This is the very least that can be accomplished at the Federal level to ensure that veterans receive the most compassionate and appropriate care possible considering that veterans' health care is a Federal, not a State, responsibility.

Mr. Speaker, our veterans fought for the United States, not individual States, and they deserve our Nation's fullest attention and respect. I urge my colleagues to join me in support of this legislation.

DICK BOLTON TO RETIRE AFTER YEARS OF SERVICE TO HAGUE, NY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. SOLOMON. Mr. Speaker, on December 8, my good friend Dick Bolton will be retiring as supervisor of the town of Hague, NY.

If you can imagine Washington without its monuments, you can imagine Hague without the presence, inspiration, and steady hand of Dick Bolton.

I measure a man by how much he gives to his neighbors and to his community. By that measure, Dick Bolton has been a giant.

Consider that he was a busy employee of International Paper Co. for 29 years, retiring as a department superintendent. He still found time to serve seven terms as Hague town supervisor, seven terms on the Warren County board of supervisors, and two terms as that board's chairman. His committee assignments including budget, data processing, public works, Lake George affairs, parks and recreations, planning and community development, solid waste, sheriff and communications, tourism and industrial promotion, and veterans services.

He was on the board of directors of the Supervisors and County Legislators Association and third vice president of that association in 1991. He also served as a member of the Lake George Park Commission and chairman of the Glens Falls Transportation Council.

But that's not all. He was also active in his community, serving as past commander of the Hague American Legion, past president of the Hague Fish and Game Club, Warren County Conservation Council, New York State Region 5 of the Fish and Wildlife Management Board, and the Hague Chamber of Commerce. He is a past vestryman of the Episcopal Church of the Cross and a charter member of the Hague Fire Department.

I could go on and on about Dick Bolton. So could everyone else who knows him. They will

be having a farewell gathering for him on December 8, but let us pay our tribute today.

Mr. Speaker, I ask you and other members to join me in saluting a model public servant, great American, and close friend, Dick Bolton of Hague, NY.

A TRIBUTE TO THE UPPER BEAVER VALLEY JAYCEES

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. KOLTER. Mr. Speaker, I rise today to pay tribute to a very special organization in my congressional district. This month the Upper Beaver Valley Jaycees are celebrating their 45th anniversary of providing community service and leadership training for young adults.

Originally founded on October 26, 1946, as the Beaver Falls Junior Board of Trade, the Upper Beaver Valley Jaycees have been recognized for their outstanding contributions as an affiliate of the Pennsylvania Jaycees and the U.S. Junior Chamber of Commerce.

Since its inception, this chapter has identified the needs of its local towns and addressed them through a variety of community development projects. Haunted houses, benefit dances, and pro/am golf tournaments are just some of the thousands of noteworthy projects the Upper Beaver Valley Jaycees have conducted to raise funds for children, the elderly, and the handicapped. Providing scholarships, food and other support for the needy is just part of this organization's enriched tradition.

However, what is unique about the Upper Beaver Valley Jaycees is the valuable service it provides for its members. Through the promotion of individual and management development, chapter members have acquired knowledge in planning, personal and financial management, spiritual and family development, and public relations. Past and current members of the Upper Beaver Valley Jaycees have gone on to utilize this leadership skills training in their jobs, churches, government and families.

Therefore, Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in saluting this remarkable organization for its 45 years of service to humanity. The Upper Beaver Valley Jaycees are a shining example of young men and women who give of themselves to make their community and America a better place to live.

A TRIBUTE TO THE PARKSIDE STAY-IN-SCHOOL PROGRAM

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. DUNCAN. Mr. Speaker, President Bush has placed education as a priority concern of his administration. Certainly, it is the key to the future of our country. That is why I am proud to salute Bill Judkins and Parkside Housing, in Blount County, for providing innovative programs to provide incentives for education within my district.

Last year, Bill Judkins, the Maryville Housing Authority executive director, began the Parkside Stay-In-School Program. He started by offering McDonald's gift certificates to children with perfect attendance. Now, Joe Bruce, president of Citizens Bank, has agreed to donate bonds and money to the program. Children with perfect attendance receive $50 U.S. savings bonds and students who missed only 1 day receive $10. Furthermore, the family of each child with a perfect attendance record receives a month's worth of rent for free.

The successful results of this program include eight children from five families, in Blount County, who missed no school. Two of these were brothers who went from a combined number of 76 days of absence to perfect attendance and raised their grades from F's to A's in only 1 year. Also, it has inspired the school and community at large to begin other educational development programs. Future goals include: Setting up a scholarship program of the authority's own, and getting Bonner scholarships for students trying to enter Maryville College, providing caps and gowns for underprivileged students, targeting the program to the older students as well as the young children, and obtaining a video system to help people get the equivalent of a high school diploma who might otherwise not have the chance.

Last year, the community spent $900 in rewards for the Parkside Stay-In-School Program. However, this amount was offset by the $523 in State funds that the children put to use through their perfect attendance. This program proves that good ideas can be cost-effective. An important lesson to remember in the face of today's overwhelming deficit.

I want to thank Bill Judkins, Joe Bruce, and the Parkside community for their leadership in an issue of high priority.

I ask that two articles that appeared in the Blount County Daily Times be printed in the RECORD.

PARKSIDE STAY-IN-SCHOOL PROGRAM—INCENTIVES PROVE VERY SUCCESSFUL, ORGANIZERS SAY

(By Iva Butler)

Bill Judkins began with a modest goal of providing McDonald's gift certificates to children with perfect attendance in the Parkside Stay-In-School program.

The program progressed so well in one short year he was able to provide the children with $50 U.S. Savings Bonds for perfect attendance and $10 for nearly perfect attendance (one day missed.)

Eleven proud and beaming Parkside students received their bounty Wednesday at a reception for them and their families.

They also received a formal congratulatory certificate at the ceremony from the Department of Housing and Urban Development and a personal letter from Judkins, who is Maryville Housing Authority executive director.

The families of those with perfect attendance all got a month's free rent.

The free rent, which cost the authority $900 last school year, is offset by the $523 in state funds those children brought to the schools through the daily attendance in state funds, Judkins said.

"Everybody is a winner but the biggest winner is the child," he added.

"It takes everybody—the parents and the Kids," said Joe Bruce, president of Citizens Bank, the bank that donated the bonds and money. "You don't mind contributing the money when you see somebody with this kind of initiative. It's an excellent program."

Omaha, Neb., has a similar Stay-in-School program and, out of approximately 8,000 public housing units, 15 children had perfect attendance. Maryville had 66 units and they had eight who missed no school. "Omaha is a community of about one-half million people and Blount County has a population of 85,000-90,000," said Authority Chairman J.N. Badgett.

"The percentage difference there looks really good for Maryville," said Joyce Baker, resident initiative coordinator for HUD in East Tennessee.

"We have four other schools similar to this in East Tennessee, but this is the only one I know of that's put together, staffed and equipped by the community," Baker said.

"We're not getting any tax dollars," Judkins said. "We're just using the available resources in this community. We've harnessed them and got them all pulling in the same direction."

Goals for the next school year are ambitious. They are:

Having a scholarship program of the authority's own and getting Bonner Scholarships for Parkside students to Maryville College.

Getting Maryville College interns to help with the Parkside Learning Center through the Bonner Scholarship program, which requires community service.

Extend the program to children living in Section 8 (private housing that the government subsidizes and Maryville Housing Authority operates).

Getting Boys and Girls Inc. and Girl Scouts involved more.

Possibly providing caps and gowns and maybe yearbooks for children who can't afford them. "I'd hate to think of any kid not having a cap and gown for graduation or a school annual," Judkins said.

Getting another VISTA volunteer to work with the authority, to work with the Bonner interns and with the residents.

Meeting with Maryville College and planning some activities for the older (probably 13 years and older) kids whom the program is missing—possibly a special weeks activities, including letting them stay in the dorms next summer.

Obtaining a video system to help people seek high school equivalency diplomas; to practice doing interviews; for the little kids to give them confidence in giving reports; and to document the Stay-in-School Program. "We're constantly hearing from other people interested in emulating this program," Judkins said. In fact, Baker said the Rogerville program is named the Bill Judkins Stay-in-School Program.

ENCOURAGEMENT PAYS FOR PARKSIDE PUPILS, PARENTS, COMMUNITY

Education is a lot like religion in that it has to apply every day to achieve the desired results.

And it is doing just that for some of the residents in Maryville Housing Authority's units where education has been tied directly to every day living. "Superintendent" of the education program is Housing Authority Executive Director Bill Judkins.

A key part of the program has been to encourage pupils and parents to make certain those enrolled in school attend regularly.

This past year there were eight children—five families—who had children with perfect attendance in public schools and to boost the new program of school attendance, each family was given a free month's rent.

In addition, Citizens Bank of Blunt County gave each of the eight students a $50 U.S. Savings Bond. An added prize was a $10 bill to the five students who missed only one day.

Using resources in the community, the program is producing results. Two brothers went from a combined 76 days of absences a year earlier to perfect attendance and from F's to A's, a 180-degree turn attributed to the Stay-in-School program. While the free rent cost the housing authority $900 last year, the school systems netted $523 in state monies the children brought the system based on average daily attendance.

There were eight with perfect attendance from the 66 Maryville units, a much higher percentage than was recorded in Omaha, Neb., for example, where there were 15 children from 8,000 public housing units.

Such use of initiative and local resources and the outstanding beginning results are encouraging. And the results have already encouraged new ideas for new efforts to expand the program next year.

Some of the most practical and helpful projects are not the most expensive. They do not require massive budgets. They do require the serious concern of parents, pupils, and community. Caring is the secret to success of many such programs.

That concern may not cost much in dollars but it is worth far more than throwing a pile of dollars at the problem.

WORLD FOOD DAY

HON. FREDERICK S. UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. UPTON. Mr. Speaker, I would like to call attention to House Joint Resolution 230, which highlights the tragedy of national and international hunger by designating October 16, 1991 and 1992 as "World Food Day." This important resolution was introduced by my fellow Hunger Committee colleague, Congressman BEN GILMAN of New York. I am pleased to cosponsor this bill which was passed by Congress and will be signed into law shortly by President Bush.

I encourage all Americans to join the fight against hunger and malnutrition by volunteering to help groups in their local communities dedicated to erasing hunger at home and abroad. It is the combined efforts of dedicated individuals that will ensure people do not go hungry.

Hunger knows no boundaries: It is a problem in Third World countries and also in our own backyards. Even though the farm families in my district make up part of "America's breadbasket" and supply food around the world, we still have neighbors who go to bed hungry at night.

I am proud to represent southwestern Michigan in Congress. There are many fine examples of private groups and organizations, companies, clubs, and schools that work hard to combat hunger. They volunteer their time, donate their money, and dedicate their efforts to ease the pain of many who are less fortunate.

Let's use World Hunger Day as the first step in strengthening our commitment to end world hunger by accepting the challenge to help make a difference in the lives of people who struggle simply to put food on their tables.

25TH ANNIVERSARY OF THE DUNDEE SENIOR CITIZENS CENTER

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. DINGELL. Mr. Speaker, it is my privilege to recognize the silver anniversary of a very special organization in the 16th Congressional District of Michigan, the Dundee Senior Citizens Center. For 2½ decades, the center has assisted seniors in their efforts to be self-sufficient, active, and contributing members of their community by providing a full range of recreational, educational, and health services to their membership.

Constantly striving to reach out and assist others, the center provides benefits to seniors in five communities in the Dundee area. A brief glance at the range of services offered reveals the depth and breadth of the center's commitment and success. The center provides legal services, health screening, bingo, monthly pancake breakfasts, senior Olympics, health screening, and exercise and ceramics classes. Additionally, center volunteers deliver meals to more than 50 seniors who are unable to prepare them for themselves.

From its humble beginnings 25 years ago, the center has grown from 15 seniors to a membership 1,200 strong. Presiding from the start, the center's devoted and dedicated leader, Helen Hovizi, has spent countless hours, endured flood and financial trials, and sustained the center through rapid growth. Her tireless spirit and enthusiasm has spread joy throughout the community.

I salute Helen Hovizi's tireless efforts, and those of the numerous volunteers, and active members of the Dundee Senior Citizens Center. And, I wish them many more years of distinguished service to the Dundee community.

TRIBUTE TO BERTHA EMIN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Bertha C. Andrews Emin, who will be celebrating her 100th birthday on October 21, 1991.

Bertha Emin was born in Providence, RI, to Anna Maria Kane Andrews and Philip Robinson Andrews. She attended Almy Street School, Stillwater Grammar School, and English High School. In February 1912, she graduated from Rhode Island Normal School majoring in elementary education with a teaching certificate for grades 1 through 8.

Her distinguished teaching career began weeks after she graduated, as a teaching principal of 16 students in a 1-room school. It continued over a period of six decades as a teaching principal, a substitute teacher, and a full-time teacher in the Georgiaville Public School District. She had continued that same high standard of excellence until her retirement on June 23, 1961, at the age of 70.

On November 12, 1917, she was married to Leander Francis Emin of Stillwater, RI. She remained in Stillwater as a substitute teacher in the local school system where she remained until June 1919. After that time, she continued to teach at home as she raised her family. Among the many students who have benefited from her talents, she educated her five daughters, four granddaughters, and two grandsons so that each of them skipped one or two grades.

Mrs. Emin has been involved as a member of St. Michael's Church and its ladies guild since 1920. She had spent 10 years on the Rhode Island Institute of Instruction Policy Committee. Today, she travels as much as possible and enjoys the company of her great-grandchildren. In addition, she continues to teach to her family the importance of the effect of home, church, and school on the individual. To date, her basic philosophy can be summed up in this proverb:

All that you do
Do with your might
For things done by halves
Are never done right.

Please join me today in recognizing Bertha Emin for her outstanding educational achievements and in wishing her health and happiness on her 100th birthday celebration.

THE 200TH ANNIVERSARY OF THE MACLAY MANSION IN HARRISBURG, PA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. GEKAS. Mr. Speaker, I rise today to commemorate the 200th anniversary of the Maclay Mansion in Harrisburg, PA. This historical landmark was built by William Maclay, the famed lawyer and first U.S. Senator from Pennsylvania.

In 1791, Senator Maclay built his three-story limestone house with 18-inch-thick walls not long after he retired from the U.S. Senate. This year was the same year that the Bill of Rights took effect. Senator Maclay, as history shows, was a strong champion of these Bill of Rights.

Senator Maclay was a self-proclaimed man of republican respectability, a statesman who happily left the U.S. Senate and returned to Pennsylvania to become a county judge and, once again, a State legislator. He did not care to accept privileges and perquisites, a trait that is all too rare in Congress today. It is also of some significance to note that when he served in the U.S. Senate, William Maclay fought for the confirmation process that is part of the Senate's advise-and-consent duties in approving or rejecting Presidential nominees.

Senator Maclay helped found the Democratic Party, which was known in his day as the Anti-Federalists or Republicans. He is also

the only Pennsylvanian to help form two counties: Northumberland in 1772, and Dauphin in 1785, and he helped lay out their respective county seats, Sunbury and Harrisburg. In writing the will of his father-in-law, John Harris II, William Maclay set aside four free acres for the State capitol. As a State lawmaker, he helped set the process in motion to make Harrisburg the capital city. After his death, Maclay's family sold the Commonwealth the 10 acres where today's State capitol stands.

The great legacy that Senator Maclay left us is represented in the magnificent structure known as the Maclay Mansion, today owned by the Pennsylvania Bar Association. The bar has owned the building since 1948, and it celebrated the full restoration of the completed structure in 1975. The PBA has done a magnificent job in maintaining this historical site, which is a showcase for the organization, and serves as a meeting place for thousands of law practitioners around the State.

Mr. Speaker, I ask all of my colleagues to join me in paying tribute to the memory of Senator William Maclay and the legacy that he has left Pennsylvania and the Nation. We salute the Pennsylvania Bar Association in maintaining the Maclay Mansion, which has stood for 200 years, and hopefully will stand for many more.

SADDAM HUSSEIN IS STILL A SERIOUS THREAT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. LANTOS. Mr. Speaker, the administration now admits that it totally misjudged Iraq's military capabilities and Saddam Hussein's intentions before the Persian Gulf war. Once again it is misreading the realities of that region and is allowing Saddam Hussein to continue plotting a new war.

I strongly recommend to my congressional colleagues Jim Hoagland's excellent article in today's Washington Post, "Act Now Against Saddam," which outlines Saddam Hussein's intolerable scheming and calls for forceful action. I ask that it be placed in the RECORD.

[From the Washington Post, Oct. 16, 1991]

ACT NOW AGAINST SADDAM

(Jim Hoagland)

This much is now beyond dispute: Saddam Hussein's scientists were years closer to building an atomic bomb than the world's most knowledgeable experts believed. And Saddam is still trying.

That stark reality, and the Iraqi dictator's continuing disdain for the welfare of his starving citizenry, should strip away the complacency that surrounds U.S. postwar policy toward Iraq. These developments demand immediate steps to replace Saddam's regime with a new Iraqi government.

The peculiar pattern of Iraq's behavior in recent confrontations over United Nation's inspection rights suggests to intelligence experts that Saddam's nuclear effort continues in some secret cavern deep in Iraq.

For those in range of Saddam's hidden missiles, each day counts.

New reports from Baghdad show that while Iraq's civilian population, put in harm's way by American bombs, desperately forages for food and medicine, Saddam's cronies amass small fortunes from smuggling. Saddam's clansmen grow fat by creating a black market out of the sanctions that are supposed to bring them down.

The streets of Baghdad are filled with Mercedes limousines stolen from Kuwait or smuggled in more recently by people such as Ali Hassam Hamadi, one of the new sanctions millionaires described in detail in the Paris daily Le Figaro on Oct. 3. But ordinary citizens lack money to pay the skyrocketing prices for food.

For those who are starving in Iraq, each day counts.

The revelations about Saddam's nuclear effort and the extent of sanctions-breaking show conclusively how wrong President Bush's critics were in arguing a year ago that time was on America's side and that sanctions would work against Saddam if given a chance.

Disclosures of how close Saddam has come to a doomsday weapon also show how mistaken Bush was to adopt the positions of his opponents after the war ended. The need for urgency should also be clear by now. But the president pursues a strategy of slow attrition.

For those who took on the responsibility of establishing regional security and stability through Operation Desert Storm, each day counts.

At least it should. But Bush has taken as the pillars of his postwar policy the notions his opponents preached to try to avoid Operation Desert Storm. Time is on America's side, the president's men now say. Sanctions will work against Saddam.

Saddam delights in proving otherwise. The administration assumed sanctions would force Saddam to agree to United Nations sale of $1.6 billion of Iraqi oil on world markets to buy food and medicine that U.N. personnel would distribute inside Iraq.

He refused. In a defiant speech in Baghdad on Sunday, Saddam said Iraq would endure sanctions for 20 years rather than accept the U.N. plan, which is spelled out in Security Council Resolution 706.

The Bush administration, which should have learned better, weakly explains away such statements by Saddam as vain boasting that he will have to abandon soon. But Saddam has no interest in protecting or feeding his people. "He would prefer to see people starve than to see his authority eroded by having a foreign organization distribute food to Iraqi citizens," says a member of the opposition International Committee to Free Iraq.

Israel's unilateral decision to send reconnaissance aircraft over Iraq is a concrete expression of doubt about time being on America's side. Israel would not have taken the risks involved in the surveillance flights unless it was seriously considering sending in commando units to clean out the rocket launching sites and depots in western Iraq that are within range of Israel.

Astonishingly, the United States has criticized these flights of self-protection, claiming they jeopardize the Middle East peace process.

The administration has it exactly backward. The peace process, as conceived and implemented at the State Department, jeopardizes the more urgent task of finishing with Saddam. Concern over convening a ceremonial peace conference causes the United States to turn a blind eye to the active aid Jordan gives Saddam in breaking sanctions and money laundering.

Several immediate steps need to be taken.

The Iraqi opposition is on the verge of forming a broad-based provisional government in Iraqi territory now under United Nations protection. Recognition by Washington and other Western capitals would provide a basis for an aggressive international pursuit of the secret bank accounts owned by Saddam and his family in Jordan, Switzerland and elsewhere.

Those funds could be used to buy food and medicine for Iraq. The international coalition, led by the United States, should offer the military protection the U.N. teams need to distribute humanitarian relief, just as Washington was ready to use force to protect the U.N. atomic inspection team.

For those willing to save even one Iraqi child's life or to reduce Saddam's chance to send an atomic or chemical warhead to Israel or Saudi Arabia by even a fraction of one percent, each day counts.

A TRIBUTE TO THE FORD-UAW APPRENTICESHIP PROGRAM

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. FORD of Michigan. Mr. Speaker, I want to pay tribute to—and call the Nation's attention to—the Ford-UAW Apprenticeship Program on the occasion of its 50th anniversary.

The U.S. Department of Labor, the American business community, educators, and the Congress are all searching for ways to upgrade the skills of our work force. All agree that the abilities of American working men and women will determine whether our Nation can compete in the global marketplace.

Ironically, a proven, world-class system to provide and sharpen the technical skills of our industrial work force—joint labor-management apprenticeship programs—has been overlooked by most of those who claim to be looking for a solution. Apprenticeship training programs have been turning out skilled tradesmen for hundreds of years, both in the construction trades and in industry.

No training program anywhere has been more successful than the Ford-UAW Apprenticeship Program.

This world-class apprentice training program produces some of America's finest skilled trades personnel. It has now graduated 22,000 men and women—as electricians, tool and die makers, machine repairers, plumber-pipefitters, millwrights, and other trades personnel so critical to the efficient manufacture and assembly of quality cars and trucks.

The program has been designed to meet exceptionally demanding standards. It generally requires 4 years and 8,000 hours of training for every apprentice. This training combines supervised shop floor experience with guidance by experienced journeymen and related classroom instruction delivered primarily by community colleges.

The program is also noteworthy because it was one of the earliest joint management-union efforts in American industry. For 50 years, apprenticeship training at Ford has been in the hands of a National Joint Apprenticeship Committee and plant subcommittees consisting of equal numbers of management

and union representatives. The success enjoyed by the program is due in large part to the common vision of doing what is best for the apprentice's learning experience.

Throughout its history, the National Committee has stayed alert to the future by providing a strong foundation in trade knowledge, plus the ability to learn and adapt, always aware that tomorrow's skilled trades personnel will need new skills. The apprentices who are in the program now—and there are almost 1,100 of them—will be building, maintaining, troubleshooting, and contributing to the design of Ford equipment and machines well into the next century.

In peacetime and wartime, the Ford-UAW Apprenticeship Program has played a vital role in developing skilled trades expertise in the company, and sharing it with the auto industry, as well as with the Nation. Many graduates have gone on to leadership positions in the company, the UAW, and their communities. I am fortunate to have one such graduate as my administrative assistant.

At a time when our country is in a fierce struggle to preserve its industrial base, the Ford-UAW Apprenticeship Program is making major contributions to our ability to compete. I salute the program itself, all those who are giving it life, and all of its graduates—past, present, and future.

ROBERT FERNANDEZ; REALIZING HIS DREAMS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. TOWNS. Mr. Speaker, I rise to salute the accomplishments of Mr. Robert Fernandez. Mr. Fernandez was born in Camaguey, Cuba. As a child he was an adventurer. He had a burning desire to come to America. At the age of 16 his ambition was realized and he arrived in the United States. He joined the merchant marine and traveled extensively.

Mr. Fernandez began his professional career by working for the Cumberland Packing Co. He rose through the organization to become a foreman and subsequently became vice president. He worked for that company for 30 years.

After retiring from his job of 30 years, he and his wife Rosalina started their own printing business. That business is the realization of his dream to be independent. Mr. Fernandez has realized his American dream. He is the father of four children, Roberto, Elizabeth, Ricardo, and Roshell. I am proud to salute the accomplishments of Mr. Fernandez.

TRIBUTE TO MAJ. GEN. GEORGE EVANS BARKER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. GREEN of New York. Mr. Speaker, I rise today to honor my constituent Maj. Gen. George Evans Barker, who recently retired from his position as Deputy Chief of Staff, Personnel Department of the U.S. Army. Major General Barker is being honored in Manhattan on October 18, 1991.

General Barker's long and illustrious Army career began at Arkansas State University as a Reserve Officer Training Corp cadet. He was promoted to second lieutenant in the Field Artillery on August 12, 1955. Later that year, General Barker served on active duty in Germany with the Second Armored Division Artillery. General Barker held such positions as battery commander and executive officer early in his career.

In January 1979, he became the Deputy Chief of Staff for personnel administration at the 77th ARCOM. Soon after, General Barker was appointed Chief of Staff of the 77th ARCOM. In 1983, he was named commander of the 353d Civil Affairs Command. He was commissioned to brigadier general on February 29, 1984, and commander of the 77th ARCOM on December 15, 1984. General Barker served as Deputy Chief of Staff of the Army's Personnel Department from June 4, 1989 until his retirement on August 15, 1991.

As a result of General Barker's dedication to military and civilian service he received such honors as the Meritorious Service Medal with Second Oak Leaf Cluster, Army Commendation Medal, Army Achievement Medal, National Defense Service Medal, and Armed Forces Reserve Medal with a 10-year device.

Not only is General Barker a 36-year veteran of military service, but he is an exemplary U.S. citizen as well. He is highly visible throughout New York City as a community leader. As executive vice president for the New York City division of the American Cancer Society, General Barker has proven his dedication to humanitarian causes.

I am delighted to take this opportunity to pay my respects to General Barker.

REPUBLIC OF TURKEY TO HOLD NATIONWIDE ELECTIONS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. BURTON of Indiana. Mr. Speaker, following months of campaigning the Republic of Turkey will hold nationwide elections on October 20 to choose the 450 Members of Parliament who will lead their country for the next 5 years. Six major political parties representing a wide range of political views, are participating in the elections. Following the election, the President will appoint a Prime Minister, usually the leader of the majority party in Parliament, who will assume his duties following a vote of confidence from the legislature.

Mr. Speaker, the Republic of Turkey, founded in 1923 from the ashes of the Ottoman Empire by Mustafa Kemal Ataturk, is a representative democracy. It is the only predominantly Muslim country in the region which is a pro-Western, secular democracy and has a market-oriented economy. Turkey's strategic importance is enhanced by the emergence of independent Muslim Republics in what used to be the Soviet Union. Turkey can serve as a strong role model not only for the Soviet Republics, many of which have Turkish-speaking populations and feel culturally and ethnically tied to the Turks, but also for neighboring countries in the Middle East.

Ataturk believed that Turkey's future lay in the West rather than in the East. In 39 years of membership in NATO, Turkey has proven itself a reliable partner to the alliance and to the West. During the cold war, it defended an extensive border with the Soviet Union and maintained an outstanding record of burden sharing within NATO. The gulf crisis further demonstrated Turkey's enduring strategic value and the courage of its leadership. Sharing a border with Iraq and controlling major oil pipelines from that country, Turkey played a crucial role in the effort to contain Iraqi aggression. Participation in the international embargo has cost Turkey roughly $10 billion. During the war, Turkish troops stationed along the border with Iraq diverted more than 10 of Saddam Hussein's divisions from the front lines in southern Iraq and Kuwait. The Turkish Government also permitted coalition use of airbases in Turkey.

Mr. Speaker, the free elections taking place in Turkey this month underscore our shared commitment to democratic values and institutions. I congratulate the Turkish people on the occasion of these elections.

ADMINISTRATION COMPLETES GOVERNMENTWIDE STUDY

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. McMILLEN of Maryland. Mr. Speaker, the administration completed a Governmentwide study, conducted by the Credit Administration Division of the Treasury Department, released January 18, 1991, of the asset management and disposition functions of the various Federal agencies. The report indicates that there is no consistent Governmentwide policy, no coordination of efforts, and no consolidated inventory of the Governmentwide holdings scheduled for disposal. The time has come to address the total problem of asset disposition in the Federal Government and to end the ad hoc policymaking approach that has developed over the past 50 years. To that end, Representative BARNARD and I have developed a plan and proposing legislation to: develop a consistent Governmentwide asset disposition policy; centralize the implementation of the policy; involve the private sector in the process; and develop a highly skilled and well trained Federal work force.

BACKGROUND

Weaknesses, not only in the banking industry, but in other facets of the economy have resulted in the Federal Government taking possession of an enormous amount of real estate, loans, securities, and other assets which must be disposed of in a manner best fashioned to serve the national interest. The responsibilities of Federal agencies disposing of Government assets include:

Disposal of the real estate, loans, securities, and other assets of failed federally insured fi-

nancial institutions—the Resolution Trust Corporation [RTC], the National Credit Union Administration [NCUA], and the Federal Deposit Insurance Corporation [FDIC];

Disposal of real estate assets acquired as a result of loan defaults—the Federal Housing Administration [FHA], the Department of Veterans Affairs [VA], the Farmers Home Administration [FmHA], the Small Business Administration [SBA], and the Farm Credit System;

Disposal of forfeited assets—the Department of the Treasury, the Department of Justice, and the Department of Transportation;

Disposal of land in the public domain—the Department of Agriculture and the Department of the Interior; and

Disposal of real estate determined to be excess to the Government's needs—the General Services Administration [GSA] and the Department of Defense [DOD]. GSA also disposes of properties for other Federal agencies as a result of various interagency agreements.

In addition to these 15 agencies there are subordinate organizations within the departments that have established real estate sales operations. This fragmentation of responsibility is inefficient and costly to the taxpayers.

The enabling legislation of the agencies assigned them a primary mission of carrying out loan and insurance programs, managing public lands, assisting small business, and law enforcement. Naturally, the bulk of the resources and management attention is devoted to the accomplishment of the programs, with the disposal of acquired assets, primarily real estate, becoming a necessary evil and detracting from the primary mission. The administration's study of the real estate disposition activities revealed that a consistent weakness of the organizational structures of the Federal agencies was that they "have traditional hierarchical structures, extensive service-oriented field office networks * * * primarily staffed to provide benefits and services to their constituents" * * * rather than * * * "the management and disposition of real estate". In fact, of the 15 Federal agencies disposing of real estate assets, only 2 were established with the primary mission of real estate asset disposition. As a result of the Hoover Commission report, GSA was established in 1949, to centralize the property management functions of the Federal Government, including the authority to dispose of surplus Government real estate. As a result of the savings and loan crisis the RTC was established in 1989, to centralize the management and disposition of failed savings and loan associations assets.

The lack of central role for the real estate function had led to nonresponsiveness in adjusting staffing levels to meet current needs. Hiring staff in any of the thousands of field offices in response to an increase in workload takes from 8 to 18 months. And there are thousands of them; FHA, FmHA, and VA alone have over 2,000 field offices. Outdated real property procedures and inadequate training contribute to the problem, with many of the property disposition manuals dating back to the 1970's. Yet, I view the weakness of organizational structure in the real estate management and disposal area as an indication of many of the agencies' strengths. The fact that the agencies are organized to support the programs that the Congress mandated is a credit to management's recognition of the organizations missions. To cast the real estate management and disposition function in a central role would detract from the congressionally mandated programs.

We should not establish agencies to provide benefits and services to their constituents and then ask them to sell real estate. Besides, the chances of a social services agency being successful at that task is no better than real estate companies' chances of succeeding at social work.

Times were much different when the agencies acquiring real estate assets assumed responsibility for the disposition of these assets; the volume was much smaller and the American economy was much different. The well-documented increases in the inventories of the Federal banking agencies is but one example of the gravity of the current situation. The FHA single-family house inventory doubled between 1985 and 1989, and increases were reported by VA and FmHA. The current recession will certainly contribute to the problem of a bloated Federal real estate inventory. The value of the inventory is not known, but estimates range from $30 to $50 billion. Can we afford to delay in recovering as much as 10 to 15 percent of this year's deficit?

The recession and a military base closing in a rural area with a failed savings and loan association, offers the prospect of a dozen Federal agencies attempting an uncoordinated liquidation of an entire community.

THE COUNCIL

The objective is to have one agency with the responsibility of liquidating Federal real estate assets. To begin the task I am proposing the establishment of the Asset Disposition Council which, if successful in establishing sound policies and procedures, would become that agency. The Council will consist of the: Chairman of the Federal Deposit Insurance Corporation, Commissioner of Federal Housing, Administrator of General Services, Administrator of Farm Homes, and Chief Benefits Director, Veterans Benefits Administration.

In addition, the Secretaries of the Departments of Defense, Interior, and Agriculture will appoint nonvoting members to assure their interests are protected. The Chairman of the Council will be selected by the President from among the members. The Council will be authorized for 5 years, will establish Governmentwide asset disposition policy, conduct demonstration projects, submit an annual report to Congress on progress, and make recommendations for a permanent solution. Staff will be assigned by the member agencies from the member agencies competitively appointed work force to work for the Council, with office space provided by the General Services Administration in a location proximate to the member agencies' headquarters. Funds for furnishings, supplies, and other costs will be provided by the member agencies and reimbursed from the proceeds of sales that are generated by demonstration projects. The Council will meet as often as necessary to accomplish its mission, but will meet in open session at least four times per year and when considering major policy changes and demonstration projects.

DEMONSTRATION PROJECT

The Council will be authorized to conduct demonstration projects to evaluate the feasibility of establishing a central servicing agency. The first demonstration project will include the properties currently in the inventory of the Departments of Treasury, Justice, Defense, and Transportation and the properties in the SBA and GSA inventory and the multifamily inventory of FHA and FmHA. These properties and all similar properties subsequently acquired by the forgoing agencies will be transferred to the authority of the Council for disposition. One year from enactment, the Council will take responsibility for the single-family inventories of FHA, VA, and FmHA; 2 years from enactment the Council will be substituted for the Board of Directors of the RTC, bringing those properties under the authority of the council; and 3 years from enactment the properties of the FDIC will be transferred.

The responsibility of the Council is the sale of the real estate assets after all other legal requirements are met. Screening of excess property for use by other Federal agencies or State and local governments would be done as prescribed by current law. The same would hold true for forbearance requirements in the loan programs. Likewise, the proceeds from the sale of the assets would be distributed as provided by current law. There is no intention to change the programs of the agencies, only to establish a central authority to take physical control and, at the appropriate time, sell the real estate asset.

PRIVATE SECTOR CONTRACTORS

The Council will establish asset management and disposition contracts with private sector contractors for the management and disposition of the assets. The contracts will be multiple awards, centrally administered, and with the contractor responsible for securing, managing, appraising, and disposing of the property. Besides the advantage of efficiency, this would provide an additional mechanism for getting a handle on the properties in the Government inventory. The use of private sector contractors will provide better response to change and solve many of the problems discovered during the administration's study of real estate disposition.

CONSOLIDATED INVENTORY

Until now little attention has been paid to a governmentwide inventory of real estate scheduled for disposal. However, the lack of a consolidated inventory makes it difficult to determine the magnitude of the Government's holdings or to predict the expected revenues. The Council will develop and maintain a central governmentwide inventory of all real estate holdings slated for disposal. The Council will look to existing Government computer systems and the private sector to maintain the inventory.

REAL ESTATE INSTITUTE

One of the most important elements in protecting the public interest is a staff that is as highly skilled and as well trained as the private sector contractors. A real estate training institute, under the auspices of the Federal Credit Management Institute, will be established to develop Government employees' real estate management, appraisal, and disposal skills, as well as developing the necessary contracting skills. The institute is intended to develop the skills of the Government employees so they are better able to administer the asset man-

agement contracts, but not replace the contractors. The Council will be authorized to negotiate directly with nonprofit professional and industry associations and universities to provide high-quality training at reasonable prices. The institute and its training facilities will be located proximate to the headquarters of the member agencies; will be self-supporting, recovering costs from tuition charges; and will be authorized and encouraged to participate with professional associations in offering courses for accreditation and certification.

A SALUTE TO A FORGOTTEN GENERATION

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. DUNCAN. Mr. Speaker, heritage and tradition have always pervaded the cultural style of my home district in east Tennessee. This truth becomes most apparent when one speaks with long-time members of my district. This is why I would like to salute the Coulter family descendants. They are a living legacy of what east Tennessee is all about.

Between the ages of 80 and 92, the seven surviving daughters of Andrew Morton Coulter and Leah Gamble Coulter have been upstanding members of the community for nearly a century. These sisters—Edith Marshall, 92 Rose Creech, 90, Jane Whitehead, 88, Florence Headrick, 87, Maude McNelly, 85, Sue Roberts, 83, and Louise Davis, 80—with the exception of Mrs. Davis all currently live in the county in which they were born, Blount County. Mrs. Davis now lives in Knoxville, TN.

These ladies represent the spirit and nature of the Tennessee Valley. Their strong beliefs in hard work, family, religion, and a simplistic lifestyle are reflected in the enthusiasm with which they live their lives.

Sense of family and commitment are among many traits that the Coulter sisters share. Whitehead and Roberts have each been married for 62 years while McNelly has been faithfuly married to her husband Fred for 63 years. The three remaining sisters are widows. The strength of family is also noticeable when considering that the Coulter sisters have 17 children, 38 grandchildren, 45 great-grandchildren, and 6 great-great-grandchildren between them.

It is reassuring to know that we still have people among us who can remember first hand the great tradition and heritage of our country. These ladies have seen this country, and east Tennessee in particular, grow strong through the years. They realize the simple virtues which have made this a great nation. Their strength of character is a tribute to us all.

I ask that an article that appeared in the Daily Times be printed in the RECORD.

SEVEN SISTERS: COULTER SIBLINGS ATTRIBUTE LONG LIVES TO HARD WORK

(By Melanie Tucker)

The seven surviving daughters of Andrew Morton Coulter and Leah Gamble Coulter have enough memories of their lives on the farm near Little River to fill an encyclopedia. They would be listed under "togetherness."

All of these sisters—Edith Marshall, 92, Rose Creech, 90, Jane Whitehead, 88, Florence Headrick, 87, Maude McNelly, 85, Sue Roberts, 83 and Louise Roberts, 80—still live in Blount County with the exception of Davis who resides in Knoxville. The cohesiveness of this family goes much further.

These women grew up with three brothers (the late Abe, Andy and Mose Coulter) and one other sister (the late Grace Phillips) in an era when the words of mother and father meant something, when six days work in the fields were required and Sunday was a day of rest and worship. They each had the same answer when it came to why they thought they had been able to grow old together. It was the hard work that made them strong.

"Work has been a part of me ever since I can remember," Davis said. "Ever since I was big enough to carry a hoe."

Because there were only three Coulter boys, the girls had to pitch in, Davis said. "There was nothing we couldn't do," she said.

The best sight in those days was the rain coming over the mountains, Creech said. She said they would sit on the front porch and wish for the rain to fall on their farm because that meant no field work that day.

But even the rain wasn't a sure sign of a day of rest. If the children got too noisy, their mother would threaten to send them to the "rock field" to pick up rocks. McNelly, Creech and Davis vividly recalled that strenous chore.

Free afternoons were spent either swimming or fishing in Little River and playing on Coulter bridge. Creech remembers a near-drowning experience where one of her brothers had to pull her out, ripping her clothes. Needless to say, Creech has never returned to that spot.

According to the sisters, they all stuck together, never tattling on each other. Creech said one of her fondest memories is when all the girls used to get together and cook a big meal when their parents would go into town on Saturday.

They would kill a chicken, make chicken and dumplings and prepare whatever else they wanted that day. "We had Sunday dinner on Saturday," Davis said. And their parents never knew.

Each of these women still enjoys cooking, and some also garden, like Whitehead, who grows corn, beans, sweet potatoes, cabbage, onions, tomatoes with her husband of 62 years, Charles. They have six living children and one who is deceased, along with 18 grandchildren and 26 great-grandchildren. She said the hard work required of her as a child prepared her for marriage and adulthood. She and her sisters have much respect for their late parents.

"There wasn't any better," Whitehead said.

Headrick said she learned from her parents to respect others, adding, "I like to treat everybody like I want to be treated."

Headrick's husband Paul died several years ago. They have two sons, six grandchildren and three great-grandchildren.

Davis and her husband John have one daughter, two grandchildren and four great-grandchildren. Three of the great-grandchildren are triplets, two boys and one girl.

Creech and her husband, the late Steve Creech, had no children. They married late in life.

The Coulter family attended Pleasant Grove Baptist Church and some of the daughters still do. Four were baptized in Little River.

"We had a Christian upbringing," McNelly said. "We knew what Sunday meant. It was the Lord's day. I still know."

Because Marshall was one of the oldest Coulter children, she was assigned to look after the little ones. She said she remembers some of the spats and arguments that went on between brothers and sisters, but they were still a close family. Marshall's health has been pretty good over the years, and she believes it isn't just coincidence that she and her six sisters have enjoyed long lives.

"God has a purpose for us," she said. She and her husband, Olin, who died 10 years ago, are the parents of five children. There are 12 grandchildren, 11 or 12 great-grandchildren and six great-great-grandchildren.

Another common thread of the Coulter family is their devotion to their mates. The three boys, Abe, Andy and Mose all celebrated their 50th wedding anniversaries before their deaths, and most of the Coulter girls also passed that golden anniversary.

Roberts and her husband James have celebrated 62 years together. She has stayed by his side these past weeks as he recovers from surgery at Blount Memorial Hospital. She said she is proud of the fact she and her sisters have lived as long as they have and also proud of how they have all remained faithful to their spouses.

The couple has one daughter and one son.

McNelly and her husband, Fred, have been married 63 years.

Growing up in a large family definitely had its advantages, Headrick said. They didn't have to travel down the road to a neighbor's house whenever they wanted to get a game going. "We had a ball team at home," she said.

HAZARDOUS WASTE: PREVENTION IS THE KEY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. KOSTMAYER. Mr. Speaker, on August 2, I was joined by 15 of my colleagues in introducing the Pollution Prevention, Community Recycling, Incinerator Control Act, H.R. 3253. As I mentioned in a statement in the RECORD that day, this bill will amend the Resource Conservation and Recovery Act [RCRA] to move the Nation toward pollution prevention and away from the hazards associated with incineration. The bipartisan list of cosponsors has now grown to 37 Members from every section of the country.

Our Nation today is practically drowning in the generation of 500 million tons of hazardous waste each year. About 1 percent of this is now burned in a network of more than 1,100 incinerators, kilns, and industrial boilers and furnaces across the country.

Because hazardous waste incinerators do not completely destroy the waste they receive, their activity poses serious risks to the environment. For example, they release millions of pounds of toxic air emissions that include dioxins, furans, and products of incomplete combustion [PIC's]. According to a 1990 EPA report, "Real-world combustion systems * * * virtually always produce PICs, some of which have been determined to be highly toxic."

Emissions from hazardous waste incinerators also contain millions of pounds of toxic

heavy metals such as arsenic, lead, mercury, and 16 other metals identified to date. A 1990 EPA study concluded,

Risks from the burning of metal-bearing hazardous wastes in incinerators can be unacceptable. Clearly, metals can pose significant health risks.

Yet incinerator permits routinely allow millions of pounds of metals to be legally emitted each year. As much as 50 percent of metals such as lead and mercury are emitted in stack gases.

Hazardous waste incinerators also produce large amounts of toxic ash—EPA estimated 148 million pounds in 1987. The ash represents 9 to 29 percent of the original weight of wastes burned. This ash will be landfilled, ultimately threatening future drinking water supplies with concentrated and volatized heavy metals, PIC's and other highly toxic contaminants.

And according to U.S. census data, these facilities are usually sited in low-income, minority, and rural communities. It is unconscionable to allow communities with the least political clout to shoulder the bulk of the risks posed by these hazardous facilities.

Yet the quantity of hazardous waste that is burned is growing by 20 percent a year, making it the fastest growing method of disposing of hazardous wastes. This growth is no accident. While waste generators seek relatively cheap, liability-free disposal methods, the Environmental Protection Agency [EPA] makes matters worse by encouraging incineration rather than exploring true pollution prevention programs that eliminate the need for the expansion of this dangerous technology.

The EPA's August 21 proposed rules governing boilers and industrial furnaces [BIF's] are an excellent example of the Agency designating extremely weak regulations to allow the expanded use of hazardous waste as a fuel at previously unregulated boilers, kilns, and furnaces. EPA calls BIF's recyclers of hazardous wastes. Others call them what they are—sham recyclers. These facilities were not even designed to burn hazardous waste, yet the cement kiln industry was able to convince the EPA to propose loophole ridden regulations that will legitimize a lucrative and growing business.

Even the so-called high technology commercial hazardous waste incinerators have a poor track record. In May of this year the EPA completed a joint survey with the Occupational Safety and Health Administration [OSHA] of 29 hazardous waste incinerators. They found that 26 out of 29 facilities were cited for EPA violations. One of these facilities, the Chicago Chemical Waste Management incinerator, was temporarily shut down by an explosion in February when an unanticipated mix of hazardous wastes entered the unit.

The EPA claims to be able to monitor incinerator emissions. However, a 1989 EPA report stated,

It is at present impractical to design a monitoring scheme to identify and quantify the individual toxic compounds in incinerator stack emissions.

Instead, the Agency uses surrogate indicators to monitor incinerator emissions even though the EPA's Science Advisory Board found them unreliable.

It is clear that the rush to burn hazardous waste is having a negative effect on our Nation's ability to come to grips with the volume of wastes generated each year. By insuring unlimited capacity to burn we merely ensure the unlimited capacity to generate waste.

H.R. 3253 would reverse this trend by prohibiting any new hazardous waste incinerators until strict environmental and public health criteria were met and serious efforts were undertaken to reduce the amount of toxic waste that is produced through a program of toxics use reduction [TUR] already underway in several States. For example, in California citizen groups have successfully halted every new commercial incinerator proposed in the last 5 years. As a result, State officials, citing limited incineration capacity, announced an agreement with more than a dozen major firms to reduce their generation of incinerable hazardous waste by 50 percent within 2 years.

The conditions for the permitting of new hazardous waste incinerator capacity outlined in H.R. 3253 include: an establishment of a TUR program with 2- and 5-year goals designed to achieve 50-percent reduction in the amount of toxic or hazardous substances entering the waste stream; proposed incinerators shall not interfere with the implementation of the TUR program; proposed incinerators will not adversely affect the environment or human health; proposed incinerators will not adversely affect the local economy; incinerator applicants shall demonstrate that there is no safer disposal technology; incinerator applicants shall demonstrate that they are in compliance with all Federal and State environmental laws and regulations and must conduct an environmental impact statement consistent with those required by the National Environmental Policy Act.

Mr. Speaker, it is vital that Congress address the twin threats posed by the unbridled growth in the generations of hazardous waste and the enabling growth of dangerous disposal technologies such as incineration. I think H.R. 3253 is a giant step away from flawed waste management policies that perpetuate pollution and end-of-the-pipe solutions. It is time to embrace truly strong pollution prevention strategies. I look forward to working with Mr. SWIFT and members of his subcommittee on reauthorization of RCRA.

LINKING TRADE AND RESPECT FOR FUNDAMENTAL WORKER RIGHTS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. PEASE. Mr. Speaker, the principal U.S. negotiating objectives regarding worker rights and the General Agreement on Tariffs and Trade [GATT] are threefold:

First, to promote respect for worker rights;

Second, to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

Third, to adopt, as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

So far, U.S. trade negotiators have not secured any tangible results. I remain hopeful that they can still win approval of substantive progress on this front through their continuing efforts. Following is a recent article I wrote for the Christian Science Monitor that spells out why a breakthrough is urgently needed before this GATT round is concluded.

[From the Christian Science Monitor, Sept. 20, 1991]

GATT SHOULD EMBRACE THE RIGHTS OF WORKERS

(By Don. J. Pease)

The more things change, the more they stay the same. Despite astonishing geopolitical changes in Eastern Europe and the Soviet Union, and despite drastic shifts in world trade patterns, the status quo remains entrenched on labor rights in the multilateral trade negotiations on the General Agreement on Tariffs and Trade (GATT) in Geneva.

More precisely, I refer to the stalled United States proposal for a multilateral GATT working party to examine the relationship of fundamental internationally recognized worker rights (i.e., freedom of association, the right to organize and bargain collectively, and the prohibition of forced and compulsory labor) to the conduct of world trade.

The current GATT negotiations are coming to a head with a package of trade liberalization measures to be embraced or rejected by the U.S. and nearly 100 other trading nations during 1992. American trade negotiators are ready to go to the mat to achieve new rules governing trade in services and farm products and better protecting intellectual property rights. Sadly, the rights of working people who make the products and render the services are being ignored.

Promoting worker rights in international trade is not a new or radical concept. In the past, international agreements and U.S. policy have stated that worker rights and fair labor standards are necessary to an equitable trading system. Still, GATT negotiators persist in spelling out careful rules with regard to capital subsidies, dumping, and property rights to promote fair competition in world trade, but not for workers.

The GATT should renounce and effectively discourage systematic labor repression. Fair competition in world trade should be structured by rules to lift the living standards of workers as well as financiers, corporate managers, entrepreneurs, and consumers.

Accordingly, the GATT should establish a working party to thoroughly review the relationship of fundamental internationally recognized worker rights to GATT articles, objectives, and related instruments for the purpose of fulfilling the GATT preamble, which recognizes that international trade "should be conducted with a view of raising standards of living, ensuring full employment and a steadily growing volume of real income and effective demand."

This working party would try to clearly establish that it is unjustifiable for any country or any of its industries to seek competitive advantage in international trade through the systematic denial of internationally recognized worker rights. The working party's purview would not include consideration of the comparative advantage that many developing countries, with sizable numbers of unemployed workers, derive from lower unit labor costs in different modes of production.

Evidence shows that trade distorted by the systematic denial of basic worker rights is a serious problem for the international community. While many countries—developing, newly industrialized, and developed—are bound by international and national laws to protect such worker rights, the correspondence between law and practice varies greatly.

The GATT, which provides a framework of rules for international trade, is the appropriate forum to deal with the economic impact of competition based on distortions caused by the systematic denial of internationally recognized worker rights. Furthermore, only the GATT has an effective dispute settlement mechanism to uphold respect for fundamental worker rights in the conduct of international trade.

It would be premature for the U.S. or any other country to fashion a detailed proposal on worker rights and trade. That is why we seek a thoughtful working party to develop more information on the incidence and effects of worker-rights violations and what can be done about them. Consideration should be given to making technical assistance available, especially for developing countries, to enhance respect for worker rights in the conduct of trade. The International Labor Organization also could have an expanded role in providing such assistance, in addition to conducting investigations and compiling factual reports that would serve as a basis for GATT consultations and actions.

LEGISLATIVE PAY EQUITY STUDY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Ms. SNOWE. Mr. Speaker, today I am introducing legislation to establish a Commission on Employment Discrimination in the legislative branch. This proposal, which I first introduced in the 99th Congress, would direct the Commission to identify and work toward eliminating wage discrimination in the legislative branch.

The wage gap existing between women's and men's earnings and between the earnings of whites and people of color has remained constant for many years. In 1946, women earned 66 percent of men's wages. Today, almost 50 years later, women earn only 68 cents for every dollar earned by men. People of color on average earn less than 75 percent of white males' earnings.

Wage disparities between white men, women, and people of color cannot adequately be explained by lack of education, work experience, or skills. When women are equally qualified for a job, they are still three times more likely to earn lower wages than white men. Wage setting practices are affected by historical sex and race biases resulting in an undervaluation of work and low pay for women and people of color.

Wage discrimination exists despite the passage of the 1963 Equal Pay Act, which made it illegal to pay women less than men for performing equal work. And it exists despite the 1964 Civil Rights Act, which outlaws discrimination in employment and wages on the basis of sex, race, color, religion, and national origin.

It is important to understand the relationship between these two laws. The Equal Pay Act [EPA] guarantees equal pay for identical work. However, the EPA cannot begin to address the wage discrimination facing most women since the majority of women do not work in the same jobs as men. Most women remain segregated in a small number of low-paying, dead-end jobs.Therefore, only the Civil Rights Act's broader prohibition of discrimination in employment and wages can reach these women.

In 1981, the Supreme Court clearly outlined the rights guaranteed by title VII of the Civil Rights Act. Title VII requires that equal pay be extended beyond identical work to include work of equal value—work requiring similar skill, effort, responsibility, and working conditions. If title VII did not encompass this broader scope, the Court stated,

> A woman who is discriminatorily underpaid could obtain no relief—no matter how egregious the discrimination might be—unless her employer also employed a man in an equal job in the same establishment, at a higher rate of pay.

The concept of pay equity, or equal pay for work of equal value, requires that wages be based on the responsibility, skill, effort, and working conditions required for a job, not on the basis of the sex or race of the individual who performs the job. Pay equity studies similar to the one in my legislation have been enacted in 23 States, with 20 States having made some pay equity adjustments, and six States having fully implemented a pay equity plan.

The purpose of my legislation is twofold: first, to identify the existence of discriminatory wage-setting and personnel practices within the legislative branch as a whole, and the Library of Congress specifically; and, second, to develop a comprehensive plan for eliminating any inequities revealed.

My legislation would establish a 13-member, bipartisan Commission comprised of Members of Congress and representatives of labor and management in the Library of Congress. The Commission would hire an independent consultant to conduct a pilot study of compensation paid within and between job classifications in the Library of Congress, and analyze relevant personnel policies and practices. After that, the Commission would make specific recommendations for ensuring compliance with title VII of the Civil Rights Act and the policy objectives of the resolution. Following completion of the Library of Congress study, the Commission would develop a comprehensive plan for pay equity within the legislative branch. The Commission would have 18 months to complete the study and pay equity plan.

Earning a day's pay for a day's work is every person's right. Congress must guarantee its own employees this same right by ensuring a compensation system not riddled with race or sex based discrimination. Please join me in this effort by cosponsoring this legislation to create a Commission on Employment Discrimination in the legislative branch.

CONGRATULATIONS TO THE AMERICA'S KIDS OUTREACH PROGRAM

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. ROWLAND. Mr. Speaker, I have the distinct pleasure of recognizing and congratulating the America's Kids Outreach Program and its director Rev. James R. Cotton of Macon, GA, in my congressional district. America's Kids Outreach Program has not only honored the people of our State but they have also come to our Nation's Capital to perform their special song, "America Don't Let Us Down." This song is an outstanding example of a patriotic kids anthem and should be appreciated by all of those who hear it.

This inspirational song tells of the importance of a safe, beautiful, and free country for our children to grow. It is a cry from America's children to our great Nation for their future. I hope that this song will be spread around the country for the youth of America.

America's Kids Outeach's main purpose is to train a child to choose the right path, and when he is older he will remain upon it. The program teaches our kids to help themselves cope with the peer pressures of today, to become more politically active, and to realize the importance of a good education and self-esteem. The program has workshops, training programs, rap sessions, and field trips to accomplish their admirable goals for the youth of our country.

America's most valuable resource is our children and I am proud to commend America's Kids Outreach Program and extend my best wishes for continued successes.

MIAMI DADE CHAMBER OF COMMERCE HONORS TOP 10 BLACK BUSINESSES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize the top 10 black businesses in Dade County which were honored by the Miami Dade Chamber of Commerce at a corporate business leaders luncheon on October 11 at the Port of Miami.

The luncheon gives recognition to those businesses who have contributed to the development of the communities served by the Miami Dade Chamber of Commerce. The chamber's main service area has been Miami's Liberty City, but it has recently opened branch offices in West Perrine/Richmond Heights in South Dade, and Opa-Locka/Carol City in North Dade.

The chamber lists as its main objectives being a focal point of contact for black businesses, promoting minority networking and encouraging the development of business and economic enterprises. Among the activities the chamber has promoted during the past year included an awards luncheon for Miami Edison High School students, two international recep-

tions for Caribbean and Latin American delegates, and technical assistance to countless businesses and individuals.

The chamber's top 10 black businesses and their owners for 1991 included Basil Bernard of Apricot Office Supplies & Stationery; Gladstone Hunter, Jr., of Arco Drugs, Inc.; Bobby Mumford of B. Mumford & Co.; Dr. Rudolph Moise of Comprehensive Health Center, Inc.; Stephanie Darring of Darring Enterprises, Inc.; Clifton Vaughan of EPS Communications and Electric Power & Services, Inc.; Keith Jennings of Miami Non-Destructive Testing, Inc., R.J. Head of R.J. Construction of Miami, Inc.; Dr. Barbara Gothard of the Gothard Group; and Pamela Watson of Watson & Co., P.A.

I extend my sincere hope for the chamber's continued success, and special thanks to its president, Dorothy Baker. I would also like to take this opportunity to thank all those individuals who contributed so much to the corporate business leaders luncheon including the luncheon chairperson Clive Bridges, and Antonia Junior who chaired the committee which selected the top 10 black businesses.

HONORING COMMANDER BOB LAW, SUPPLY CORPS, U.S. NAVY

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. SISISKY. Mr. Speaker, I rise today to recognize and honor Comdr. Bob Law, U.S. Navy as he retires upon the completion of 20 years of service to the Navy and the Nation.

A distinguished professional, Bob is currently serving as the Military deputy to the Director for Foreign Contracting in the Office of the Under Secretary of Defense for Acquisition. He was chosen for this demanding and important assignment based on his outstanding record as a naval officer and acquisition professional. He is a graduate of Florida State University and the Navy's Acquisition Contracting Officer Development Program. He also holds a masters degree in procurement from the Naval Postgraduate School. In addition to his afloat service deployed overseas as a fully qualified Submarine Supply Corps Officer in USS *Vallejo* (SSBN–658) and USS *Hawley* (AS–31), Commander Law served in acquisition and contracting officer assignments at the Naval Supply Center, Charleston, as well as Naval Regional Contracting Center and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition in Washington, DC.

Many of you remember Bob for his service as the Navy's Liaison for Acquisition and Contracts when he served with the Office of Legislative Affairs here in the Rayburn Building from 1983–87. During that time Commander Law was of service to many in this body by assisting and advising our staffs and constituents concerning the most effective and proper means of conducting business with the Navy. Of particular note was Commander Law's program of congressionally sponsored procurement seminars which has been conducted on behalf of over 100 Members of Congress and have benefited tens of thousands of our constituents.

A man of Commander Law's talent and integrity is rare indeed and while his honorable service will be genuinely missed, it gives me great pleasure today to recognize him before my colleagues and to wish him "Fair Winds and Following Seas" as he brings to a close a long and distinguished career in the U.S. Naval Service.

AFFORDING A COLLEGE EDUCATION

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. TORRICELLI. Mr. Speaker, while most of the news in today's papers focused on Clarence Thomas, I was struck by a headline appearing on page 3 of the Washington Post.

"Tuition at Public Colleges Up 14 Percent This Fall" was the headline. The story went on to say that the increase is the largest since 1982, when the country was mired in its last recession. The average tuition at public 4-year colleges now stands at $2,137 per year.

The story also contained some good news, if you can call it that. Tuition increases at private colleges only increased by 7 percent, which is 1 percentage point lower than last year. However, that percentage still exceeds the rate of inflation by several points. Furthermore, money market funds, short-term Treasury bills and other safe investments are only returning a little over 5 percent. As a result, a 7-percent rate of increase still poses enormous problems for young families striving desperately to put away enough money for their children's college education.

Mr. Speaker, young working families in my district and across the country face obstacles that previous generations never faced. The cost of housing has skyrocketed out of control, the cost of college tuition continues to greatly exceed the rate of inflation, the cost of health care eats up large chunks of their paychecks, and the cost of child care is prohibitive. On top of these rising costs, the average family has suffered as increases in Federal, State, local, and Social Security taxes have combined to take even more money out of their pockets over the past decade.

We cannot delay helping these working families any longer. We must provide them with a mechanism for sending their children to college so that the dream of a college education will be accessible to everyone, and not just the wealthy. We must do so not only in the name of fairness, and in support of the time-honored American principle that demands that every citizen be given the chance to obtain the education and skills he or she will need to succeed, but also to ensure that a well-educated and well-trained work force is available to meet the needs of an increasingly complex and competitive industrial workplace.

Unfortunately, many working families have incomes that are high enough to render them ineligible for Federal higher education grant money, but low enough so that they cannot reasonably be expected to afford to send their children to college on their own. This is especially true in districts like the one I represent in northern New Jersey, where the high cost of living makes current income ceilings grossly unfair.

For example, the present ceiling for Pell grants—the main Federal college grants program—is $30,000 per year. It is simply ludicrous to deny those grants to a family of four making $35,000 per year in the New York City suburbs. That family needs help sending its children to college just as badly as the family making $20,000 per year in a rural, low-cost area of the country, but it is being denied such help because the present Pell grant ceiling has not been adjusted to meet the realities of the 1990's.

The Postsecondary Education Subcommittee recently approved legislation containing an increase in the family income ceiling for the Pell grant program from $30,000 to $50,000. The bill also boosts the maximum grant to $4,500 from the current $2,400. These are sensible reforms that will help our Nation's beleaguered middle-class families provide their children with a college education.

The cost of college is already too high, and annual double-digit tuition increases simply cannot be absorbed by the vast majority of families with children. It's time to give these families a badly needed break, and an excellent start would be swift enactment of these crucial Pell grant reforms.

OVERRIDE THE PRESIDENT'S VETO OF THE EXTENDED UNEMPLOYMENT BENEFITS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. MURTHA. Mr. Speaker, it's easy to understand why the individual citizen doesn't think his voice is being heard in Washington when a President vetoes a much-needed extension of unemployment benefits.

The President's veto defies common sense; denies the reality of the economy in this country; and flies in the face of overwhelming support for the extension in Congress.

Some 368 Members of Congress said the people they represent want extended benefits. The President's hopes of stopping that will depends on him keeping 2 more Senators from agreeing that the extension is needed. That's the margin between the President's veto, and overriding that veto.

Those aren't the only numbers that don't add up. Let's take a look at the numbers in the economic news at the end of last week:

First, retailers said their September sales were even weaker than expected, up about 1 percent over last year by the Merrill Lynch index.

Second, new jobless claims rose in September by another 435,000 continuing a trend that sees no major boost at all in job creation.

Third, and a reflection on military numbers showed that Pentagon plans were to cut over 1 million jobs from the military over the next 5 years—and beginning next year—taking another major force for employment out of the economy.

How in the face of those numbers can the President veto this bill?

In traveling throughout Pennsylvania's 12th Congressional District for the past 4 days, I can tell you that the hundreds of people I talked to don't understand it. And not just the unemployed. Those lucky enough to be working sympathize, businessmen see the problem because they know they don't have room to expand and add jobs. I visited hospitals where personnel are more and more concerned about families putting off health care needs because they don't have insurance or fear the cost of medical care.

It simply can't continue. I'm submitting these remarks to be printed in the CONGRESSIONAL RECORD prior to our override veto in order to bring back to this body the message of the people I talked with this past weekend—approve the extension in unemployment benefits, Congress, because it's needed, it's right, and it's the will of the people.

TRIBUTE TO GERALD T. DAVIS ON THE OCCASION OF HIS RETIREMENT AS DIRECTOR OF MEAD CENTRAL RESEARCH LABORATORY

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. McEWEN. Mr. Speaker, I rise today to pay tribute to Gerald T. Davis, who will retire as director of Mead Central Research Laboratories in Chillicothe, OH, at the end of this year.

Jerry's contributions and service to Mead Central Research and the corporation are truly noteworthy. He joined Mead in 1958 as a coating scientist. In the following years, as an investigating scientist and technology manager, Jerry was involved in significant discoveries in such key areas as paper and board coating and finishing, ink jet imaging, carbonless and other encapsulated imaging systems.

He received 17 U.S. patents and several foreign patents during this time as an investigating scientist. Equally important, Jerry has cultivated professional and personal relationships with many individuals in the paper industries and associated support services.

In 1982, Jerry was named director of the Central Research Laboratory. His tenure in this position has been marked by the same skill, dedication, and professionalism that he has demonstrated throughout his distinguished career. He leaves a legacy of excellence, and he leaves a company which is much richer for the contributions he has made.

I wish him the best in his retirement.

HOUSE BANK FULL DISCLOSURE URGED

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1991

Mr. SMITH of Texas. Mr. Speaker, how is the House going to take up critical bank reform legislation? At this point, it does not have the credibility to do so.

Citizens blame Congress for the savings and loan crisis.

Partly as a result, the Speaker of the House was forced to step down. The third ranking majority party leader resigned. And the chairman of the House Banking Committee was convicted on criminal charges.

But today, American families continue to pay the price.

They pay through devalued real estate, lost family assets, lost businesses, and lost credit.

In part, they pay with lost jobs and uncertain employment.

And now, when citizens should be looking to their elected Representatives to enact a credible, fair banking reform bill to restore confidence and strength in the Nation's financial system, the so-called House Bank is exposed.

Revelations of the scope and kinds of activities of the bank left many Members of the House as dumbfounded and shocked as were citizens.

Up until 2 weeks ago, my perception of the bank was that it disbursed Member's pay checks and provided a way to have a petty cash account for personal use during the legislative day. I always have had my payroll check forwarded to my regular bank and only kept a few hundred dollars in the House bank for petty cash.

When the General Accounting Office [GAO] audit of the House Bank was made public on September 18, I—like many of my colleagues—felt that had not made any overdrafts. I later confirmed that verbally with the bank and then asked for written confirmation.

This review discovered an overdraft 2 years ago on a check for $60. Like many of my colleagues who believe that representative government starts with being accountable, I immediately disclosed the overdraft.

For that one overdraft on a $60 check, I and many of my forthright colleagues continue to be included on every list of Members who have had an overdraft, including those who have been flagrant and repeated abusers of the House Bank.

Most of the 134 Members GAO reported having had overdrafts of $1,000 or more remain silent and anonymous. Likewise, the 24 Members who reportedly had overdrafts of $1,000 or more for 6 months in a row in 1990 have failed to be exposed.

Nevertheless, I continue to believe that full disclosure is the best policy. I am confident that citizens will understand that an individual might have an occasional overdraft.

But citizens do not understand 24 Members having overdrafts of $1,000 or more for 6 months in a row, or how a Member could write a check for more than $10,000 on an empty account and incur no penalty.

Not just accountants and bankers but business persons, professionals, doctors, teachers, husbands, and wives know that what has emerged out of secret is a bank like no bank they know.

The bank Americans know is chartered.

It is regulated by Federal and State banking laws.

It is subject to reporting requirements, inspections, and audits.

A deposit or withdrawal of $10,000 or more is required to be reported to the Internal Revenue Service [IRS].

Yet this extra-legal bank apparently has provided services most chartered banks provide.

It is reported to have distributed more than $40 million last year.

It wired and transferred moneys, bought foreign currency and savings bonds, and issued travelers and cashier's checks.

And it was as a matter of practice providing interest free loans.

Americans know that they cannot receive such services in their community without falling under Federal and State regulation.

They also recognize that the secrecy with which the bank operated even within the House is conducive to wrongdoing.

There are also questions of possible tax evasion.

The 24 Members who the GAO says had overdrafts of $1,000 or more for each of 6 months in early 1990 should have reported free interest as income to the IRS and paid taxes on it.

Did Members overdraw their account and invest the money in interest-bearing accounts? That is a natural question for a citizen to ask.

And, of course, it is crime to intentionally write a check for which there are insufficient funds.

Will citizens trust the leadership of an institution that has harbored such an extra-legal bank to write major new bank reform legislation, legislation critical both to American families, and to national competitiveness?

The answer is, they will not.

They will not so long as Members of the House continue to refuse to accept responsibility for their own actions.

Sending these matters to the House Committee on Official Standards—the Ethics Committee—is seen by most citizens for what it is, an attempt at a coverup.

On October 8, I wrote the chairman of the Ethics Committee and urged that full disclosure begin with the members of his committee. At least four are reported to have refused to disclose whether they had overdrafts at the bank. A copy of my letter follows.

When the committee met, the chairman recused himself. A subcommittee was formed, made up, the chairman said, of "squeaky clean" Members.

But the squeaky clean subcommittee reports to less than forthright members of the full committee. That committee meets unannounced and in secret. It still looks like an attempted coverup, a sham.

Unfortunately, Members did not have an opportunity to adequately study the resolution to close the bank and refer the matter to the Ethics Committee. It was rushed to the House floor by the leadership.

Upon close reading, it says an inquiry should be considered, but is not required. No outside audit is provided for, and the bank records are not ordered impounded. Even the scope of the review is limited to the two most recent GAO audit periods.

That is not good enough for the American people. Only full disclosure of the facts will suffice.

Otherwise, how will they be able to understand and trust the outcome of House-passed banking reform legislation?

Members of the U.S. House of Representatives are sworn to uphold the laws of the land

and the most representative institution of our Government, the House, where "* * * the people govern."

The present situation is a clear and direct challenge to our Nation's ability to govern itself by law. The economic and political costs of failing to rise to this challenge are unacceptable.

It is inconceivable to me that we are at a point where the American people and a majority of their elected Representatives in the House will not rise to the occasion.

We have no choice.

Full disclosure is required.

Full disclosure of overdrafts, names, number of overdrafts, and amounts.

Full disclosure of the operations of the House bank.

And after full disclosure, appropriate action.

Once done, Americans will again be able to recognize their House, the place where "* * * the people govern."

They will be able to trust that their elected Representatives are acting in their best interests.

They will have confidence that the Nation's banking institutions will have a reformed legal structure within which to serve the financial needs of American families and the Nation.

All this is possible but only if a high ethical standard is upheld and full disclosure made.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
October 8, 1991.

Hon. LOUIS STOKES,
Chairman, Committee on Standards of Official Conduct, HT2 Capitol, Washington, DC.

DEAR MR. CHAIRMAN: You are respectfully urged to initiate a full and independently verified disclosure of any overdrafts they may have been incurred in the Office of the Sergeant at Arms by any member of the Committee on Official Standards.

The credibility of your committee's House-mandated inquiry into possible abuses at the so-called House bank depends on it.

Published media surveys have disclosed that at least four Committee members have declined to disclose whether they had overdrafts. Of those who said that they had no overdrafts, it is unclear how many were provided verification by the Office of the Sergeant at Arms.

Such independently verified full disclosure is essential.

Committee members may be among the reported 134 House members who had overdrafts of $1,000 or more in a given month. So the possibility exists that a Committee member who has had an overdraft of $1,000 or more may be recommending action on another member who had an overdraft of $1,000 or more.

My constituents and all Americans have a right to know if that is the situation.

Last week, according to The Washington Post, the Speaker stated that ". . . bank secrecy laws . . . would be respected." But citizens' right to full disclosure of House Bank activities is not superceded by the bank secrecy laws.

Since the Speaker and others have invoked bank secrecy laws as a basis for non-disclosure, I am compelled to point out that it is my understanding that neither federal banking laws nor any so-called bank secrecy laws apply to the activities of the Office of the Sergeant at Arms or the members who maintained accounts there.

Members with accounts in chartered banks regulated by federal or state government may appropriately claim a right to personal privacy under the banking laws.

But the Office of the Sergeant at Arms is an institution of the House. It is not a chartered bank. Beneficiaries of its services do not have a claim to privacy under federal banking laws.

Rather, as an institution of the House, its activities and practices must remain open to public inspection.

Where individual member's conduct may draw into question the integrity of the U.S. House of Representatives, the requirement to preserve the integrity of the House as the place where ". . . the people govern" must take precedence over claims of "privacy."

By honoring the House first, we begin the work of putting the House back in order.

Sworn to uphold the institutions of representative government, it is unseemly in the eyes of citizens for members to claim rights of personal privacy when what they really are attempting to assert is a personal prerogative.

Full disclosure of individual member's abuses is the only appropriate and expedient way to resolve the disgrace and disrepute that the House has been put in.

Such full disclosure ought to begin with the members of the Committee on Standards of Official Conduct.

Once done, I urge the Committee to expeditiously provide full disclosure for all members of the House.

The truth will be embarrassing to some, painful to others. But these individual consequences will be nothing compared to the havoc that the continued silence is wrecking on the House.

Representative government begins with accountability.

We have an opportunity now to be accountable.

Sincerely,

LAMAR SMITH,
Member of Congress.

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 Thursday, October 17, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 18

9:30 a.m.

Veterans' Affairs

To hold hearings on the nominations of Allen B. Clark, Jr., of Texas, to be Director of the National Cemetery System, James A. Endicott, Jr., of Texas, to be General Counsel, Sylvia Chavez Long, of New Mexico, to be Assistant Secretary for Congressional Affairs, and Jo Ann K. Webb, of Virginia, to be Assistant Secretary for Policy and Planning, all of the Department of Veterans Affairs.

SR-418

Select on Intelligence

Business meeting, to consider the nomination of Robert M. Gates, of Virginia, to be Director of Central Intelligence.

SH-216

10:00 a.m.

Finance

Medicare and Long-Term Care Subcommittee

To hold hearings to examine medical malpractice liability issues.

SD-215

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To resume hearings to examine allegations of drug trafficking and money laundering activities in the United States by the Bank of Credit and Commerce International (BCCI), focusing on narcotics and foreign policy implications.

SD-419

OCTOBER 22

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings to examine the viability of the United States grain inspection system.

SR-332

Select on Indian Affairs

To hold hearings on S. 1315, to transfer administrative consideration of applications for Federal recognition of an Indian tribe to an independent commission.

SR-485

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1696, to designate certain national forest lands in the State of Montana as wilderness, and to release other national forest lands in the State of Montana for multiple use management.

SD-366

1:00 p.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To resume hearings to examine allegations of drug trafficking and money laundering activities in the United States by the Bank of Credit and Commerce International (BCCI), focusing on narcotics and foreign policy implications.

SH-216

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 1825, to authorize the sale of Bureau of Reclamation loans to the Redwood Valley County Water District, California, and titles X, XI, XXIV, XXVII, XXIX, and XXX of H.R. 429, Reclamation Projects Authorization and Adjustment Act.

SD-366

2:30 p.m.
Finance
Taxation Subcommittee
To hold hearings on S. 1787, to encourage the sale of real property held by the Resolution Trust Corporation by allowing a credit against income tax to purchasers of such property.
SD-215

OCTOBER 23

9:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to examine allegations of drug trafficking and money laundering activities in the United States by the Bank of Credit and Commerce International (BCCI), focusing on narcotics and foreign policy implications.
SH-216

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

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on miscellaneous energy and water development bills, including S. 1618, S. 724, S. 1370, S. 1806, S. 1812, and titles XII, XXI, XXII, XXVI, and XXVIII of H.R. 429.
SD-366

OCTOBER 24

8:45 a.m.
Office of Technology Assessment Board meeting, to consider pending business.
EF-100, Capitol

9:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to examine allegations of drug trafficking and money laundering activities in the United States by the Bank of Credit and Commerce International (BCCI), focusing on narcotics and foreign policy implications.
SH-216

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings to review Federal ship-chartering practices.
SR-253

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 144, to authorize funds to protect the natural and cultural resources of the Grand Canyon and Glen Canyon, and to continue hearings on H.R. 429, to authorize funds for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, focusing on titles XVI, XV, XVIII, and XXV.
SD-366

OCTOBER 25

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to examine allegations of drug trafficking and money laundering activities in the United States by the Bank of Credit and Commerce International (BCCI), focusing on narcotics and foreign policy implications.
SH-216

OCTOBER 29

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 1622, to revise the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees.
SD-430

Select on Indian Affairs
To hold joint hearings with the House Committee on the Interior on H.R. 1476, to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona.
SR-485

2:30 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on reducing foreign material limits in official soybean standards.
SR-332

OCTOBER 30

10:00 a.m.
Environment and Public Works
To hold hearings on the nominations of E. Gail de Planque, of New Jersey, to be a Member of the Nuclear Regulatory Commission, and Herbert Holmes Tate, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency for Enforcement and Compliance Monitoring.
SD-406

POSTPONEMENTS

OCTOBER 17

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider pending calendar business.
SR-332

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold oversight hearings on implementation of the Department of Energy's joint venture program for renewable energy.
SD-366