

## SENATE—Wednesday, January 23, 1991

(Legislative day of Thursday, January 3, 1991)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

## PRAYER

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

Let us pray:

*From whence come wars and fighting among you? come they not hence, even of your lusts that war in your members? Ye lust, and have not: ye kill, and desire to have, and cannot obtain: ye fight and war, yet ye have not \* \* \* .—James 4:1, 2.*

God of mercy, help us to see ourselves as Thou dost see us. Whether in the macrocosm or the microcosm—all conflict springs from the human heart. Whether the invasion of Kuwait or the abuse of a spouse or child, or mistreatment of a neighbor or a friend, its genesis is in the human heart. Whether invasion for oil or forced takeover of a corporation, it begins in the heart. Help us to see what we are up against. It is avarice and lust and greed and pride over which laws have no power. An old-fashioned word, Father, it is sin the root of all conflict—private or public, local or global—and Thou alone, merciful Father, has the remedy. For only Thou dost forgive sin and can transform the human heart.

Make us wise, gracious Father, to realize that there is no human force that can handle sin. The remedy is with Thee. As we are sensitized by the conflagration in the Middle East, help us to be sensitive to the possibilities of war in our homes and offices. And grant us grace to acknowledge our need and call upon Thee for the remedy.

In the name of the Prince of Peace. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, January 23, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT H. KOHL, a

Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

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

## RECOGNITION OF THE MAJORITY LEADER

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

## THE JOURNAL

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

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

## SCHEDULE

Mr. MITCHELL. Mr. President, today following the time reserved for the two leaders, there will be a period for the transaction of morning business with Senators permitted to speak therein for up to 10 minutes each.

For the information of Senators who did not hear the discussion which I had yesterday with the Republican leader on the Senate floor, relative to the Senate schedule for the week, I want to summarize and repeat the principal points of that discussion.

It is my hope that later today we will be in a position to obtain unanimous consent regarding the following measures: A bill providing tax benefits for American troops in the Persian Gulf; a bill providing for a veterans compensation cost-of-living adjustment; a bill addressing the problems of veterans exposed to agent orange; a resolution addressing the issue of prisoners of war; a resolution regarding the situation in the Baltic States; and a resolution regarding Israel.

In order to assist Senators in planning their schedules for the remainder of the week, it is my intention to schedule these votes between the hours of noon and 3 p.m. tomorrow. We do not yet have consent on any of them but we are working toward that objective.

It is my hope that the resolutions to which I referred will be ready for introduction and debate during today's Senate session, and if possible also one or more of the legislative items to which I referred will also be available for debate and discussion today.

## RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time. I reserve all of the leader time of the distinguished Republican leader.

Mr. SPECTER. Mr. President, will the distinguished majority leader yield for a comment?

Mr. MITCHELL. Yes.

Mr. SPECTER. I have written the distinguished majority leader concerning my intention to introduce or reintroduce legislation on the death penalty on terrorism, and expressed the thought that I might seek to attach it to one of the pending bills. But I have decided in the interest of allowing the majority leader to proceed with that schedule not to do so.

Later in morning business, I will seek the floor to discuss legislation providing for the death penalty, which was passed by the Senate last year on my introduction, and would ask the consideration of the distinguished majority leader for a prompt scheduling on that legislation because of its special timeliness now in view of the fact that there are United States citizens who are subject to terrorist attacks and possibly death in Israel and in Saudi Arabia, and the threat of terrorism worldwide.

I just make this comment at this time because I have written the majority leader. I do think, speaking for myself, that this legislation is especially important. It was passed last year by the Senate. It failed in the conference committee and it is a matter which this Senator thinks would be very timely to take up as soon as it can be scheduled by the leadership.

Mr. MITCHELL. Mr. President, I thank my colleague for his comments and assure him that his request will be taken into consideration. Obviously, we will want to consult with the chairman of the relevant committee which has jurisdiction over such measures, as I understand that there will be a number of antiterrorist bills introduced and considered, each of which, of course, is considered by its author as important in this context and each of which surely is.

So I am pleased that the Senator will permit these bills to go forward without this particular amendment or controversy. I hope others will do the same and I assure him that we will give prompt and active consideration to his request.

I just would like to say to all Senators that the bill we are talking about

here first is the one providing for a veterans compensation COLA.

Last year, I tried very hard to bring that bill up, and get it passed but was prevented from doing so. As a result, disabled veterans were the only recipients of Government benefit programs who did not receive a cost-of-living adjustment. All other recipients did, Social Security recipients, other beneficiaries of Government programs. The single exception was disabled veterans.

I felt at that time that that situation could not be permitted to stand, and that we should on our return, in this 102d Congress, make that a high priority of business.

One of the prerogatives which I possess as majority leader is the right to designate which bills will be numbered 1 through 5, establishing at least a symbolic importance to these measures. I decided, and did designate as S. 1 the first bill introduced in this session of Congress the veterans compensation COLA bill.

It is a wrong which must be righted. It is something which we simply have to correct. And we are now in the position, I hope, to be able to deal with that measure and a companion measure dealing with veterans exposed to agent orange, a controversy over which is what led to our inability to pass the compensation COLA bill last year.

I hope that all Senators will permit us to proceed with these bills without seeking to offer their own amendments, each of which Senator feels, and no doubt appropriately so, is very important for some other unrelated reason, but that ultimately causes us not to be able to pass this type of legislation.

Finally, the bill providing tax benefits for American troops in the Persian Gulf ought to really go without saying is significant and important and once again can be derailed if we seek to add amendments to it, and offer other legislation, for whatever reason.

We hope the House acts on a particular bill. The Finance Committee this morning had a markup and we are trying to conform the two bills passed by them in identical fashion so that this measure can be signed into law by the President promptly.

So I ask all of my colleagues to exercise some restraint in this regard. Each of us has bills we consider important. Each of us would like to be able to attach those bills to something else. But in this case, we have three important measures, which are relevant, given the crisis situation in which we find ourselves, and at least two of which are long overdue and should have been done last year. So I hope we can do them.

I thank the Senator from Pennsylvania for consenting not to offer his legislative initiative to this proposal and certainly will consider his request

along with other Senators interested in that subject matter.

Mr. President, I now yield the floor, having reserved my time and that of the Republican leader.

#### MORNING BUSINESS

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Louisiana is recognized.

Mr. JOHNSTON. I thank the Chair.

(The remarks of Mr. JOHNSTON pertaining to the introduction of S. 244 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 245 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. LOTT. I thank the Chair.

(The remarks of Mr. LOTT pertaining to the introduction of S. 246 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### VETERANS COLA LEGISLATION

Mr. LOTT. Mr. President, our thoughts today are with our brave men and women in the Persian Gulf. But at the same time, it is appropriate that we recognize the service of all veterans who have previously answered the call of duty and sacrificed for the purpose

of preserving freedom throughout the world.

Last year, the Senate paid, I think a great disservice to our veterans by linking the veterans cost-of-living adjustment to other controversial issues that resulted in inaction on this vital legislation. Sometimes those things happen. They are understandable, but they must be corrected.

That is why it is imperative then that we immediately enact a COLA for service-connected disabled veterans and their eligible dependents retroactive to January 1, 1991.

No one should question the commitment of this Nation to our service men and women. President Bush pledged that our soldiers in the Persian Gulf would have the most modern arsenal of technology and power at their disposal to do their job.

In like manner, after the battle, we will continue to honor our commitment to our veterans and our unwavering support for their sacrifice.

A 5.6-percent COLA is a small price indeed to pay to those to whom we owe our freedom and our way of life.

I salute our soldiers serving bravely in the Persian Gulf and all over the world, and I salute our veterans of past battles. Let us today leave no doubt as to the strength of our commitment and our gratitude to these men and women.

I urge my colleagues to support this legislation that will provide this 5.6-percent COLA.

I thank you, Mr. President. I yield back my time. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

#### RESOLUTION IN SUPPORT OF ISRAEL

Mr. PELL. Mr. President, I am looking forward to cosponsoring the resolution putting the Congress clearly on record in support of Israel at this trying time and commending Israel for its restraint in adversity.

As television reports from Tel Aviv so graphically remind us, Saddam Hussein's decision to attack Israel has brought about saddening casualties and destruction and has even precipitated the regrettable deaths of innocents.

As I have reminded this body many times, Saddam Hussein is a self-aggrandizing and monumentally callous despot. His current attacks upon Israel are a continuation of his habitual conduct well beyond the pale of civilized behavior. His acts against Israel represent another step in a long

continuum of misbehavior, including the illegal use of chemical weapons in the Iran-Iraq war, the gassing of his own citizens, the destruction of Kuwait, and his violation of the 1949 Geneva Conventions on behavior in war.

For months, our thoughts and prayers have been with the thousands of our men and women of the Army, Navy, Air Force, Marines and Coast Guard we have sent to confront Saddam Hussein. Now, we extend our deepest sympathy to the citizens of Israel, who now find themselves the targets of Saddam Hussein's aggressions.

Mr. President, I hope very much that the Patriot missiles we have deployed to Israel will prove as effective there in defending against attacks as they have in Saudi Arabia. Moreover, I wish our military every success in seeking out and destroying all of the Scud missile launchers in Iraq. I am convinced that the President and the military leaders are acting courageously and effectively to deal with these very terrifying weapons.

#### THE CAUSE OF PEACE

Mr. PELL. Mr. President, I would like to draw the attention of my colleagues to a particularly thoughtful and moving editorial arguing the cause of peace in the Persian Gulf and in the rest of the world. The article appeared as an open letter to President Bush in Rhode Island's Block Island Times on January 5.

I ask unanimous consent that the text of this article be printed in the RECORD.

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

[From the Block Island Times (RI), Jan. 5, 1991]

EDITORIAL—AN OPEN LETTER TO PRESIDENT BUSH: A NEW SENSIBILITY

Dear Mr. President:

We write to you in the persona of a newspaper that serves Block Island, Rhode Island, the smallest town in the smallest state in the nation that elected you its chief executive. The articles we print rarely deal with matters beyond the perimeter of our shores, 12 miles at sea. Our editorial page consists almost entirely of letters to the editor as well as our own views on such matters as zoning, the preservation of open space, affordable housing and the make-up and behavior of our local government. If we have any global aspirations at all, they reside in the conceit that we and our insular problems represent a microcosm of the world at large. This view, incidentally, has its troubling side when measure is taken of the agony we suffer in search of local solutions and local accord toward problems that by global standards are piddling. In the midst of an interminable meeting of the Town Council or the Zoning Board, we often have asked ourselves the question that if Block Island, "Circled by waters that never freeze/Beaten by billow and swept by breeze," cannot manage its dump or fashion an acceptable balance between its human inhabitants and the environment that sustains them, what hope

is there for the rest of the world? We have no easy answer, the perversity of our species appearing to have no bounds.

Be that as it may, there is one area in the affairs of man that we thought had been settled during our lifetime. It was one reason, we thought, besides witnessing the voyage to the moon and man's penetration into outer space, to rejoice at having been alive during the latter half of the 20th century. Spatially, we conceived it, when we thought of it all, as an anthropological watershed, ranking with the prehistoric moment when mankind learned to look inward and to see himself as an individual as well as part of a collective society. Put simply, this new, 20th century perception was the intuitive understanding, the psychological acceptance that modern warfare was a means that not only was not justified by the end but categorically precluded the achievement of that end. In short, war was obsolete, a dinosaur. Did our own or our allies' heroics during World War II defeat Germany and Japan? History says that happened in 1945. But look at us now. Did we achieve anything of importance in Korea? In Vietnam?

Nations, great nations like ours, have continued to maintain military forces because although the answers to those questions appeared obvious to us, or so we thought, there were others around the world who were not yet convinced. We might lay down our sword but not yet our shield.

It was in that light that we understood, Mr. President, your rapid deployment of our troops to Saudi Arabia to block further aggression by Saddam Hussein. Now your talk of ultimatums, of deadlines and of making war leaves us perplexed—even here on Block Island, where in our isolation and relative backwardness we still watch the contrails of intercontinental aircraft stream out at dawn across our sky. We listen to the radio. We read.

We read, for instance, novelist E.L. Doctorow, who also wrote you a letter reprinted in the January 7th edition of *The Nation*. We hope you and your advisors read it also. Doctorow describes our own feelings about the watershed as "a new sensibility."

"A new period in history," he writes, "brings with it a new sensibility, and what is acceptable in an earlier age is understood as monstrous in our own."

"War," he continues, "is an expedient of Saddam Hussein, Mr. President, because he is of the barbarous past. You have the chance to create a future in which, on a smaller and smaller globe, technology races to rectify the damage of earlier technology, and the needs of any one State are becoming the needs of all—air to breathe, water to drink, soil and climate to grow crops, and an unalienated, literate citizenry to advance the civilizations of a democratic planet."

This is not the stuff *The Block Island Times* is wont to write about. It is ordinarily enough to leave that to better minds and more eloquent pens, such as Doctorow's. But you should know, Mr. President, that at sunset on New Year's Day some 50 citizens of Block Island, men, women, children and one nanny goat, representing one twentieth of our Island population—which ratio nationally would translate into 17 million people—gathered outside the Harbor Baptist Church, and carrying candles marched "for peace" to Crescent Beach. The sea was calm, the air still, the candles, thrust into the sand when the prayers for peace were over, burned a long time and appeared to gain a brilliance as the afterglow of the sunset faded.

Is it possible, Mr. President, that we here on Block Island, in our isolation have ab-

sorbed a truth that you with all your worldly experience, your advisors, your intelligence, and your electronic surveillance have failed to grasp? That war doesn't work; that quite apart from the illegality of your declaring war without Congressional consent or the awful immorality of initiating an action that will result in death to thousands of young Americans as well as thousands of Iraqi soldiers and civilians, that no matter how righteous, no matter how immediately victorious, war in 1991, to use a term that capitalists must understand, is a bankrupt institution.

Sincerely,

THE EDITORS.

#### A REASSESSMENT OF NATO

Mr. PELL. Mr. President, I wish to bring to the attention of my colleagues a recent speech by Alan Clark, the British Minister of Defense Procurement. Delivering the Liddel Hart Memorial Address at King's College, Mr. Clark argued that the North Atlantic Treaty Organization [NATO] and the present Atlantic alliance system should be reevaluated.

Although much of our attention presently and rightly is focused on the Persian Gulf, I believe that it is crucial for us to keep in mind what has occurred in Europe during the past 2 years, and to observe closely the events that continue to unfold there. Recent events in Europe and the Middle East have called into question the role of NATO and the security relationships that have existed for more than 40 years. Indeed, as Mr. Clark suggests the alliance may be ill-suited to confront new global challenges.

Given the timeliness of Mr. Clark's observations, I ask unanimous consent that a press account of his remarks and an editorial from the Independent of London regarding his speech be printed in the RECORD.

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

[From the Independent, Dec. 11, 1990]

DEFENCE MINISTER SAYS NATO IS OBSOLETE  
(By Christopher Bellamy)

NATO has achieved its original function and is now obsolete, Alan Clark, the Minister for Defence Procurement, whose radical ideas were at the centre of the Options for Change review, said last night. The cost of maintaining the North Atlantic alliance is excessive and attempts to find it a new mission are bizarre, he said.

His remarks are the most direct challenge to NATO's continuation by any minister, although he was speaking in a personal capacity. As a military historian, he gave a thought-provoking address on Origins and Validity in Twentieth-century Military Alliances, at King's College, London.

"Alliances have generally been formed in response to a specific perceived threat. When that threat has disappeared, the alliance has ceased or atrophied," he said. "Present alliance systems are obsolete, ill-suited to present circumstances and urgently in need of adaptation." It was wrong to "take existing systems and rejig them to comport with a new situation".

Mr. Clark said he has visited NATO headquarters outside Brussels, which employs about 4,000 people. "One might have been forgiven for wondering what they were all doing." He had asked how much NATO cost. The answer: about \$8bn.

NATO, he said, had been set up to defend against a "massive threat, both ideological and military". But that threat was disintegrating. He challenged those with "increasingly bizarre suggestions for its future function".

"Another idea is that we should keep NATO alive to keep the United States in Europe. Why should we want to keep the United States in Europe?"

He also disputed the need for NATO as an insurance against instability in eastern Europe, which was not a particular threat.

Mr. Clark said the participants in the alliance were prepared to accept its costs and constraints if there was a clear threat to their security. But "where that security is no longer threatened, the reason for the alliance evaporates".

The fact that NATO as an alliance was not directly involved in the Gulf crisis was an example of how NATO was ill-suited to face new challenges to Western security. "I'm looking for something slimmer, less set in its ways than NATO, something capable of faster response," Mr. Clark said. But he emphasised that some new security structure was needed, possibly based on the Western European Union.

Asked about reduced defence spending, he said: "You've got to have a peace dividend. The threat of obliteration, occupation, has simply gone. That means the insurance policy doesn't have to be so high because we're no longer living in an earthquake zone." The need to provide a peace dividend and for more spending on "out-of-area" contingencies like the Gulf meant that it was necessary to cut into the "remaining orthodoxies" deeply.

[From the Independent, Dec. 13, 1990]

#### WHAT COMES AFTER NATO?

NATO is obsolete, declared the Minister for Defence Procurement, Alan Clark, on Monday. Mr. Clark contends that since the "massive threat, both ideological and military" which the alliance was set up to counter is disintegrating, the alliance itself has no further purpose. He pours scorn on the idea that NATO should be kept alive as an insurance against instability in eastern Europe, or as a means of keeping American forces on this side of the Atlantic. "Why should we want to keep the United States in Europe?" he asks.

On the same day, the Foreign Secretary, Douglas Hurd, said: "European security without the United States simply does not make sense." The first question raised by two such seemingly irreconcilable statements is whether the less senior minister, Mr. Clark, was speaking out of turn (albeit, as he said, in a personal capacity.) He has a reputation for making vivid but irresponsible remarks. This time, however, he was being extremely responsible. The old certainties that governed our defences have been swept away. Europe, and particularly the countries that made up the Warsaw pact, are in a state of flux not seen since the Forties. In such circumstances there ought to be open discussion about the right policy for Britain and for the groupings to which we belong. The Secretary of State for Defence, Tom King, lacks the inclination to stimulate such a debate. Mr. Clark should be thanked for filling a need.

Moreover, the gap between him and Mr. Hurd is not so wide as first appears. Mr. Hurd said he wants the Western European Union (WEU) to "become truly the European pillar within the [NATO] alliance". Mr. Clark also sees the WEU as the probable "nucleus" of a new security structure. The difference between the two ministers is mainly one of degree. Mr. Hurd admits that "the old threat of massive military invasion from the East has faded", and concedes that the American commitment of forces to Europe is going to be at "a much reduced level". He is merely unwilling to extrapolate from these trends so boldly as Mr. Clark has done.

The Foreign Secretary's caution is justified. Though Mr. Clark quoted an unnamed American who described NATO as "a bureaucracy in search of a pension", it would be premature to retire the alliance. Its natural withering should not be hastened. While the threat of conventional war launched on the West from the East has vanished, the danger of some form of nuclear blackmail remains. The Soviet Union may well disintegrate. It is impossible to know who would then control its many thousands of nuclear weapons, but the West ought, while those weapons exist, to maintain a counter to them. In that role, the British and French nuclear deterrents might not prove sufficient. The American contribution is still valuable.

But since the American contribution is bound to decline, the countries of western Europe should indeed start to develop a security structure that can be free-standing when the need arises. For this purpose, the WEU is much the best foundation on which to build. Unlike the European Community, which has no experience of defence matters and has been useless during the Gulf crisis, the WEU has long experience and has been helpful in the Gulf. There is also wide scope for new bilateral and trilateral defence arrangements between European countries. In the Gulf, the British and the French should be co-operating, thereby maximising European influence: France's hollow pretence of self-sufficiency is pointless. We should also work together in the nuclear field. The future does indeed lie in European co-operation but we need not be so impatient as Mr. Clark is to say farewell to the Americans.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 247 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Nebraska is recognized for not to exceed 10 minutes.

#### UNITY DESPITE MR. YEUTTER'S STATEMENT

Mr. KERREY. Mr. President, yesterday in Lincoln, NE, the man who in a matter of days is expected to become chairman of the Republican National Committee, the current Secretary of Agriculture, Clayton Yeutter, made what I regard as some very unfortunate and untimely remarks.

He said, during a press conference following a speech to the Lincoln Rotary Club, that he hopes the American public will hold accountable the Democratic opponents of President Bush's request for authority to go to war against Iraq. He said that Democrats are politically vulnerable because of those votes.

Secretary Yeutter said "I would guess 90 percent of them now wish they had cast their votes the other way." He said: "They picked the wrong side. If the conflict goes well that will work against them." He said their opposition to the President on this issue could be "a very significant factor" in next year's Presidential and congressional elections.

Mr. President, to me and to me personally, these remarks are deeply troubling. They attempt to politicize this war and to define victory in terms of electoral gain rather than policy achievements. They trivialize the deep misgivings which all Americans have about sending our sons and daughters into combat and fail to acknowledge the remarkable—up to now—bipartisan effort to define the circumstances under which force is to be used to defend an American interest.

I did not "pick a side" when I voted, Mr. President. When voting to ask Americans to risk it all, the least I can do is risk losing an election by trying to decide what I believe is right. If I become a candidate for reelection, the voters of Nebraska—Democratic and Republican—will obviously have the opportunity of deciding whether my vote a mistake for them.

They may decide the alternative I supported—the use of force to contain Iraqi aggression and more time for sanctions to work—was wrong. They may decide that my dissent was unacceptable. They may decide my arguments evidenced an unwillingness to defend America's interests.

The people of Nebraska have a right to make these judgments. Those Nebraskans who actually live and vote in the State hardly need Mr. Yeutter to confirm that right. Those of us who have actually stood for elective office

already understand that our job is to state our opinions, vote our consciences, and take the electoral consequences.

Mr. Yeutter is right that we will all be held accountable for our decisions. However, he is wrong to assume I regret my vote because I simply do not. It was a difficult vote, and the difficulty was born of the caution acquired from my own experiences in the Vietnam war. If there are others in my party or in this Senate who regret their vote, I have not heard them say so. The fact that Mr. Yeutter thinks Democrats and Republicans made up our minds on the gulf according to some political calculus says more about his approach to foreign policy than ours.

In fact, there has been an unmistakable and little recognized bipartisan support from the beginning for the use of force—to contain Iraqi aggression and to enforce an embargo so thorough that in any other period of history it would have been considered an affirmative act of war. The debate, despite the efforts of some to recast it for partisan purposes, has never been over whether we should use force. It has centered instead on the appropriate level and timing of force. And now that we have decided as a nation to begin this war, there is again bipartisan support—to see it through to an unknown but successful conclusion.

In fact, I am not on the sidelines. In spite of earlier dissent and at some risk of doing so, I have been actively supporting our President and our military effort now that this war has begun. I have been active because I want to help sustain public support in a way it was not sustained during the Vietnam war. I find it surprising and dangerous to the very consensus we will need for success that less than 1 week into this war, before we know how long it will last or how difficult it will be, the President would allow these kind of divisive comments.

For what we need now is unity, and unity is what we have, in spite of Mr. Yeutter's statements. In the interest of that unity, I would suggest the President to reconsider Mr. Yeutter's appointment as party chair, or ask him to hold his tongue until our soldiers are safe again.

Mr. President, we are headed into uncharted territory in America's foreign policy, not just in how President Bush will succeed in winning this war, as I am confident he will, but also in what the new world order we are fighting for will look like, and how we will pursue it. America's unity regarding the war we are now waging flows in large part from the openness and thoroughness of the public debate that preceded it.

Our ability to discern and shape the new world order will be better served by that kind of open and thorough examination than by a poisoned, polar-

ized, partisan environment. Those who invite such an environment not only undermine the conduct of this war, but also America's leadership in the new world order that we will inhabit when this war is over.

I yield the floor.

Mr. SYMMS. Mr. President, is the Senate in morning business at this hour?

The PRESIDENT pro tempore. The senior Senator from Idaho is recognized. The Senate is in a period for the transaction of morning business with Senators permitted to speak for not to exceed 10 minutes each.

Mr. SYMMS. I thank the distinguished President pro tempore.

The PRESIDENT pro tempore. The Senator from Idaho is recognized for not to exceed 10 minutes.

Mr. SYMMS. I thank the Chair.

(The remarks of Mr. SYMMS pertaining to the submission of Senate Resolution 17 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

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

The PRESIDING OFFICER (Mr. KERREY). Two minutes, thirty-five seconds.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might have about 2 more minutes in addition to that 2 minutes.

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

#### EDITORIAL BY SENATOR JESSE HELMS

Mr. SYMMS. Mr. President, I have with me a WRAL-TV Viewpoint editorial of November 22, 1963. I think it is a serious matter. I will print this in the RECORD so all my colleagues will be able to see this editorial.

I think it is a serious matter. It is a matter which one of our colleagues, for whatever reason, whether it was in the heat of politics, or what, was critical of another regarding the tragic death of one of our honorable Presidents, John F. Kennedy. I recently received a letter indicating that it has been implied and reported in the press that Senator HELMS actually minimized the death of President Kennedy implying that the Nation was better off, and I rise to set the record straight.

Mr. President, I have obtained a copy of the actual editorial comment made by Senator HELMS on the evening of November 22, 1963. I will let the remarks of our colleague speak for themselves as I quote excerpts of his editorial. I quote Senator HELMS, who was then JESSE HELMS of WRAL television in Raleigh-Durham, NC:

All men of sanity and humanity feel a sense of revulsion at the act of the fanatical coward who hid in the attic of a building and fired down the shots that extinguished the life of a young man who, to us, seemed to

possess not merely the quality of unbounded energy, but a sort of indestructibility as well. . .

Every citizen will reflect upon Mr. Kennedy's life, and his death, in a personal way. Mr. Kennedy had become a part of America in a personal way. His harshest critics recognized his magnetism and persuasiveness which had drawn him into the inner circle of American life. He was not loved by everyone; still, no one doubted his courage or his stamina. He fought his political battles with every ounce of his strength. And he did it openly. \*\*\*

Millions of words will be written and spoken about this dark hour in America's history. Many days will pass before we can stand with pride and confidence, and say to the world that we are civilized. The cause of communism has been served well by this tragedy. Freedom has suffered a telling blow.

Mr. President, these words are just parts of excerpts of this editorial spoken by our colleague almost 30 years ago. They are not the words of one trying to minimize this tragedy in our history. Rather, they are words that reflect the attitude of us all in a nation struggling to cope with a devastating loss.

I remind my colleagues that we continue to face serious problems, mounting tensions in the Persian Gulf, Soviet attack on Lithuania and the other Baltic States, and our own critical economic and domestic problems. So now is not the time for us to embroil ourselves in conflicts based in petty disagreement. I am certain that President Kennedy would agree that now is the time for strength, for patience and, above all, the American spirit of unity.

When I read this editorial, Mr. President, I remembered vividly of where I was and what I was doing on that tragic day. I am only sorry that this editorial had not been printed in the newspapers in my State because I think it gave some great comfort, and it was a very eloquent eulogy to our fine young President.

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

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

[WRAL-TV Viewpoint]

(This editorial comment was used as a part of a brief newscast on Friday evening, November 22, 1963. It was written and delivered by Mr. Helms, but not as a specific "Viewpoint" program.)

Anguish alone will not suffice as the nation's proper reaction to the news of President Kennedy's assassination. All men of sanity, and humanity feel a sense of revulsion at the act of the fanatical coward who hid in the attic of a building and fired down the shots that extinguished the life of a young man who, to us, seemed to possess not merely the quality of unbounded energy, but a sort of indestructibility as well.

At this moment, of course, all Americans are united regardless of party, or philosophy, or ideals. Conservatism, liberalism, right wing, left wing—all these are meaningless semantics, no longer dividers, certainly not important unless and until we respond to the

question of what happened to civilization in that dark moment in Dallas.

So, in unity there is a helplessness that may assist us in groping for strength. One insane man with a high-powered rifle has exposed the incredible weakness of a nation. If we now see that weakness, if we now understand it, some consolidation may be found. Men may have differed with Mr. Kennedy in his exuberant ideas about politics, government, and the quest for peace in a troubled world. But as he lies tonight in death, he has left more than a shocked and stunned nation. The manner of his death leaves America standing naked as a symbol of civilization mocked.

Every citizen will reflect upon Mr. Kennedy's life, and his death, in a personal way. Mr. Kennedy had become a part of America in a personal way. His harshest critics recognized his magnetism and persuasiveness which had drawn him into the inner circle of American life. He was not loved by everyone; still, no one doubted his courage or his stamina. He fought his political battles with every ounce of his strength. And he did it openly.

And this serves to emphasize the dastardly nature of his assassination. Jack Kennedy was killed by a coward.

As we sat alone minutes after the announcement of the President's death, a hundred images flowed through our mind. One little incident that we personally observed nearly 11 years ago came to mind as clearly as if it were yesterday. It was a cold, crisp January morning in 1953 and the quorum bells had just rung throughout the Capitol and the Senate Office Building in Washington. Members of the Senate, the old ones and the new ones, were scurrying to get to the Senate Chamber. It was oath-of-office day for ten or 12, including a tousled-haired young man from Massachusetts who had been elected to the Senate the previous November.

Senators were boarding the subway cars which connect the Capitol with the Senate Office Building by an underground route. Visitors and employees of the Senate were being repeatedly told by operators of the subway cars to stand aside for the Senators. They had priority.

Jack Kennedy arrived to take a seat on the subway car, but the operator waved him back. "Stand aside for the Senators, son," he said. Jack Kennedy stood aside with a grin—until an observer whispered to the operator: "He's a Senator, too." The embarrassed operator got only a pat on the back and a reassurance from Senator Kennedy.

An unimportant incident? Maybe! But it is one that we will remember always. No matter how much we might have disagreed with certain of the President's views and actions, the memory of that incident provides a sense of warmth and personal affection.

Millions of words will be written and spoken about this dark hour in America's history. Many days will pass before we can stand with pride and confidence, and say to the world that we are civilized. The cause of communism has been served well by this tragedy. Freedom has suffered a telling blow.

As for our new President, Lyndon Johnson, no man has faced a sterner challenge. He needs—he must have—the prayers of a nation of people who see the need of renewing their faith, who are willing to proclaim honestly and sincerely that In God We Trust.

Mr. SYMMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair. (The remarks of Mr. EXON pertaining to the introduction of S. 248 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of Senate Joint Resolution 45 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID. Mr. President, recognizing that there is not a quorum present, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in morning business. The Senators are allowed to speak for up to 10 minutes.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 253 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### OUR SOLDIERS IN THE SAND

Mr. COATS. Mr. President, I would like to share with my colleagues the following expression of loyal support for the courageous American men and women currently at war in the Middle East. This moving poem, written by former U.S. marine, Cricket Dolezal, of Fort Wayne, IN, voices great pride for the steadfast patriotism and bravery of our soldiers, who, now more than ever, deserve unwavering support from their fellow Americans. They are to be commended for their willingness to serve our Nation.

I ask unanimous consent that this poem be included in the RECORD.

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

#### OUR SOLDIERS IN THE SAND

(By Cricket Dolezal)

Your innocent faces line the sand  
There to fight just one man.  
You are sons and daughters—sisters and brothers  
Husbands and wives, fathers and mothers.  
You have changed your clothes from green to brown  
Please know you are heroes in your hometowns.  
Your families have been left behind

Your place in the desert you are off to find.

As you sit in the sweltering sun  
Your fate is now in the hands of just one.

We think of you each and every day  
And wonder if more will be on the way.

We are all there in thoughts with you  
through whatever it is you must do.

And always remember to keep your spirits high

As high as the red, white, and blue flies.

#### POW TREATMENT BY IRAQ

Mr. COATS. Mr. President, I rise today to express my outrage for the cruel treatment U.S. and allied prisoners of war [POW's] have suffered at the hands of their Iraqi captors. The world has watched in horror as battered, mistreated allied soldiers have delivered statements coerced by their Iraqi captors. I am further incensed that Iraq would threaten to use POW's as human shields to protect various installations.

These acts are gross violations of the Geneva Conventions, to which Iraq is a signator. Such cowardice paints a clear, if not hellish, picture of the brutal Iraqi dictator and his ruthless regime. Saddam Hussein is solidifying his record of transgressions against humanity, justifying his eventual trial as a war criminal. Our thoughts and prayers go out to our brave POW's and their families who bear the greatest suffering of us all.

At a time when the task of preserving freedom is being passed on to a new generation, it is only appropriate that we reaffirm our commitment, not only to our troops in the gulf but to those brave men and women who have made the same sacrifice in years past. Legislation before the Senate would provide for a 5.4-percent cost-of-living adjustment [COLA] for veterans suffering from service-connected disabilities and for survivors of veterans who died of service-related injuries. This COLA would be provided retroactive to January 1, 1991.

Funds for this COLA were included in the 1991 Federal budget passed by Congress last October. However, due to an unfortunate series of events, the 101st Congress adjourned without approving legislation to provide a COLA for the Nation's 2.5 million disabled veterans and their survivors.

Disabled veterans who have served their Nation faithfully are entitled to full protection against the vagaries of inflation. For this reason, I have co-sponsored legislation which would ensure this COLA. I am pleased that the Senate has placed a high priority on resolving this matter, and I trust that my colleagues will join in support of a cost-of-living adjustment for our disabled American veterans.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Nebraska, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. I thank the Chair.

(The remarks of Mr. FORD and Mr. HATFIELD pertaining to the introduction of S. 250 are located in today's RECORD under "Statement on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER [Mr. BRYAN]. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,139th day that Terry Anderson has been held captive in Lebanon.

On Sunday, the Associated Press issued a report that "churches across Britain were filled with prayers" for the hostages yet held. In particular they prayed for Terry Waite—an envoy of the Anglican Church—who on that day began his fifth year in captivity. Mr. President, I ask that we of this Chamber add our prayers to those offered Sunday. And I ask unanimous consent that the above-mentioned report be printed in the RECORD.

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

#### BRITAIN'S WAITE BEGINS FIFTH YEAR AS HOSTAGE

LONDON.—Churches across Britain were filled with prayers Sunday for the British hostages held in Lebanon, including Church of England envoy Terry Waite, who was beginning his fifth year in captivity.

Archbishop of Canterbury Robert Runcie prayed for his 51-year-old envoy during a service at Canterbury Cathedral.

"Remember Terry and all hostages cut off from those whom they love and from the bonds of human friendship. Support them in their loneliness and need," Runcie said.

Runcie told the British Broadcasting Corp. that the Persian Gulf war may increase the hostages' chances for release.

"Turbulence might make people harder and more protective of any change in attitude. On the other hand, turbulence might loosen things up a bit," he said.

\*\*\* Most of the 13 Westerners missing in Lebanon are believed held by pro-Iranian Shiite zealots. The missing include six Americans, four Britons, two Germans, and an Italian.

Waite disappeared Jan. 20, 1987, after leaving a Beirut hotel for a rendezvous with Islamic Jihad, or Islamic Holy War.

The group has acknowledged kidnapping American hostages Terry Anderson and Thomas Sutherland.

Anderson, chief Middle East correspondent of the Associated Press, was kidnapped March 16, 1985. Sutherland, acting dean of agriculture at the American University of Beirut, was abducted June 9, 1985. Anderson is the longest held Western hostage.

No group claimed responsibility for Waite's kidnapping, but released hostage Brian Keenan said in September he heard Waite in a neighboring cell in Beirut.

The remaining British hostages are journalist John McCarthy, 31, kidnapped in April 1986; and retired pilot Jackie Mann, 76, abducted in May 1990.

In addition, Briton Alec Collett, whose 69th birthday is Monday, is missing. He was kidnapped in March 1985. Abu Nidal's terrorist group said in 1986 it had killed him, but the British Foreign Office says it has no evidence that he is dead.

Waite's brother David said Britain and the Church of England were working hard to secure his brother's freedom and he was confident the release would come.

#### RECESS UNTIL 4:30 P.M.

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until the hour of 4:30 p.m. today.

There being no objection, at 3:17 p.m., the Senate recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. I thank the Chair.

(The remarks of Mr. MCCONNELL pertaining to the introduction of S. 253 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### FEDERAL TAX RELIEF FOR FORCES IN PERSIAN GULF

Mr. CONRAD. Mr. President, I rise in strong support of the measure to provide Federal tax relief to our forces serving in the Persian Gulf.

The legislation complements the Executive order signed by the President on January 21. By designating locations in the Persian Gulf as combat areas, that order activates provisions of the Tax Code which permit members of the Armed Forces to exclude combat pay from gross income. Commissioned officers of the Armed Forces will be able to exclude active duty compensation up to the level of \$500 per month;

enlisted men and women can exclude the full amount of this compensation. Under the Executive order, the exclusions apply to pay for service performed in combat areas beginning January 17, 1991.

Under present law, individuals serving in a combat zone are exempted from certain tax filing deadlines, including the requirement that income tax returns be filed and taxes paid by April 15. The tax provisions triggered by the Executive order would grant extensions of times for filing returns, paying taxes, or filing for a refund to those serving in Operation Desert Storm. Besides our forces on active military duty, civilian, medical, and other personnel serving in the gulf in support of our operations there can also qualify for these extensions.

H.R. 4 would grant the same tax benefits and extensions described above to personnel serving in Desert Shield operations, beginning after August 2, 1990. It would also require the payment of interest on tax refunds owed to our forces in the gulf and their families, with interest calculated as of April 15.

Mr. President, I believe this legislation is urgently needed to implement the Executive order effectively. While our men and women in the gulf are engaged in battle, facing extraordinary pressures and dangers, we should do all we can to ease administrative burdens and financial strains for them here at home. I am pleased to support this measure, and urge its prompt enactment into law.

#### VETERANS COST-OF-LIVING INCREASE

Mr. CONRAD. Mr. President, as a co-sponsor of S. 1, the Veterans Compensation Cost-of-Living Increase Act, I rise today to express my strong support for the speedy passage of this legislation.

It was grossly unfair to our disabled veterans that their COLA got derailed in the closing days of the 101st Congress. It is only fitting that this legislation, S. 1, is the first bill of the 102d Congress.

All of us have had reason in the past week to reflect on the courage and commitment of our men and women in the Armed Forces. None make a greater sacrifice for their country than those who are willing to give their lives or their good health in the line of duty. This country and this Government's obligation to our veterans, and particularly our disabled veterans, is of the highest order.

The least we can do to show our gratitude to our disabled veterans is provide timely cost-of-living adjustments in the benefits they earned while in uniform and on the battlefield. Many of these veterans and their families depend on their disability checks to make ends meet. Not only do we have

an obligation to provide adequate financial support, we've also made a commitment to ensure quality, accessible health care for every veteran. Today, we are rectifying the unacceptable COLA situation, but a great deal more work remains to be done in the area of health care.

In the end, it comes down to this: support for the troops does not end when they leave active duty. We have a unique, ongoing responsibility toward those who served this country under the most demanding circumstances. In meeting our obligations to our veterans, we honor not only those who have worn the American uniform in the past—but we also honor those who wear it so proudly today. In a sense, our treatment of this country's veterans is a very special expression of the support and esteem we have for men and women who are at risk on the front lines today. They are, after all, tomorrow's veterans, and they need to know that we keep our commitments to those who served in the defense of this great country.

#### SOUTH CAROLINA'S HEROES IN THE GULF

Mr. HOLLINGS. Mr. President, over the past week, all Americans have stood in awe of the courage and can-do professionalism of our pilots in the Persian Gulf. What the airmen of the British RAF were in the Battle of Britain, these American pilots are to this initial phase of the battle for Kuwait. They are a small, elite cadre of warriors who today are carrying virtually the entire war effort on their own shoulders.

South Carolinians take very special pride in the heroics of Capt. Paul Johnson and Randy Goff of Myrtle Beach's 354th Tactical Fighter Wing. On Monday, these two pilots flew their A-10 Thunderbolts for some 8 hours over enemy territory, locating and protecting a downed Navy F-14 Tomcat pilot. It was a dazzling display of persistence, skill, and sheer courage, and it resulted in the successful rescue of the Tomcat pilot. I cannot tell you how proud I am of Captains Johnson and Goff, but I can tell you that every South Carolinian and every American shares that pride and gratitude.

And by the way, Mr. President, while I am saluting the men, let me also salute the machines—the much underestimated A-10 Thunderbolt. In recent years we have heard a lot of chatter over at the Pentagon about how this plane is too old and too slow and ought to be retired. Now we find that it is the star of the show over in the Persian Gulf—the best tank killer in the world, and so reliable and maneuverable that it proved ideal for this daring rescue mission. Enough said. We are proud of every one of the A-10 pilots from South Carolina serving so superbly over

there. And, as for Captain Johnson and Captain Goff, they are authentic American heroes.

#### A TRIBUTE TO O. FRANK DEGARCIA

Mr. HEINZ. Mr. President, I rise today to recognize a truly outstanding Pennsylvanian, Mr. O. Frank DeGarcia of Harrisburg, PA. Mr. DeGarcia's family and his many friends and admirers gathered to celebrate a dinner in his honor on December 2, 1990, and it is my privilege here to pay tribute to him and his many good works on behalf of his neighbors and his community.

Mr. President, Frank DeGarcia is not a native-born American. He is a native of Cuba, and like so many of his compatriots nearly 30 years ago, Frank was faced with a terrible choice: remain in his homeland to face the tyranny of the Castro regime, or take a chance and come to America, abandoning all that he had for the promise of a new life, in a new land. Frank courageously chose the latter, and from the very first day he arrived on these shores, he has personally exemplified the attributes that are at the heart of the American dream: An abiding love of freedom, a dedication on hard work, faith in our system, and an expectation of nothing more or less than a fair opportunity to make his way and earn a better life for himself and his family. This simple prescription is something Frank has not forgotten.

Through three decades, Frank has returned the gift of liberty to the people of his adopted land many times over. In appreciation of his leadership and energy, Frank has been elected president of Harrisburg City Council. And in this capacity, he is an integral part of making Harrisburg and all of south-central Pennsylvania a paradigm for the development of new economic opportunity and progress, and one of the best places anywhere to live, work, and raise a family.

In addition to his elected position in local government, as commissioner of the Pennsylvania Crimes Victim Compensation Board, Frank has been actively involved in reaching out to neighbors in need, helping to repair the lives of crime victims from all across the Commonwealth of Pennsylvania.

And, finally, Mr. President, it deserves to be noted that Frank appreciates not just the rights and privileges of citizenship, but the responsibilities, as well. Frank is a member of the Pennsylvania Air National Guard, and a part of the strong national defense that ensures our Nation's security and our freedoms.

It is fitting that the proceeds of the testimonial dinner held in his honor went, at Frank's request, to support educational opportunities for disadvantaged Hispanic children in Harrisburg. This is more than the latest example of

his unselfish devotion to working for the betterment of his community, his city, his State, and indeed, our Nation; it signals Frank's hope and faith in the future.

To Frank, I extend my sincerest congratulations and best wishes for continuing happiness and success to both him and his charming wife Ines!

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that two resolutions that I shall now submit in behalf of myself, Senator DOLE and others, the first condemning Iraq's bombing of Israel, and the second regarding Iraq's treatment of American prisoners of war; and one resolution to be introduced today by Senator DOLE on behalf of himself, myself, and others relating to the crisis in the Baltic States, be held at the desk until close of business tomorrow and that debate now be in order on these resolutions and that the majority leader, after consultation with the Republican leader, may proceed to the consideration of the resolutions at any time and that they not be subject to amendments or motions to commit.

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

#### CONDEMNING IRAQ'S UNPROVOKED ATTACK ON ISRAEL

Mr. MITCHELL. Mr. President, I now send to the desk for myself, Senator DOLE, and others, a resolution condemning Iraq's unprovoked attack on Israel.

The PRESIDING OFFICER. The resolution will be held at the desk pursuant to previous order.

#### DEMANDING THE GOVERNMENT OF IRAQ ABIDE BY THE GENEVA CONVENTION

Mr. MITCHELL. Mr. President, I now send to the desk for myself, Senator DOLE and others, a resolution demanding that the Government of Iraq abide by the Geneva Convention regarding the treatment of prisoners of war.

The PRESIDING OFFICER. This resolution will also be held at the desk pursuant to the previous order.

#### REVIEW ECONOMIC BENEFITS PROVIDED TO THE SOVIET UNION

Mr. DOLE. Mr. President, I send to the desk for myself, the Senate majority leader, and others a resolution to express the sense of the Congress that the President review economic benefits provided the Soviet Union in light of the crisis in the Baltic States.

The PRESIDING OFFICER. That resolution will also be held at the desk pursuant to the previous order.

## ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, it is my hope as I have expressed several times in the last 2 days that we will be able to vote on these resolutions and some other legislative matters between the hours of noon and 3 p.m. tomorrow. We will attempt to obtain a time agreement allocating the time in the morning among the various resolutions and legislative matters. We have not yet reached final closure on that.

But Senators should now be aware that there will be such an agreement, if it can be obtained and I believe it will be, and that these resolutions are now open for debate. So any Senator who wishes to address the subject matter of any of these three resolutions may do so at this time.

The floor is open for debate on these matters this evening without time limitation, so there will be ample time this evening for Senators to express their views on these resolutions. Then tomorrow there will be a brief period of time on each of these and the other legislative matters which we hope to reach for action tomorrow. That is our plan and hope at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## BOMBING OF ISRAEL

Mr. COATS. Mr. President, in the last few days Israel has lived with the fear of random suffering and death from Iraqi missiles. Yesterday, that fear was confirmed, amid rubble and shouts, by 3 deaths and 100 casualties.

This was not a military assault on a strategic site. It was the bombing of a neighborhood. It was an act of brutal, mindless, indiscriminate terrorism. Women and children and noncombatants were the targets. Their death and pain is today a source of Iraqi pride.

This was an attack not rooted in strategy but in hate. It reveals once more Hussein's heart of darkness and the length of his destructive reach. Each Iraqi missile is a public confession of barbarism.

Many Americans still hope for Israeli restraint. But we cannot, in the process, minimize the intensity of this provocation. As former Prime Minister Herzog said of other Jewish victims in the other times: "The only ones who can forgive are dead; the living have no right to forget."

To this point Israel has not responded, but it has not forgotten. By refusing a just reaction, it has helped

keep the world's focus on the real and central point at issue, the swift defeat of Saddam Hussein. Israel's show of restraint is not out of fear or weakness, but out of friendship.

Israel is always prepared for war. Golda Meir argued, "We have always said that in our war with the Arabs we had a secret weapon—no alternative." But it has not sought war as an end in itself. Meir concluded, "It is true we have won all our wars, but we have paid for them. We don't want victories anymore."

Yet Israel has a right to defend itself—the right of an innocent country under sustained attack. There is a line of tolerance for any nation. Israel's Government alone must decide where that line lies.

I believe that restraint can still best serve America's interests, and the interests of the coalition assembled against Saddam Hussein. Israel's interests and the cause of defeating Saddam Hussein merge with our interests. Before armed conflict began Saddam argued for a deceptive linkage between his crimes and Israel's existence. It was rejected out of hand by America and the world community.

Now he has attempted to force that linkage with warheads aimed at civilians, bringing Israel into the center of the conflict. An Israeli response is precisely what he seeks.

This, I believe, would not be the best policy. But by law of nations or rule of justice, a proportionate response would be morally justified. And even if that action comes, I am convinced it will not be the wedge Hussein intends. Our alliance is stronger than this transparent and desperate deception.

Israel is a nation with a short history and a long memory. In World War II, when Jews pleaded that Auschwitz be bombed by Allied forces to stop the slaughter, they were refused and told that bombs were needed for essential targets.

Now it should be clear to the world that the defense of Israel is essential to America. This is a solemn commitment. A moral stand. Israel's choice between response and restraint is not a matter of indifference, but it should not and must not forfeit our good will.

## AMERICA'S SOLIDARITY WITH ISRAEL—SENATE CONCURRENT RESOLUTION 4

Mr. LAUTENBERG. Mr. President, I rise to note my cosponsorship of Senate Concurrent Resolution 4 to express America's solidarity with Israel at this most difficult and trying time and to condemn in the strongest terms Iraq's unprovoked attacks on civilian targets in Israel. The resolution also reaffirms America's continuing commitment to providing Israel with the ability to maintain her security and freedom.

America, and indeed, the world, have been stunned and horrified over the unprovoked Iraqi Scud missile attacks against innocent civilian populations in Israel. We grieved with the Israelis when those missiles hit Israeli homes, causing injury and death to Israeli civilians. We were relieved that the worst did not occur—that the missiles did not contain as everyone might have imagined, chemical warheads.

But it was deeply shocking to hear Saddam Hussein brag that he would "turn Israel into a crematorium," knowing full well the special pain that phrase would cause. He is clearly trying to terrorize and traumatize the Israeli public in a sadistic manner.

The grief and anguish on the faces of the Israelis is also our grief and anguish. The film footage of the scream of the sirens, the fears for the dead, and the fears of the living, is so vivid it feels as if it is taking place close by.

All of us wonder at the Israeli nation's restraint in the face of these unprovoked attacks, restraint exercised at the behest of the United States. That restraint, given Israel's history, and the threats and attacks made against her by Iraq, has been nothing short of remarkable. For it is the very essence of a nation to defend her citizens against attack, and to respond when threatened. This is especially so in Israel, where it has been a central tenet of national policy that attacks against her would be met with swift and certain retaliation. Forged in the Holocaust, it has also been a necessary part of Israel's deterrent in the dangerous Middle East neighborhood in which she lives.

Mr. President, I am proud of Israel. I admire the fortitude of Israeli citizens during this difficult and trying period, continuing to attempt normal lives amidst life-threatening conditions.

I believe every country has the right to defend itself, including Israel. As a matter of fact, not only do they have a right, they have an obligation. Israel has said that it is not a question of whether she will retaliate, but the question is when and how. There is no one who can fault her now when she chooses to exercise this most fundamental national right. Whatever action Israel takes, I believe our international coalition will hold, will not be damaged at all.

I cannot imagine that Kuwait is going to pull out. I cannot imagine that Saudi Arabia is going to pull out. Egypt is a deep and fast friend with a big commitment to the cause that we have taken up. Syria is not a reliable ally in the first place, and if Syria leaves, so be it.

We can learn several important lessons from this episode in the gulf crisis.

The events of the past week have once again focused our attention on the need to keep Israel secure, on the

importance of making sure she has what it takes to remain safe, able to protect herself and protect America's interests when we ask. Because it is clear that it is not just Israel's security on the line. It is also America's.

Israel has always been and remains our most stalwart ally in the region. Putting the international good before her own national security, Israel has demonstrated once again that when the going gets tough, America can count on her. That is something we must work to protect.

Second, the Iraqi attack has brought home to the world the fact that the threat to Israel's security cannot be solved simply by coming to terms with the Palestinians. Iraq, and other hostile states in the region, remain implacably opposed to her very existence.

Finally, this crisis should make it clear, once and for all, to all Arab States, that Israel is not a threat to their security. Israel is not a threat to the stability of the Middle East. The problem is Iraq and other terror-driven nations. And if we have any doubts, Mr. President, all we have to do is look at the way Iraq has treated those Americans and other allied fliers who have been captured by them; the disgrace they have brought upon themselves, the humiliation they have tried to bring upon those who are prisoners of war. There is no doubt about Saddam Hussein's intent—terrorize, brutalize, murder if necessary.

So the problem is not Israel. The problem is the other regional powers who seek domination over their neighbors through the use of force.

I urge my colleagues to move quickly on this resolution and pass it.

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

The PRESIDING OFFICER. The absence of a quorum having been noted, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. 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.)

#### EMIGRATION LAWS AND PRACTICES OF MONGOLIA—MESSAGE FROM THE PRESIDENT—PM 6

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying paper; which was referred to the Committee on Finance:

*To the Congress of the United States:*

Pursuant to section 402(c)(2) of the Trade Act of 1974 (the Act) (19 U.S.C. 2432(c)(2)), I have determined that a waiver of the application of subsections (a) and (b) of section 402 with respect to Mongolia will substantially promote the objectives of section 402. A copy of that determination is enclosed. I have also received assurances with respect to the emigration practices of Mongolia required by section 402(c)(2)(B) of the Act.

Pursuant to section 402(c)(2), I shall issue an Executive order waiving the application of subsections (a) and (b) of section 402 of the Act with respect to Mongolia.

GEORGE BUSH.

THE WHITE HOUSE, January 23, 1991.

#### MESSAGES FROM THE HOUSE

At 4:41 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 bill, in which it requests the concurrence of the Senate:

H.R. 3. An act to amend title 38, United States Code, to revise, effective as of January 1, 1991, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

At 6:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 2. Concurrent resolution supporting the United States presence in the Persian Gulf.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4. An act to extend the time for performing certain acts under the internal revenue laws for individuals performing services as a part of the Desert Shield Operation.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 40. Concurrent resolution condemning the recent use of Soviet military force in the Baltic States;

H. Con. Res. 41. Concurrent resolution condemning the Iraqi attacks against Israel;

H. Con. Res. 46. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union; and

H. Con. Res. 48. Concurrent resolution condemning the brutal treatment by the Government of Iraq of captured service members of the United States and its allies in the Persian Gulf conflict.

The message also announced that pursuant to the provisions of section 6968(a) of title 10, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Naval Academy the following Members on the part of the House: Mr. McMILLEN of Maryland, Mr. MRAZEK, Mr. SKEEN, and Mrs. BENTLEY.

The message further announced that pursuant to the provisions of section 194(a) of title 14, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Coast Guard Academy the following Members on the part of the House: Mr. GEJDENSON and Mrs. JOHNSON of Connecticut.

The message also announced that pursuant to the provisions of section 4355(a) of title 10, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Military Academy, the following Members on the part of the House: Mr. HEFNER, Mr. LAUGHLIN, Mr. FISH, and Mr. LOWERY of California.

The message further announced that pursuant to the provisions of section 9355(a) of title 10, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Air Force Academy the following Members on the part of the House: Mr. DICKS, Mr. BARNARD, Mr. HEFLEY, and Mr. DELAY.

The message also announced that pursuant to the provisions of section 1295b(h) of title 46, United States Code, the Speaker appoints Mr. MANTON and Mr. BUNNING as members of the Board of Visitors to the U.S. Merchant Marine Academy on the part of the House.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3. An act to amend title 38, United States Code, to revise, effective as of January 1, 1991, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

H.R. 4. An act to extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield Operation.

The Committee on Veterans' Affairs was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 238. A bill to provide for the Secretary of Veterans Affairs to obtain independent sci-

entific review of the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-185. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the Longshore and Harbor Workers' Compensation Act for fiscal year 1989; to the Committee on Labor and Human Resources.

EC-186. A communication from the Secretary of Agriculture and the Administrator of the Agency for International Development, transmitting, pursuant to law, the sixth quarterly report on progress made in implementing the recommendations of the Agricultural Trade and Development Missions; to the Committee on Agriculture, Nutrition, and Forestry.

EC-187. A communication from the Deputy Under Secretary of Agriculture (International Affairs and Commodity Programs), transmitting, pursuant to law, the first quarterly country and commodity allocation table showing current programming plans for food assistance under P.L. 480; to the Committee on Agriculture, Nutrition, and Forestry.

EC-188. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Budget For Fiscal Year 1991: Compliance With the Balanced Budget and Emergency Deficit Control Act of 1985"; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-189. A communication from the Deputy Under Secretary of Defense (Acquisition), transmitting, pursuant to law, notice that the program unit acquisition unit cost of the C-17A program has increased by more than 25 percent; to the Committee on Armed Services.

EC-190. A communication from the Deputy Under Secretary of Defense (Acquisition), transmitting, pursuant to law, certification with respect to the Family of Heavy Tactical Vehicles (FHTV) Palletized Load System (PLS) program; to the Committee on Armed Services.

EC-191. A communication from the Assistant Secretary of the Army (Financial Management), transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter ended September 30, 1990; to the Committee on Armed Services.

EC-192. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, notice that the Secretary of the Army intends to exercise certain authority for exclusion of the clause concerning the examination of records by the Comptroller General; to the Committee on Armed Services.

EC-193. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operations of the Exchange Stabilization Fund

for fiscal year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-194. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "A Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing: A Report to the Congress"; to the Committee on Banking, Housing, and Urban Affairs.

EC-195. A communication from the President of the Oversight Board and the Executive Director of the Resolution Trust Corporation, transmitting jointly, pursuant to law, the semiannual report of the Resolution Trust Corporation and the Oversight Board for the period ended September 30, 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-196. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, a copy of the Kuwaiti Assets Control Regulations; to the Committee on Banking, Housing, and Urban Affairs.

EC-197. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the semiannual report on tied aid credits; to the Committee on Banking, Housing, and Urban Affairs.

EC-198. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the "1990 Report on Foreign Treatment of U.S. Financial Institutions"; to the Committee on Banking, Housing, and Urban Affairs.

EC-199. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report on progress in developing and certifying the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC-200. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the status report on plans for enforcement actions related to drug activity and the provision of assistance to law enforcement agencies for May 19, 1989 to May 8, 1990; to the Committee on Commerce, Science, and Transportation.

EC-201. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report on progress in correcting certain deficiencies in the Airmen and Aircraft Registry System for the period May 19, 1989 to May 18, 1990; to the Committee on Commerce, Science, and Transportation.

ED-202. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the review of the technology transfer contract clause; to the Committee on Commerce, Science, and Transportation.

EC-203. A communication from the President of the United States, transmitting, pursuant to law, certification that Norway has conducted whaling activities that diminish the effectiveness of the International Whaling Commission conservation program; to the Committee on Commerce, Science, and Transportation.

EC-204. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-205. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of

certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-206. A communication from the Assistant Secretary of Energy (Conservation and Renewable Energy), transmitting, for the information of the Senate, notice that the report on development of an aggressive national program of research, development, and demonstration of renewable energy and energy efficiency technologies will be submitted in late January of 1991; to the Committee on Energy and Natural Resources.

EC-207. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of Energy, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-208. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on Federal Government Energy Management and Conservation programs for fiscal year 1989; to the Committee on Energy and Natural Resources.

EC-209. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of Energy, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-210. A communication from the Assistant Secretary of Energy (Fossil Energy), transmitting, for the information of the Senate, notice of a delay in the submission of the quarterly report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-211. A communication from the Administrator of the United States Environmental Protection Agency, transmitting, pursuant to law, a report to Congress entitled "Medical Waste Management in the United States—Second Interim Report"; to the Committee on Environment and Public Works.

EC-212. A communication from the Inspector General of the Federal Emergency Management Agency, transmitting, pursuant to law, the audit report on the Federal Emergency Management Agency's administration of the permanent and temporary relocation components of the Superfund Program; to the Committee on Environment and Public Works.

EC-213. A communication from the Inspector General of the National Aeronautics and Space Administration, transmitting, pursuant to law, notification of the audit of the NASA and EPA Superfund Financing Agreement; to the Committee on Environment and Public Works.

EC-214. A communication from the Administrator of the United States Environmental Protection Agency, transmitting, pursuant to law, an annual report to Congress entitled "Progress Toward Implementing Superfund: Fiscal Year 1989"; to the Committee on Environment and Public Works.

EC-215. A communication from the President of the United States, transmitting, pursuant to law, notification of an Executive order waiving the application of subsections (a) and (b) of section 402 of the Trade Act of 1974 with respect to the Soviet Union; to the Committee on Finance.

EC-216. A communication from the Acting Secretary of the U.S. Department of Labor, transmitting, pursuant to law, an annual report analyzing the impact of the Caribbean Basin Economic Recovery Act on U.S. trade and employment from 1988 to 1989; to the Committee on Finance.

EC-217. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report on the quantity of agricultural commodities programmed under Title II in fiscal year 1990; to the Committee on Foreign Relations.

EC-218. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the fiscal year 1990 annual report on the operation of the Special Defense Acquisition Fund; to the Committee on Foreign Relations.

EC-219. A communication from the Assistant Legal Advisor for Treaty Affairs of the United States Department of State, transmitting, pursuant to law, the texts and background statements of international agreements; to the Committee on Foreign Relations.

EC-220. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, information of the operation and expenditures of the Appalachian Regional Commission for fiscal year 1990; to the Committee on Governmental Affairs.

EC-221. A communication from the Executive Director of the United States Commission for the Preservation of America's Heritage Abroad, transmitting, pursuant to law, the annual report for fiscal year 1990; to the Committee on Governmental Affairs.

EC-222. A communication from the Comptroller General of the United States, transmitting, pursuant to law, information on the assignment or detailing of GAO employees to congressional committees; to the Committee on Governmental Affairs.

EC-223. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-224. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-225. A communication from the Executive Director of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report of the Authority under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs.

EC-226. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-227. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-228. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-229. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-230. A communication from the Inspector General of the General Services Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-231. A communication from the Attorney General of the United States, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-232. A communication from the Secretary of the Interior, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-233. A communication from the Acting Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-234. A communication from the National First Vice President of the American Gold Star Mothers, Inc., transmitting, pursuant to law, the annual audit report of the American Gold Star Mothers, Inc. for the period ended June 30, 1990; to the Committee on Governmental Affairs.

EC-235. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-236. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-237. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-238. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-239. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-240. A communication from the Plan Administrator of the Farm Credit Retirement Plan, transmitting, pursuant to law, the annual pension plan report for the plan year ended December 31, 1989; to the Committee on Governmental Affairs.

EC-241. A communication from the Acting Secretary of Defense, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-242. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-243. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-244. A communication from the Secretary of the Consumer Product Safety Commission, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-245. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the failure of the Secretary of Defense to provide access to certain records to the General Accounting Office; to the Committee on Governmental Affairs.

EC-246. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-247. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-248. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-249. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-250. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-251. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-252. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a study on the potential health and occupational hazards to the Indian population as a result of nuclear resource development on Indian lands; to the Select Committee on Indian Affairs.

EC-253. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report on the recent award of the Young American Medals for Bravery and Service for calendar year 1989; to the Committee on the Judiciary.

EC-254. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, the 1989 annual report on the activities and operations of the Public Integrity Section, Criminal Division, and reporting on the nationwide federal law enforcement effort against public corruption; to the Committee on the Judiciary.

EC-255. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for the National Institute on Disability and Rehabilitation Research; to the Committee on Labor and Human Resources.

EC-256. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Drug Free Schools and Communities Program; to the Committee on Labor and Human Resources.

EC-257. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Migrant Education Even Start Program; to the Committee on Labor and Human Resources.

EC-258. A communication from the Deputy Assistant Secretary of Defense (Personnel Support, Families, Education and Safety), transmitting, pursuant to law, a report on the audit of the American Red Cross for the year ended June 30, 1990; to the Committee on Labor and Human Resources.

EC-259. A communication from the Chairman of the National Commission on Libraries and Information Science, transmitting, pursuant to law, a copy of the Principles of Public Information as adopted by the Commission; to the Committee on Labor and Human Resources.

EC-260. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education; to the Committee on Labor and Human Resources.

EC-261. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the third biennial report of the Director of the National Institutes of Health; to the Committee on Labor and Human Resources.

EC-262. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Choosing Better Schools"; to the Committee on Labor and Human Resources.

EC-263. A communication from the Chief, Special Actions Branch, Congressional Inquiry Division, Office of the Chief of Legislative Liaison, Department of the Army, transmitting, pursuant to law, a study of the commissary shelf stocking function at the U.S. Army Commissary, Fort Drum, New York; to the Committee on Armed Services.

EC-264. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, notice that the Defense Logistics Agency intends to exercise authority for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-265. A communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate, showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in his possession from April 1, 1990 through September 30, 1990; ordered to lie on the table.

EC-266. A communication from the Director of the National Gallery of Art, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-267. A communication from the Acting Under Secretary of Agriculture (International Affairs and Commodities Program), transmitting, pursuant to law, the second quarterly commodity and country allocation table; to the Committee on Agriculture, Nutrition, and Forestry.

EC-268. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report on the UHF Follow-on Satellite program's breach of the Unit Cost threshold requiring Congressional notification; to the Committee on Armed Services.

EC-269. A communication from the President of the United States, transmitting, pursuant to law, notification that the Libyan emergency is to continue in effect beyond January 7, 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-270. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report of the Corporation for fiscal year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-271. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the sixth annual report on the Neighborhood Development Demonstration Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-272. A communication from the Secretary of Transportation, transmitting, pursuant to law, notification of the actions taken with regard to Jorge Chavez International Airport, Lima, Peru; to the Committee on Commerce, Science, and Transportation.

EC-273. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "An Examination of the Feasibility of Regulating Excavators"; to the Committee on Commerce, Science, and Transportation.

EC-274. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a copy of the National Transportation Safety Board's letter to the OMB appealing the FY 1992 allowance of \$33.762 million for the Safety Board; to the Committee on Commerce, Science, and Transportation.

EC-275. A communication from the Secretary of Energy, transmitting, pursuant to law, the quarterly report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-276. A communication from the Administrator of Energy Information Administration of the Department of Energy, transmitting, pursuant to law, a quarterly report and an annual summary on U.S. coal imports; to the Committee on Energy and Natural Resources.

EC-277. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-278. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-279. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-280. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues;

to the Committee on Energy and Natural Resources.

EC-281. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the guidance document "Managing Asbestos in Place"; to the Committee on Environment and Public Works.

EC-282. A communication from the Assistant Secretary of Legislative Affairs to the U.S. Department of State, transmitting, pursuant to law, the twenty-first 90 day report to Congress on the investigation into the death of Enrique Camarena, and the safety of other U.S. citizens; to the Committee on Foreign Relations.

EC-283. A communication from the Assistant Legal Adviser for Treaty Affairs of the U.S. Department of State, transmitting, pursuant to law, international agreements entered into by the United States; to the Committee on Foreign Relations.

EC-284. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, a report entitled "Statistical Programs of the United States Government, Fiscal Year 1991"; to the Committee on Governmental Affairs.

EC-285. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the recently implemented management control program for the Department; to the Committee on Governmental Affairs.

EC-286. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the report of 1990 under the Federal Managers' Financial Integrity Act of 1982; to the Committee on Governmental Affairs.

EC-287. A communication from the Chairman of the United States Regulatory Commission, transmitting, pursuant to law, an evaluation of its management controls over program and administrative areas in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-288. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, an evaluation of the system of internal accounting and administrative control of the Consumer Product Safety Commission; to the Committee on Governmental Affairs.

EC-289. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-290. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-291. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-292. A communication from the Executive Director of the Japan-United States Friendship Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-293. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a re-

port on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-294. A communication from the Director of Selective Service, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-295. A communication from the Acting Secretary of Labor, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-296. A communication from the President of the United States, transmitting, pursuant to law, a report on the apportionment population for each State as of April 1, 1990; to the Committee on Governmental Affairs.

EC-297. A communication from the Chairman of the National Mediation Board, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-298. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the Civil Service Retirement and Disability Fund Annual Report for fiscal year 1988; to the Committee on Governmental Affairs.

EC-299. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-300. A communication from the Acting Secretary of the Department of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-301. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-302. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-303. A communication from the Director of Human Resources, U.S. Army Community and Family Support Center, transmitting, pursuant to law, the annual report on the U.S. Army Nonappropriated Fund Employee Retirement Plan for the year ended September 30, 1989; to the Committee on Governmental Affairs.

EC-304. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-305. A communication from the Archivist of the United States, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-306. A communication from the Chairman of the Federal Labor Relations Author-

ity, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-307. A communication from the Director of the Federal Domestic Volunteer Agency, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-308. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during November 1990; to the Committee on Governmental Affairs.

EC-309. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-310. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-311. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-312. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-313. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-314. A communication from the Acting Secretary of Education, transmitting, pursuant to law, a report concerning surplus Federal real property disposed of to educational institutions; to the Committee on Governmental Affairs.

EC-315. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period ended September 30, 1990; to the Committee on Governmental Affairs.

EC-316. A communication from the United States Commissioner of the Delaware Basin Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-317. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-318. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, a report on the system of internal accounting and administrative con-

trols in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-319. A communication from the Acting Secretary of State, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-320. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-321. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-322. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-323. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-324. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-325. A communication from the Secretary of Education, transmitting, pursuant to law, a follow-up report on the report of the Intergovernmental Advisory Council on Education submitted in August 1988; to the Committee on Labor and Human Resources.

EC-326. A communication from the Chairperson of the Advisory Panel on Alzheimer's Disease, transmitting, pursuant to law, the second report of the Advisory Panel; to the Committee on Labor and Human Resources.

EC-327. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to December 20, 1990; to the Committee on Foreign Relations.

EC-328. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on the President's first special impoundment message for fiscal year 1991; pursuant to the order of January 30, 1975, as modified on April 4, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Foreign Relations.

EC-329. A communication from the Deputy Assistant Secretary of Defense (Procurement), transmitting, pursuant to law, notice of a delay in the submission of a report; to the Committee on Armed Services.

EC-330. A communication from the Vice President of the First State Bank, transmitting, pursuant to law, a request for extension of certain deadlines under the Financial Institutions Reform, Recovery, and Enforcement Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-331. A communication from the Deputy Secretary of Housing and Urban Develop-

ment, transmitting, pursuant to law, a report on the Department's denial of FNMA's request for approval of a program; to the Committee on Banking, Housing, and Urban Affairs.

EC-332. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on discount points and interest rates as related to the loan size for FHA-insured mortgages; to the Committee on Banking, Housing, and Urban Affairs.

EC-333. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on commercial motor vehicle hours-of-service regulations; to the Committee on Commerce, Science, and Transportation.

EC-334. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-335. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-336. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-337. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-338. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-339. A communication from the Secretary of Energy, transmitting, pursuant to law, the first annual report on the programs, projects, and joint ventures supported under the Renewable Energy and Energy Efficiency Technology Competitiveness Act; to the Committee on Energy and Natural Resources.

EC-340. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Petroleum Prices and Profits in the 90 Days Following the Invasion of Kuwait"; to the Committee on Energy and Natural Resources.

EC-341. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the United States Government Annual Report for the fiscal year ended September 30, 1990; to the Committee on Finance.

EC-342. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a study of the feasibility of establishing separate Medicare volume performance standard rates of increase for physician services differentiated by geographic area, specialty or group of specialties, and types of service; to the Committee on Finance.

EC-343. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Financing Defense Exports (November 1990)"; to the Committee on Foreign Relations.

EC-344. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential determination relating to decisionmaking procedures on budgetary matters in the International Civil Aviation Organization, the International Labor Organization, the World Health Organization, the United Nations Industrial Development Organization, and the World Meteorological Organization; to the Committee on Foreign Relations.

EC-345. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-239 adopted by the Council on July 10, 1990; to the Committee on Governmental Affairs.

EC-346. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-253 adopted by the Council on October 9, 1990; to the Committee on Governmental Affairs.

EC-347. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-254 adopted by the Council on September 25, 1990; to the Committee on Governmental Affairs.

EC-348. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-255 adopted by the Council on October 9, 1990; to the Committee on Governmental Affairs.

EC-349. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-256 adopted by the Council on October 9, 1990; to the Committee on Governmental Affairs.

EC-350. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-257 adopted by the Council on September 25, 1990; to the Committee on Governmental Affairs.

EC-351. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-258 adopted by the Council on September 25, 1990; to the Committee on Governmental Affairs.

EC-352. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-259 adopted by the Council on September 25, 1990; to the Committee on Governmental Affairs.

EC-353. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-354. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-355. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-356. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on the disposal of surplus Federal real property for historic monument, correctional facility and airport purposes; to the Committee on Governmental Affairs.

EC-357. A communication from the Executive Director of the United States Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-358. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-359. A communication from the Executive Director of the National Council on Disability, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-360. A communication from the Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-361. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-362. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect at the Department of Justice during fiscal year 1990; to the Committee on Governmental Affairs.

EC-363. A communication from the Clerk of the United States Claims Court, transmitting, pursuant to law, the annual report of the Court for fiscal year 1990; to the Committee on the Judiciary.

EC-364. A communication from the Chief Judge of the United States Claims Court, transmitting, pursuant to law, a report of the hearing officer and the report of the Review Panel on the bill S. 966; to the Committee on the Judiciary.

EC-365. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of the Nation's efforts to address the service needs of people with developmental disabilities; to the Committee on Labor and Human Resources.

EC-366. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to waive the requirements of Section 210(b)(2) of title 38, United States Code, for a planned administrative reorganization involving the organizational realignment of management responsibility for the Department of Veterans Affairs Data Processing Centers, and the corresponding realignment of associated Central Office components and functions; to the Committee on Veterans' Affairs.

EC-367. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, notice of the trans-

fer of certain funds for the modernization and expansion of automated data processing systems; to the Committee on Appropriations.

EC-368. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential Determination regarding U.S. contributions to multilateral banks and other international organizations and programs.

EC-369. A communication from the Secretary of State, transmitting, pursuant to law, a report on progress on resolution of expropriation claims for El Salvador; to the Committee on Appropriations.

EC-370. A communication from the Deputy Director of the Federal Emergency Management Agency, transmitting a draft of proposed legislation to extend and amend the Defense Production Act of 1950; to the Committee Banking, Housing, and Urban Affairs.

EC-371. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report providing 1988 and 1989 information on smokeless tobacco sales and advertising, updating the Commission's previous report on smokeless tobacco transmitted in 1989; to the Committee on Commerce, Science, and Transportation.

EC-372. A communication from the Assistant Vice President of the National Railroad Passenger Corporation (Government and Public Affairs), transmitting, pursuant to law, an evaluation of the revenue and cost implications of splitting an existing route into two routes; to the Committee on Commerce, Science, and Transportation.

EC-373. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-374. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-375. A communication from the President of the United States, transmitting, pursuant to law, a report on the status of U.S. efforts on Egyptian debt; to the Committee on Foreign Relations.

EC-376. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, certain certifications under the International Security Cooperation and Development Act; to the Committee on Foreign Relations.

EC-377. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a request of the Government of Egypt that the United States permit the use of Foreign Military Financing for the sale and limited coproduction of 120mm tank ammunition; to the Committee on Foreign Relations.

EC-378. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-228 adopted by the Council on June 26, 1990; to the Committee on Governmental Affairs.

EC-379. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-261 adopted by the Council on October 9, 1990; to the Committee on Governmental Affairs.

EC-380. A communication from the Chairman of the Council of the District of Colum-

bia, transmitting, pursuant to law, copies of D.C. Act 8-262 adopted by the Council on October 23, 1990; to the Committee on Governmental Affairs.

EC-381. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-263 adopted by the Council on October 23, 1990; to the Committee on Governmental Affairs.

EC-382. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-266 adopted by the Council on November 13, 1990; to the Committee on Governmental Affairs.

EC-383. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-268 adopted by the Council on November 13, 1990; to the Committee on Governmental Affairs.

EC-384. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-277 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-385. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-278 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-386. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-279 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-387. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-280 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-388. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-281 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-389. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-282 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-390. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-283 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-391. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-284 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-392. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-289 adopted by the Council on December 11, 1990; to the Committee on Governmental Affairs.

EC-393. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-291 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-394. A communication from the Chairman of the Council of the District of Colum-

bia, transmitting, pursuant to law, copies of D.C. Act 8-292 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-395. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-293 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-396. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-294 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-397. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-295 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-398. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-296 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-399. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-297 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-400. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-298 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-401. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-299 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC-402. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, the annual audit report of the Commission for fiscal year 1990; to the Committee on Governmental Affairs.

EC-403. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-404. A communication from the Director of the United States Trade and Development Program, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-405. A communication from the Commissioner of the Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, the plan update for the Office of Navajo and Hopi Indian Relocation Program; to the Select Committee on Indian Affairs.

EC-406. A communication from the Acting Secretary of Education, transmitting, pursuant to law, final regulations—Education Department General Administrative Regulations; to the Committee on Labor and Human Resources.

EC-407. A communication from the President of the United States, transmitting, pursuant to law, a report on diplomatic and other peaceful means used in an attempt to obtain compliance by Iraq with U.N. Security Council Resolutions; to the Committee on Foreign Relations.

EC-408. A communication from the President of the United States, transmitting, pursuant to law, notice of his decision to commence military operations against Iraqi forces and military targets in Iraq and Kuwait; to the Committee on Foreign Relations.

#### 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. ADAMS (for himself, Mr. KENNEDY, Mr. COCHRAN, Mr. PELL, Mr. DODD, Mr. SIMON, Mr. METZENBAUM, Mr. HARKIN, Ms. MIKULSKI, and Mr. BINGAMAN):

S. 243. A bill to revise and extend the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON (for himself, Mr. WALLOP, and Mr. SIMON):

S. 244. A bill to provide for a referendum on the political status of Puerto Rico; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 245. A bill to establish a constitutional procedure for the imposition of the death penalty for terrorist murders; to the Committee on the Judiciary.

By Mr. LOTT (for himself, Mr. COCHRAN, Mr. BURNS, Mr. HOLLINGS, Mr. HELMS, Mr. SANFORD, Mr. MCCONNELL, Mr. COHEN, Mr. STEVENS, and Mr. GORTON):

S. 246. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or reserve units of the Armed Forces will be allowable in computing adjusted gross income; to the Committee on Finance.

By Mr. DIXON (for himself, Mr. LEVIN, and Mr. RIEGLE):

S. 247. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EXON (for himself and Mr. KERREY):

S. 248. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Niobrara River in Nebraska and a segment of the Missouri River in Nebraska and South Dakota as components of the wild and scenic rivers system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 249. A bill for the relief of Trevor Henderson; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. HATFIELD):

S. 250. A bill to establish national voter registration procedures for Federal elections, and for other purposes; to the Committee on Rules and Administration.

By Mr. BENTSEN:

S. 251. An original bill to extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield operation; from the Committee on Finance; placed on the calendar.

By Mr. WARNER:

S. 252. A bill to amend the Internal Revenue Code of 1986 to allow individuals to transfer separation pay from the Armed

Forces into eligible retirement plans; to the Committee on Finance.

By Mr. MCCONNELL (for himself and Mr. HEINZ):

S. 253. A bill to provide for the establishment of appropriate legal forums for the enforcement of the Geneva Conventions; to the Committee on Foreign Relations.

By Mr. MCCONNELL:

S. 254. A bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor; to the Committee on Finance.

By Mr. BINGAMAN:

S. 255. A bill to require Congress to purchase recycled paper and paper products to the greatest extent practicable; to the Committee on Rules and Administration.

By Mr. DASCHLE:

S. 256. A bill to clarify eligibility under chapter 106 of title 10, United States Code, for educational assistance for members of the Selected Reserve; to the Committee on Armed Services.

By Mr. METZENBAUM (for himself, Mrs. KASSEBAUM, Mr. CHAFEE, Mr. KENNEDY, Mr. SIMON, Mr. PELL, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. KERRY, Mr. AKAKA, and Mr. LEVIN):

S. 257. A bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S. 258. A bill to correct an error in the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990; to the Committee on Energy and Natural Resources.

By Mr. GARN (for himself and Mr. WALLOP) (by request):

S. 259. A bill to amend the Defense Production Act of 1950; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MITCHELL:

S.J. Res. 44. Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on the Budget.

By Mr. REID (for himself and Mr. KERREY):

S.J. Res. 45. Joint resolution to require display of the POW/MIA flag at Federal buildings; to the Committee on Governmental Affairs.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SYMMS (for himself, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. THURMOND, Mr. SMITH, Mr. CRAIG, Mr. NICKLES, Mr. GARN, Mr. BURNS, Mr. GRAMM, Mr. SEYMOUR, Mr. LOTT, Mr. WALLOP, Mr. KASTEN, Mr. DOLE, and Mr. COCHRAN):

S. Res. 17. Resolution to express the sense of the Senate in support of "Operation Homefront"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. METZENBAUM, Mr. MACK, Mr. JOHNSTON, Mr. NICKLES, Mr. GRAHAM, Mr. DASCHLE, Mr. COATS, Mr. PELL, Mr. GORTON, Mr. DURENBERGER, Mr. LAUTENBERG, Mr. GRAMM, Mr. BURNS, Mr. SIMON, Mr.

CONRAD, Mr. LEVIN, Mr. KERRY, Mr. BOREN, Mr. DECONCINI, Ms. MIKULSKI, Mr. WIRTH, Mr. BREAUX, Mr. EXON, Mr. FORD, Mr. WARNER, Mr. DIXON, Mr. GRASSLEY, Mr. MCCAIN, Mr. RIEGLE, Mr. COHEN, Mr. SMITH, Mr. MURKOWSKI, Mr. MCCONNELL, Mr. SPECTER, Mr. D'AMATO, and Mr. STEVENS):

S. Con. Res. 4. Concurrent resolution condemning Iraq's unprovoked attack on Israel; ordered held at the desk.

By Mr. MITCHELL (for himself, Mr. DOLE, Ms. MIKULSKI, Mr. DECONCINI, Mr. BREAUX, Mr. LEVIN, Mr. PELL, Mr. GRAHAM, Mr. BENTSEN, Mr. FORD, Mr. WARNER, Mr. BURNS, Mr. MOYNIHAN, Mr. EXON, Mr. MCCAIN, Mr. COATS, Mr. RIEGLE, Mr. COHEN, Mr. NUNN, Mr. SMITH, Mr. MURKOWSKI, Mr. GRAMM, Mr. MACK, Mr. SPECTER, and Mr. STEVENS):

S. Con. Res. 5. Concurrent resolution demanding that the Government of Iraq abide by the Geneva Convention regarding the treatment of prisoners of war; ordered held at the desk.

By Mr. DOLE (for himself, Mr. MITCHELL, Mr. BYRD, Mr. PELL, Mr. WARNER, Mr. LEVIN, Mr. MCCAIN, Mr. HEINZ, Mr. MOYNIHAN, Mr. GRAHAM, Mr. SMITH, Mr. MURKOWSKI, Mr. GRAMM, Mr. SPECTER, Mr. STEVENS, and Mr. MACK):

S. Con. Res. 6. Concurrent resolution to express the sense of the Congress that the President should review economic benefits provided to the Soviet Union in light of the crisis in the Baltic States; ordered held at the desk.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ADAMS (for himself, Mr. KENNEDY, Mr. COCHRAN, Mr. PELL, Mr. DODD, Mr. SIMON, Mr. METZENBAUM, Mr. HARKIN, Ms. MIKULSKI, and Mr. BINGAMAN):

S. 243. A bill to revise and extend the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

#### OLDER AMERICANS ACT REAUTHORIZATION AMENDMENTS

• Mr. ADAMS. Mr. President, I rise today to introduce legislation to reauthorize the Older Americans Act, with the cosponsorship of my esteemed colleagues from the Committee on Labor and Human Resources, Senators KENNEDY, COCHRAN, PELL, DODD, SIMON, METZENBAUM, HARKIN, MIKULSKI, and BINGAMAN.

The Older Americans Act [OAA], enacted in 1965, has just completed its first 25 years of history. Established by Congress as part of President Johnson's "Great Society," this landmark legislation was established at the same time as several other major programs designed to meet the needs of the elderly and other vulnerable members of our society. Of particular note, of course, was the enactment of Medicare and Medicaid, which addressed their health care needs. By enacting the Older Americans Act, Congress—and I was there—attempted to meet the many other pressing social services

needs of the elderly, in addition to health care.

The world today is a very different place for our elderly population than it was in 1965. A quarter century ago, looking toward the future, we projected the so-called graying of America, a phenomenon which we know is now fully underway, particularly among the very old—those aged 85 and over. We did not, however, anticipate the full extent or impact of today's demographics. What was viewed as tomorrow's reality is truly today's reality. As we know, the numbers of older people and their corresponding needs have become a major part of today's overriding public policy concerns.

We have made major strides in improving the lives of great numbers of older Americans. For example, since 1965, the incidence of poverty among the elderly has been reduced dramatically. While the incidence of poverty has dropped, far too many individuals still live in poverty or hover just above the poverty levels. This is particularly true for women. We have also seen great successes in improving health care for the elderly. Yet, it is clear that new problems have emerged over the past quarter century. In 1965, we could not have imagined the extent of the terrible tragedy we know as Alzheimer's disease. Astonishingly, today's elderly pay, out-of-pocket, a greater percentage of their income for health care than they did before Medicare was established.

Mr. President, the Older Americans Act, with its modest beginning in 1965, has proven to be durable, popular, and flexible. Through a number of reauthorizations it has responded to the changing needs of our older citizens. The act has been particularly important in tackling those needs not met through other programs.

In 1972, Congress established the National Nutrition Program for the Elderly to provide nutritious meals and supportive services to needy older persons in congregate settings. This program has evolved into a major part of the OAA, and now includes a significant component providing home-delivered meals to the frail elderly. The addition and growth of the home-delivered meals effort is more than a response to the greater numbers of elderly who are frail and in need of long-term care services. It also responds to one of the act's goals—to provide needed services to people in their homes rather than in institutions. It is also partially a response to more recent developments such as Medicare's prospective payment system which has led to shorter stays in hospitals by older patients and thus more time recuperating at home.

Congress has used the OAA to address low-income older individuals' problems in obtaining meaningful employment opportunities. In 1973 we took a suc-

cessful demonstration program created under the Office of Economic Opportunity and established the Older Worker Program in the act. This highly successful program is now the Senior Community Service Employment Program under title V of the OAA.

In recognition of the terrible problems that many of our elderly face in nursing homes, we added a new program to the OAA in 1978 to investigate and resolve the complaints of nursing home residents. The long-term care ombudsman program has proven itself over and over again, despite its meager resources. Many advocates for the elderly are now urging us to broaden the ombudsman program to respond to problems in other arenas beside institutional long-term care.

Mr. President, in 1978, Congress created title VI to address the great needs of older Indians residing on our Nation's Indian reservations, where an estimated 60 percent live at or below the poverty level.

In 1987, the most recent amendments, Congress again responded to the changing needs of an aging America by making extensive and important improvements in the act. While the debate over establishing a national long-term care policy continued to gain steam, we added a new program to provide in-home services for frail older persons. And, in response to mounting evidence of the increased incidence of elder abuse, Congress created a program for the prevention of abuse, neglect, and exploitation of older individuals. We also strengthened the long-term care ombudsman program. Title IV, which provides very modest but much-needed support for training, research and demonstration projects in the aging field, was amended to reflect the changing needs of our aging society. And, as another example, we amended title VI to reflect the specific needs of older Hawaiians.

Of most significance throughout the 25 years of the act, however, has been the development of what we call the aging network—that system of 57 State and 670 area agencies on aging, and some 25,000 local service providers. In communities across our Nation, dedicated and knowledgeable individuals respond daily to the multitude of diverse needs of their elderly neighbors.

Mr. President, as chairman of the Subcommittee on Aging, I am eager to begin the serious business of the 1991 reauthorization of the act, which starts today with the introduction of the Older Americans Act Reauthorization Amendments of 1991. Next week, on January 31, I will conduct my first subcommittee hearing pertaining to the act's reauthorization. This hearing will examine the role and impact of the Older Americans Act and the aging network in ensuring that the rights of the vulnerable elderly are secured and

protected. This will be the first of a series of hearings I will hold on the act.

The bill we are introducing today will reauthorize the current Older Americans Act through 1995 without substantive amendments. I have not included any changes in the act at this time because it is important that we take the time to listen carefully to those who understand the OAA and the needs of the elderly, both now and in the future. From the base we are offering today, we will work over the next several months to craft a thoughtful and realistic set of amendments in response to today's and tomorrow's older citizens. These amendments will reflect the testimony that is presented at our hearings, as well as other related hearings and the ideas presented by our colleagues in Congress.

As we enter the 1991 reauthorization, there are a number of important issues to be addressed, several of which continue from debate in prior reauthorizations. In 1987, my predecessor and dear friend, the late Senator Spark Matasanaga, expressed his concern, when he introduced his OAA reauthorized bill, over "apparent decreases in service to minority elderly individuals" and the "problems of racial and ethnic minority access." In 1991, these concerns are even more pressing.

There is also substantial debate over whether or not the act should move from its traditional approach of voluntary contributions by participants of OAA services, to one in which fees for certain services would become mandatory for those whose income exceeds a certain threshold. As in 1987, there are serious concerns about the ability of the U.S. Commissioner on Aging to be an effective advocate for the Nation's elderly. There seems to be substantial agreement that greater emphasis must be placed upon the long-term care Ombudsman Program. And, there is increased interest in the role of the aging network in improving long-term care services for older citizens.

Mr. President, I have several additional areas of concern that will influence my thinking about this reauthorization. These include seeking other ways, in addition to long-term care ombudsman and legal assistance services, to secure and protect the rights and entitlements of our elders, and to ensure the objective embodied in title I of the act that speaks to "Freedom, independence, and the free exercise of—older persons'—individual initiative in planning and managing their own lives" is more than noble rhetoric.

In addition, I believe it is imperative to examine the act's responsiveness to the needs of older women. Women make up almost 60 percent of those 60 years and older and, more significantly, almost three-quarters of those aged 85 and over. Long-term care, as a result, is to a great extent a women's issue. They are the Nation's caregivers,

providing the vast majority of long-term care. We must look at how the act addresses the needs of these dedicated caregivers.

I also want to consider ways to improve the interaction between generations. With so many serious problems facing many of our younger citizens, I am convinced that our elders constitute an extraordinary armada of time, energy, and talent that can be focused on some difficult societal problems. Conversely, younger Americans have so much to give their elders. I also hope that we can do more to tackle the substantial transportation needs of the elderly, particularly in rural America. Ready access to needed services obviously includes the ability to get there, an ability that we simply must improve. And, it is important that the act ensures that seniors have ready access to accurate and timely information that is responsive to their needs. This includes information aimed at promoting good health and preventing debilitating diseases and other health conditions.

Of course, while there is much to be done, we must do it within our present budgetary context, particularly in light of last year's budget agreement. And, as daunting as our economic woes are, the constraints on our ability to do more for those in need is exacerbated by the fact that we are now at war; 1991 will be a tough year to reauthorize important social legislation—that is a harsh reality within which we must operate. The bill we have introduced today does not specify authorization levels. This is, of course, something that will be done during the reauthorization process. We will move to strike a reasonable balance between the great need for adequate funding levels and the realities of our current economics.

I must say, however, that I am excited by the interest expressed already by some of our colleagues about the OAA reauthorization. Several Senators have already raised important issues that they would like to see incorporated into the 1991 reauthorization. In fact, several very specific recommendations for amendments will be advanced shortly. Senator COCHRAN, the ranking member of the Subcommittee on Aging, and I, together with our colleagues on the subcommittee, will listen carefully to all of these ideas, and work hard to be as responsive as we can in crafting a solid and realistic reauthorization bill for the Senate to consider.

While there is much to be done to strengthen and improve the Older Americans Act, Mr. President, I wish to close by saying that we have a marvelous base upon which to build. We have a 25-year legacy of commitment and success in serving the pressing needs of older Americans. This small program, with a total current appro-

priation of only about \$1.3 billion, has proven that its impact is so much greater than its resources—make that its funding—because its real resource is the thousands of dedicated individuals who make up the aging network.●

By Mr. JOHNSTON (for himself, Mr. WALLOP, and Mr. SIMON):

S. 244. A bill to provide for a referendum on the political status of Puerto Rico; to the Committee on Energy and Natural Resources.

REFERENDUM ON POLITICAL STATUS OF PUERTO RICO

Mr. JOHNSTON. Mr. President, the distinguished Senator from Wyoming [Mr. WALLOP] and I are introducing legislation to provide the people of Puerto Rico with an opportunity to exercise self-determination regarding their future political relationship with the United States. This legislation proposes to define the three political status options available to Puerto Rico—commonwealth, statehood, and independence—as fully as possible. However, the choice of the people would not be self-implementing. While I believe that the enactment of this bill would create a moral obligation to implement the status option chosen by the people, the action of a future Congress would be required.

This legislation remains consistent with the guiding principles established last year for its development. First, that there be an even playing field between the three options in terms of economic benefits. This principle is important to assure that the referendum results are not distorted by an expectation of greater Federal payments under one or another of the options. Second, each of the status options is revenue neutral with respect to the Federal Treasury. This principle is dictated by the Federal Government's extremely tight budget situation. Accordingly, for every increase in Federal spending under each of these three status options, there is an offsetting revenue increase, so that the net cost to the Treasury is zero.

Mr. President, this legislation was initiated almost exactly 2 years ago, on January 17, 1989, when the Presidents of the three principal political parties of Puerto Rico wrote to the President and the Congress of the United States stating: “\* \* \* the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status.” Several weeks later, in his first address to a joint session of the Congress, on February 9, 1989, President Bush endorsed this proposal, stating: “I’ve long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.”

These events were historic. In the 91 years since Puerto Rico came under the sovereignty of the United States as a consequence of the Spanish-American War, the political leaders of Puerto Rico had never joined together in a petition to the Federal Government. Perhaps more significantly, never in those 91 years has Congress provided for a meaningful exercise in self-determination for the people of Puerto Rico.

An exercise in self-determination, to be meaningful, requires two elements. First, an understanding on the part of the Puerto Rican people of what they are choosing, and second, a good faith commitment on the part of Congress to implement that which they choose. Anything less is not self-determination, it is self-delusion.

If the three status options available—commonwealth, statehood and independence—were well understood or self-defining, then it would be different. But they are not.

What does the word “independence” say about citizenship; about Social Security; about military bases? What does the word “statehood” tell you about section 936; about the Spanish language; about Federal programs? And what does the word “commonwealth” tell you about sovereignty; about the permanence of the relationship; about citizenship?

These are not extraneous details. These are the core issues which dictate the choice. A vote by the people of Puerto Rico without an understanding of the meaning and consequences of their choice would be worse than meaningless. It could be mischievous, as unfulfilled expectations are treated with a lack of commitment by the Congress.

The approach taken by this legislation differs fundamentally from that taken last year by the House of Representatives. The House bill contained only the one word description of each of the three status options. Proponents of the House approach point to the difficulty of securing agreement by the Congress on the meaning of the status options, particularly the statehood status—and of securing any commitment whatsoever by the Congress to deliver on that choice.

Mr. President, I am acutely mindful of the difficulties involved in this approach. But I believe that it is time for the Congress to face up to this momentous task. For the better part of this century the politics of Puerto Rico has been molded and shaped by the status question. With each passing year the intensity of their interest grows. Increasingly, their patience is wearing thin. It is time to legitimize the status of Puerto Rico. It is time for Congress to decide.

There is only one way to find out what the Congress will do, and that is to present meaningful legislation, such as we now propose, and get the answer.

No one can know what the answer of Congress will be until these questions are presented.

It is possible that the Congress will give answers that are disappointing to some, but that is no reason to avoid these questions. Deception of ourselves and of the people of Puerto Rico does not serve our interests, nor those of Puerto Rico. It is time to legitimize the status process by having Congress present the status alternatives in terms acceptable to the Congress, and then letting the people of Puerto Rico choose with confidence that their choice will be implemented.

I introduced legislation, S. 712, in the last Congress to achieve self-determination for Puerto Rico, and tremendous progress was made on that bill. It was reported by the Committee on Energy and Natural Resources (S. Rept. 101-120), the Committee on Finance (S. Rept. 101-480), and contained the more informal recommendations of other Senators and committees. S. 712 offered full and detailed definitions of each of the three status options. These options were sufficiently detailed in the legislation to provide that the status selected by the people of Puerto Rico would be automatically implemented without further action by Congress. Unfortunately, the 101st Congress adjourned before the Senate could complete action on the bill and meet in a conference with the House.

Mr. President, it is my intention to seek Senate passage of the bill we are introducing today by April, and to have a referendum bill enacted by the July 4 recess. This accelerated schedule is necessary so that the vote can be held in 1991 and not interfere with the 1992 Puerto Rico general election campaign. This new legislation is based upon last year's Energy Committee reported bill, but with two major changes.

First, this new legislation contains all of the recommendations made by the Committee on Finance regarding tax, trade and social programs. I believe that the recommendations of the Committee on Finance have been masterfully crafted to meet the guiding principles of an even playing field between the status options in terms of economic benefits, and revenue neutrality with respect to the U.S. Treasury. Not only has the bill remained consistent with these principles, in some cases it has exceeded these goals. For example, in the case of both statehood and independence, CBO and Joint Tax Committee data demonstrate budget neutrality for the first 5 years of the new status. However, the Federal Treasury may actually begin to show net revenue gains after this initial period. Outyear estimates, based upon extrapolation of CBO and Joint Tax Committee assumptions and data, show net annual revenues to the Treasury by the sixth year of 2.6 to 3.3 bil-

lion under independence, and 0.7m to 1.8 billion to the Treasury under statehood.

Second, this new legislation is not self-implementing, as was last year's bill. The winning status would not automatically go into effect. The bill we are introducing today provides that the implementing language for the status that receives a majority—set forth for each status as either title II, III, or IV of the bill—will be introduced into Congress following the referendum. The legislation states that Congress would be committed to implement the status selected by the people of Puerto Rico. While this commitment would not bind a future Congress, it would have substantial moral force. Following enactment of the implementing legislation, the people of Puerto Rico would then have the opportunity, in a second vote, to ratify the implementing legislation before it would take effect.

Other less significant changes have also been made. In title I, these changes deal with the mechanics of the referendum process, including the timing of the vote, court review and voter information. In title III, changes include clarification of the immigration and defense provisions. Changes in title IV include the clarification of the principles of commonwealth.

One important change which is not included in this bill as introduced, but to which I am sympathetic, concerns the timing of statehood—if that status is selected by the people of Puerto Rico, and accepted by Congress. In 1989, the Committee on Energy and Natural Resources recommended that Puerto Rico be admitted to the Union at the beginning of a 5-year economic transition period. However, this approach raises constitutional issues regarding uniformity and equal protection. Alternatively, the Finance Committee recommended that statehood should follow the 5-year economic transition period. I believe that the statehood power of Congress does permit an economic transition period after the proclamation of statehood. Nevertheless, these are controversies that can only be finally resolved in the courts. Accordingly, I am developing an amendment to provide for such court review, and I expect that this issue will be fully considered by the committee in the coming weeks.

Mr. President, I am committed to the enactment of this legislation and to self-determination for the people of Puerto Rico. At a time when people throughout the world struggle to exercise self-determination, it is with the most solemn sense of responsibility that we here in the U.S. Senate, within a government and a nation founded on the principles of self-determination and government by consent, must respond to the petition of over 3½ million U.S. citizens. This responsibility is

made even more profound when we recognize that the people of Puerto Rico are not even represented here in the Senate.

Mr. President, I urge my colleagues to review this bill and to support legislation that will guarantee a meaningful process of self-determination for the people of Puerto Rico. It is my intention to hold hearings on this measure on January 30 and February 7, and to report a bill from the Committee on Energy and Natural Resources shortly after the February recess. I am optimistic that the Congress can enact legislation by the July 4 target date and provide the people of Puerto Rico with an opportunity to vote on status in 1991.

Mr. President, it is time to legitimize the status of Puerto Rico. In a very real sense, this legislation challenges the core values of our American democracy. We have preached democracy and self-determination all over this world. We have invoked sanctions against nations that deny these principles and we have fought wars to uphold them. It is now time to practice what we preach; in our own back yard, for 3½ million U.S. citizens who reside in Puerto Rico.

Mr. President, I send to the desk the bill just referred and ask unanimous consent that it be printed in the RECORD.

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

S. 244

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

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

SEC. 2. This Act may be cited as the "Puerto Rico Status Referendum Act".

#### TITLE I

##### SEC. 101. REFERENDUM.

(a) IN GENERAL.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico. The options shall appear on the ballot as follows:

(1) Statehood as set forth in title II of the Puerto Rico Status Referendum Act;

(2) Independence as set forth in title III of the Puerto Rico Status Referendum Act; and

(3) Commonwealth as set forth in title IV of the Puerto Rico Status Referendum Act.

(b) DATE OF REFERENDUM.—The referendum shall occur on December 2, 1991, or on a date during the autumn of calendar year 1991 as may be mutually agreed by the three principal political parties of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, within thirty days, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "Neither of the Above". The Governor shall certify the

results of the referendum to the President and to the Congress of the United States.

(c) **APPLICABLE LAW.**—(1) The referendum shall be conducted pursuant to the laws of the Commonwealth of Puerto Rico, except that eligibility to vote in the referendum shall be in accordance with the election laws of Puerto Rico as of August 1, 1990.

(2) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

(d) **JUDICIAL REVIEW.**—Any legal dispute or controversy arising out of this referendum shall be adjudicated in accordance with local laws and procedures, except that:

(1)(A) Any aggrieved person including, without limitation, and political party, within sixty days after the certification by the Governor of the results of the referendum pursuant to title I, section 101(c), may institute an action to challenge the choice certified by the Governor on the basis that (1) an electoral irregularity or irregularities had occurred, and (2) that the irregularity or irregularities were so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor.

(B) The three-judge court provided for in paragraph (2) shall have exclusive jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved shall have exhausted any administrative or other remedies provided by Federal law or the law of Puerto Rico.

(C) In any proceeding instituted pursuant to this paragraph of this subsection, if the court finds that there has been an electoral irregularity or irregularities so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor, the court is empowered to grant appropriate relief, including nullification of the entire referendum, ordering a recount or recounts, or any other relief deemed appropriate to preserve the integrity of the electoral process.

(D) The Attorney General of the United States is empowered to intervene at the request of the court in any proceeding brought under this section in order to assist in the gathering and presentation of evidence. Any aggrieved person with a Federal constitutional or Federal statutory claim arising out of the same factual nexus as an action brought under this section may intervene in that action in a manner deemed timely by the court in its discretion. Failure of such an aggrieved person to timely intervene will result in foreclosure of that person's Federal constitutional or statutory claim.

(E) The court shall accord local law the benefit of local interpretation. The court is not required to provide de novo review of any and all claims of irregularities already determined by a local authority or tribunal, except as it deems necessary.

(2)(A) Any claims brought under the United States Constitution or a Federal statute, or any claim brought to challenge the result certified by the Governor, whether brought under this Act or under the law of the Commonwealth of Puerto Rico, shall be heard by a three-judge court in the District for the District of Columbia, which shall have exclusive jurisdiction over all such claims. This

court now exercises exclusive jurisdiction over certain Voting Rights Act claims under 42 U.S.C. 1973c.

(B) The court shall receive evidence and hear argument, as it deems necessary. The provisions of 28 U.S.C. 2284(b)(3) shall apply to proceedings of the three-judge court. It shall be the duty of the Chief Judge of the United States Court of Appeals for the District of Columbia to designate three judges, of whom at least one shall be a circuit judge and the remaining judge or judges shall be district court judges, to hear and determine any such claim. Hearings of the three-judge court shall be conducted in Puerto Rico. An appeal from a final judgment of the three-judge court will lie to the Supreme Court of the United States by way of certiorari.

(e) **IMPLEMENTATION LEGISLATION.**—(1) If the referendum results in a majority for one of the three status options, then to implement the status selected by the People of Puerto Rico, pursuant to this Act, the Chairman of the Senate Committee on Energy and Natural Resources and the Chairman of the House Committee on Interior and Insular Affairs shall introduce the appropriate title of this Act.

(2) Enactment of this section constitutes a commitment by Congress to implement the status receiving a majority.

(f) **RATIFICATION.**—Upon enactment, the implementation legislation shall take effect in accordance with its terms and upon approval by the people of Puerto Rico in a ratification vote.

(g) **INFORMATION.**—The Joint Committee on Printing shall provide a Referendum Information Booklet to each voter household in Puerto Rico at least thirty days before the referendum. The booklet shall contain the text of this Act, a translation of such text, and other appropriate information as set forth in the Statement of Managers regarding this Act. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

## TITLE II—STATEHOOD

### SEC. 201. PROCLAMATION.

(a) If, pursuant to section 101(f) of the Puerto Rico Status Referendum Act, statehood is ratified, then the President shall issue a proclamation announcing the results of the election as so ascertained.

(b) Upon the issuance of the proclamation under subsection (a), the Commonwealth of Puerto Rico (hereafter in this title also referred to as "the State") shall, effective on January 1 of the fifth calendar year following the calendar year in which the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs, be declared to be a State of the United States of America, and shall be declared admitted into the Union on an equal footing with the other States.

### SEC. 202. CONSTITUTION.

The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall conform to the Constitution of the United States and the principles of the Declaration of Independence. The Constitution adopted by a vote of the people of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the Eighty-second Congress, March 3, 1952. The current Constitution of the Commonwealth of Puerto Rico as ratified by the people at the referendum held

on June 4, 1951, is hereby accepted as the Constitution of the State.

### SEC. 203. TERRITORY AND BOUNDARIES.

The State shall consist of all of the territory, together with the waters included in the seaward boundary, of the Commonwealth of Puerto Rico.

### SEC. 204. STATE TITLE TO LANDS AND PROPERTY.

(a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds, including, but not limited to, title to submerged lands heretofore granted to Puerto Rico.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Commonwealth of Puerto Rico, shall remain the property of the United States.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the continued need for such land or property. If the President determines that any such land or property, or portion thereof, or any interest therein, is no longer needed by the Federal Government, it shall be conveyed to the Commonwealth of Puerto Rico at no cost. This section does not authorize the transfer of any interest in the Caribbean National Forest or the San Juan National Historic Site.

### (d) ALL LAWS OF THE UNITED STATES.—

(1) reserving to the United States the free use or enjoyment of property which vest in or is conveyed to the Commonwealth of Puerto Rico or its political subdivisions pursuant to this section; or

(2) reserving the right to alter, amend, or repeal laws relating to the ownership of such land; shall cease to be effective upon the conveyance of the land.

### SEC. 205. CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) The Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

### SEC. 206. ELECTIONS AND ADMISSION REFERENDUM.

(a)(1)(A) Not later than January 1 of the fourth calendar year following the calendar year in which the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs, the Governor of the Common-

wealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and for such number of United States Representatives in Congress as provided in this Act. Such proclamation shall provide that such elections shall occur on the first Tuesday in November of such fourth calendar year (or on another date during the autumn of such calendar year as may be provided by legislation enacted by the Commonwealth of Puerto Rico).

(B) The Governor of the Commonwealth of Puerto Rico shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled, upon the date of admission of the Commonwealth of Puerto Rico as a State of the Union, to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The Office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House of Representatives so elected.

(2) In the first election of Senators from the State, the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b)(1) Election returns shall be made and certified in such manner as provided by the electoral laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico.

(3) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico shall continue to discharge the duties of their respective offices, pending the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union. The officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall thereupon proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the State, as provided by the constitution and laws of the State.

#### SEC. 207. CONGRESSIONAL REPRESENTATION.

The Commonwealth of Puerto Rico upon its admission into the Union, and until the next reapportionment, shall be entitled to such additional Representatives as would be provided based upon the 1990 census. The permanent membership of the House of Representatives as now prescribed by law, is hereby increased from four hundred and thirty-five to four hundred and thirty-five plus the number of additional Representatives to which the Commonwealth of Puerto Rico is entitled.

#### SEC. 208. LAWS IN EFFECT.

(a) Upon admission of the Commonwealth of Puerto Rico into the Union, all of the local laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, except as modified or changed by this Act, and shall be subject to repeal or amendment by the legislature of the Commonwealth. All of the laws of the United States shall have the

same force and effect within the State as on the date immediately prior to the date of admission of the State of Puerto Rico, except as otherwise provided in section 213 or 214 or elsewhere in this Act, and except for any provisions of law which provide for grants or other assistance to States or other units of local government or individuals and for which the Commonwealth of Puerto Rico or residents thereof are either excluded or whose eligibility is less than that provided on a uniform basis to other States. Any regulatory or other provision of law, other than grants and other assistance, which does not apply to Puerto Rico solely on the basis of particular geography, especially if such provision does not also apply to either Alaska or Hawaii, shall continue to not apply unless specifically extended by Congress.

(b) Within sixty days of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the President shall appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Commonwealth of Puerto Rico should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of who will be residents of Puerto Rico who are and have been for at least five years domiciled continuously in Puerto Rico at the time of their appointments) who will be representative of the Federal, local, private and public interests in the applicability of laws of the United States to the Commonwealth of Puerto Rico. The Commission will make its final report by January 1, 1994, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Commonwealth of Puerto Rico, the policies embodied in the law and the provisions and purposes of this title. The United States will bear the cost of the work of the Commission. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

#### SEC. 209. CONTINUATION OF SUITS.

(a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission to the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or

been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

#### SEC. 210. APPEALS.

Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

#### SEC. 211. MILITARY LANDS.

(a) Subject to subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United

States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

#### SEC. 212. UNITED STATES NATIONALITY.

No provision of this title shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

#### SEC. 213. ECONOMIC ADJUSTMENT.

The following subsections and the provisions of section 214 are enacted pursuant to Congress' power to admit new States, in recognition of the unique Federal tax provisions and programs affecting the Commonwealth of Puerto Rico which differ from those which applied to any other newly admitted State, and solely for the purposes of effecting a smooth and fair transition for the new State with a minimum of economic dislocation and to permit Federal agencies to assume or expand responsibilities for the administration and enforcement of Federal taxes and programs affecting the citizens residing in the new State:

(a) APPLICATION OF FEDERAL LAWS.—Effective upon the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the heads of all Federal agencies are directed, as a priority matter, to examine the application of all programs within the jurisdiction of their respective agencies and, after consultation with the Governor of Puerto Rico, to recommend to the President, and to the Commission established under section 208(b), what changes, if any, and what additional administrative requirements, if any, will be needed to properly achieve the application of Federal laws in or to the new State with proper regard for the economic, and geographic circumstances of the new State.

(b) TRANSITION FOR CERTAIN ENTITLEMENTS.—(1) Except as otherwise provided in this subsection, effective on the date of admission of the State of Puerto Rico, all Federal programs which provide assistance to or on behalf of individuals, including, but not limited to Aid to Families with Dependent Children, Medicaid, Foster Care and Adoption Assistance, and the Social Services block grant, shall apply in the Commonwealth of Puerto Rico as they apply within the several States.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, amounts applicable under sections 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act may not exceed 50 percent and under section 1611(a)(2)(A) and 1611(b)(2) of such Act may not exceed 75 percent of the per capita income of the State (as determined on the basis of the most recent reliable data available from the Secretary of Commerce) in which the applicant for or recipient of benefits under title XVI of such Act resides. An individual shall, regardless of legal residence, be considered to reside in a State for purposes of this paragraph for any month in which such individual is physically present in such State throughout the entire month. The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall promulgate the amounts determined under this paragraph for the State at the same time and in the same manner as amounts are promulgated

for cost-of-living adjustments in benefits under section 1617 of the Social Security Act.

(3)(A) Beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the Secretary shall implement the Supplemental Security Income for the Aged, Blind, and Disabled program as provided under title XVI of the Social Security Act in Puerto Rico. The benefit standards provided under sections 1611(a) and (b) of the Social Security Act shall, after any reduction under the per capita limitation described in paragraph (2) be set at—

- (i) 25 percent of the otherwise applicable level in such 2nd calendar year;
- (ii) 50 percent of such level in the calendar year immediately following such 2nd calendar year; and
- (iii) 75 percent of such level in the 2nd calendar year following such 2nd calendar year.

(B) The Secretary and the Government of Puerto Rico may enter into an agreement under which the implementation of the Supplemental Security Income program described in this paragraph in Puerto Rico will be deferred to a date later than January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act (but not later than the effective date of admission of the State of Puerto Rico). Any such agreement must provide that payment levels under the program of Aid to the Aged, Blind, and Disabled as in effect in Puerto Rico shall be based on the levels that would otherwise be in effect there under the Supplemental Security Income program and the Federal contribution to the cost of such payments shall not exceed what would have been the Federal costs under such Supplemental Security Income program.

(4)(A) Except as provided in this paragraph or in any agreement between the Government of Puerto Rico and the Secretary, the Medicaid program provided for under title XIX of the Social Security Act shall, prior to the effective date of admission of the State of Puerto Rico, continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act.

(B) The Federal medical assistance percentage rate determined under section 1905(b) of the Social Security Act without regard to clause (2) of such section shall apply with respect to benefits paid under such program on or after January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(C) Section 1108(c) of the Social Security Act—

(i) shall be inapplicable to Puerto Rico on and after the date of admission of the State of Puerto Rico; and

(ii) shall apply to fiscal years ending after the 1st calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, and prior to the date described in clause (i), as though the amount set forth in paragraph (1)(C) thereof were increased by the applicable percentage of the excess of the amount that would be payable to Puerto Rico without regard to such section 1108(c) over \$79,000,000.

For purposes of claims (ii), the applicable percentage is 25 percent for the 1st such fiscal year, 50 percent for the 2nd such fiscal year, and 75 percent for the 3rd such fiscal year.

(5) Prior to the effective date of admission of the State of Puerto Rico, the Aid to Families with Dependent Children program pro-

vided for under Part A of title IV of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that—

(A) the Federal matching rate for program expenditures after December of the 1st calendar year beginning after the date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act shall equal the Federal medical assistance percentage rate determined under section 1905(b) of the Social Security Act without regard to clause (2) thereof, and

(B) the limitation on expenditures provided for under section 1108(a)(1) of the Social Security Act shall not apply with respect to such expenditures under such title.

(6) The Medicare Hospital Insurance Benefits for the Aged and Disabled program provided for under part A of title XVIII of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that the Prospective Payment Assessment Commission shall examine current levels of reimbursement under such part and advise the Secretary within 6 months of the date of the enactment of this Act as to whether the system in place on the date of the enactment of this Act accurately and appropriately reflects cost differentials between Puerto Rico and the States. If such study finds that the system in effect on the date of the enactment of this Act does not accurately reflect such cost differentials, the Secretary shall submit to the appropriate committees of Congress within 6 months of the date of completion of such study a legislative proposal to correct any deficiencies in the reimbursement system.

(7) The Secretary shall reduce the amounts otherwise payable to Puerto Rico under titles IV, XVI (as in effect before the date of the enactment of Public Law 92-603), and XIX of the Social Security Act with respect to expenditures under such titles for any fiscal year which ends after the end of the 1st calendar year beginning after the date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act and prior to the date which is 4 calendar years after the date of the admission of Puerto Rico as a State, to the extent that the sum of such amounts and any expenditures under the Supplemental Security Income program under title XVI of the Social Security Act with respect to residents of Puerto Rico exceeds the sum of \$161,000,000 and any increase in Federal revenues by reason of section 214(d) of this Act. The Secretary of the Treasury shall make an annual determination of such amount and provide for appropriate adjustments in such amount as determined for prior years.

(c) NUTRITION ASSISTANCE AND FOOD STAMP PROGRAM.—

(1) INCREASED FUNDING LEVELS FOR THE NUTRITION ASSISTANCE PROGRAM IN PUERTO RICO.—Notwithstanding any other provision of law from the sums appropriated under the Food Stamp Act of 1977, the Secretary of Agriculture shall pay to the Commonwealth of Puerto Rico, in addition to the amounts required to be paid by the Secretary to the Commonwealth of Puerto Rico under subparagraph (A) of section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)), the following additional sums for the years described—

(A) \$112,500,000, for the fiscal year beginning on October 1 of the first calendar year after the date of the ratification of the "Statehood" status option by the people of Puerto Rico (hereinafter referred to in this

subsection as the "first fiscal year after ratification";

(B) \$250,000,000, for the fiscal year immediately following the first fiscal year after ratification; and

(C) \$337,500,000, for the second fiscal year after the first fiscal year after ratification.

(2) **FOOD STAMP PROGRAM.**—Beginning on the first day of October prior to January 1 of the year Puerto Rico is declared admitted to the Union—

(A) Puerto Rico shall participate in the food stamp program under the Food Stamp Act of 1977 on equal footing with any other State of the United States; and

(B) the block grant program authorized under section 19 of such Act for Puerto Rico is terminated.

(3) **AMENDMENTS TO THE FOOD STAMP ACT OF 1977.**—Beginning on the first day of October prior to January 1 of the year Puerto Rico is declared admitted to the Union, section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended to read as follows:

"SEC. 19. (a) **SPECIAL RULES.**—Notwithstanding any other provision of this Act, any State whose per capita income is below 50 percentum of the national per capita income of the United States shall participate in the program under the requirements of this Act except as follows:

"(1) a household within any such State shall be ineligible to participate in the food stamp program (notwithstanding the provisions of section 5(c) of the Act) if such household's income, after the exclusions are made as provided for in section 5(d) of such Act and before the deductions in such income are made under section 5(e) of such Act, exceeds 65 percent of the poverty line as defined in section 5(c)(1) of such Act;

"(2) the standard deduction for purposes of determining benefits in such State shall be 59 percent of the standard deduction determined under section 5(e) of the Act for the 48 contiguous States and the District of Columbia; and

"(3) the maximum excess shelter expense deduction to which a household within the State may be entitled shall be 35 percent of the maximum excess shelter expenses deduction determined for the 48 contiguous States and the District of Columbia under paragraph (2) of the fourth sentence of section 5(e) of the Food Stamp Act of 1977 for the household.

"SEC. 19. (b) Any State whose per capita income is below 50 percentum of the national per capita income of the United States shall participate in the program under the requirements of this Act except that any such State must make benefits available through the use of intelligent benefit cards, other automated or electronic delivery system, or other benefit delivery system specifically designed to promote the integrity of the program in any such State."

(4) **LEGAL RIGHT TO ADDITIONAL SUMS.**—Unless otherwise provided through legislation providing federal revenues, the Secretary of Treasury is required to pay to the Secretary of Agriculture all additional amounts for nutritional assistance required to be paid by the Secretary of Agriculture to the Commonwealth of Puerto Rico under the Puerto Rico Status Referendum Act and section 19 of the Food Stamp Act of 1977. The Commonwealth of Puerto Rico is legally entitled to receive from the Secretary of Agriculture such additional amounts.

**SEC. 214. PROVISIONS RELATING TO TAXATION AND REVENUE TRANSFERS.**

(a) **GENERAL RULE.**—Except as otherwise provided in this section—

(1) all Federal tax laws shall be applicable to the State of Puerto Rico on and after the date of its admission as a State of the Union in the same manner as applicable to all other States; and

(2) all Federal tax laws which are applicable to the Commonwealth of Puerto Rico before the date of the enactment of this Act shall continue to apply until such date of admission.

(b) **TRANSITION PERIOD FOR APPLICATION OF INCOME TAXES.**—

(1) Except as provided in paragraph (2), in the case of any taxable year in the transition period, the Federal income tax laws shall be applied—

(A) to all persons in the same manner as if the Commonwealth of Puerto Rico were a State, and

(B) without regard to section 933 of the Internal Revenue Code of 1986.

(2) The amount of any increase (or decrease) in any Federal income tax by reason of the application of paragraph (1) shall be equal to the applicable percentage of the amount by which such tax is greater (or less) than such tax computed without regard to this subsection.

(3) For purposes of this section—

(A) The applicable percentage with respect to any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	The applicable percentage is:
1st .....	25 percent
2nd .....	50 percent
3rd .....	75 percent
4th and succeeding ...	100 percent

(B) If, but for this subparagraph, the applicable percentage for the taxable year in the transition period which includes the date of admission of Puerto Rico as a State is less than 100 percent, the applicable percentage shall be treated as 100 percent with respect to the amount which bears the same ratio to the amount of the increase or decrease under paragraph (2)(A) (or the credit under paragraph (2)(B)) as—

(i) the number of months in the taxable year after the month preceding the month including such date, bears to

(ii) the total number of months in such taxable year.

(4) For purposes of this subsection, the term "transition period" means, with respect to any taxpayer, the period beginning with the taxpayer's 2nd taxable year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act and ending with the taxpayer's taxable year which includes the date of admission of Puerto Rico as a State. For purposes of the preceding sentence, a taxpayer whose 1st taxable year begins after such ratification date shall be treated as if such taxpayer had such a taxable year (and subsequent taxable years) in effect on (and after) such date.

(5)(A) Paragraph (1) shall not apply to a corporation which is a FSC (as defined in section 922 of such Code) organized and operated under the laws applicable to the Commonwealth of Puerto Rico.

(B) Notwithstanding paragraph (1), if any portion of the foreign source income of a Puerto Rican corporation is not subject to United States tax by reason of paragraph (2) such corporation shall be treated as a foreign corporation for purposes of applying the antideferential provisions to such portion.

(C) For purposes of subparagraph (B), the term "antideferential provisions" means sub-

chapter G, subpart F of part III of subchapter N, and part VI of subchapter P of chapter 1 of such Code.

(c) **EMPLOYMENT, EXCISE, AND ESTATE AND GIFT TAXES.**—

(1) Except as provided in paragraph (3), and notwithstanding any other provision of law, in the case of any calendar year during the transition period, the following taxes shall be imposed in the manner as if the Commonwealth of Puerto Rico were a State:

(A) Chapter 24 of the Internal Revenue Code of 1986 (relating to income tax collected at source).

(B) Any excise tax imposed under the Internal Revenue Code of 1986 other than sections 3111 and 3301 of such Code.

(2) In the case of any transfer of property after September 27, 1990, and before the date of admission of Puerto Rico as a State by a donor if section 2501(c) of the Internal Revenue Code of 1986 applies by reason of being a resident of Puerto Rico—

(A) if such donor dies on or after such date of admission, the value of such property shall be included in the donor's gross estate if the donor or the donor's spouse retains directly or indirectly any beneficial interest in such property as of the date of death or disposes of such interest within three years before such date of death, and

(B) for purposes of applying subtitle B of such Code to any transfer, or to the estate of any decedent dying, after such date of admission, such transfer of property shall be taken into account in computing taxable gifts and adjusted taxable gifts.

(3)(A) A tax imposed under paragraph (1) shall be equal to the applicable percentage of such tax determined without regard to this paragraph.

(B) For purposes of this paragraph, the applicable percentage for any calendar year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	The applicable percentage is:
1st year .....	25 percent
2nd year .....	50 percent
3rd year .....	75 percent
4th year .....	100 percent

(4) For purposes of this subsection, the term "transition period" means the four-calendar year period beginning with the second calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

(5) Paragraph (1)(B) shall not apply to any article to which section 7652 of the Internal Revenue Code of 1986 applies.

(6)(A) In the case of any article which is held for sale in Puerto Rico on January 1 of the first, second, third, or fourth calendar year of the transition period, and which on such date is beyond the point at which tax would otherwise be imposed under the relevant provision of the Internal Revenue Code of 1986, there is hereby imposed a tax equal to the excess of—

(i) the Federal excise tax which would be imposed under the Internal Revenue Code of 1986 if such tax were imposed on such date, over

(ii) the amount of such tax if such tax were imposed on January 1 of the preceding calendar year.

(B) The person holding an article on which tax is imposed under subparagraph (A) shall be liable for payment of such tax, and such tax shall be due and payable on February 15 of the calendar year in which imposed in the

same manner as the excise tax which would have been imposed under the relevant provision of the Internal Revenue Code of 1986 on a similar article.

**(d) TRANSITION PERIOD FOR SECTION 936 CREDIT.—**

(1) In the case of a taxable year in the transition period, the credit under section 936 of the Internal Revenue Code of 1986—

(A) shall be allowable to a taxpayer only if such taxpayer (or a predecessor) elected the application of such section for its taxable year which included the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, and (B) shall be equal to the applicable percentage of the lesser of—

(i) the amount of such credit determined without regard to this subsection, or

(ii) 130 percent of the average amount of such credit of the taxpayer and its predecessors for the three-taxable year period ending with the taxpayer's last taxable year ending before August 1, 1990 (not taking into account years in which the taxpayer or its predecessor was not in existence). If neither the taxpayer nor any predecessor has a taxable year ending before August 1, 1990, the amount under clause (ii) shall be treated as being equal to the amount of such credit of the taxpayer for its last taxable year ending on or after August 1, 1990 (adjusted as provided by the Secretary in the case of a short taxable year).

(2)(A) For purposes of this subsection, the applicable percentage for any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	The applicable percentage is:
1st taxable year .....	75 percent
2d taxable year .....	50 percent
3d taxable year .....	25 percent
4th and following taxable year .....	0 percent

(B) For purposes of this paragraph, a rule similar to the rule contained in subsection (b)(3)(B) shall apply.

(3) For purposes of this subsection, the term "transition period" has the meaning given such term by subsection (b)(4).

**(e) COVER OVER OF TAXES.—**

(1)(A) Except as provided in subparagraph (B), all income and excise taxes collected under the internal revenue laws of the United States by reason of subsections (b) and (c) allocable to each fiscal year (or portion thereof) preceding the date of admission of Puerto Rico as a State shall be covered into the treasury of Puerto Rico.

(B) The provisions of section 7652 of the Internal Revenue Code of 1986 shall continue to apply before the date of admission of Puerto Rico as a State and shall cease to apply on and after such date.

(2)(A) Taxes collected under the internal revenue laws of the United States by reason of subsection (d) allocable to each fiscal year (or the portion thereof) preceding the date of admission of Puerto Rico as a State shall be covered into the treasury of Puerto Rico to the extent that the amount of such taxes exceeds the applicable excess expenditures of the United States allocable to such portion of the fiscal year.

(B) For purposes of subparagraph (A), the term "applicable excess expenditures" means the excess (if any) of—

(i) the amount of expenditures by the United States—

(I) with respect to the operation in Puerto Rico (or for residents thereof) of the pro-

grams established by parts A and E of title IV, title XVI (as added by Public Law 92-603), title XVI (as in effect before the date of the enactment of Public Law 92-603), and title XIX of the Social Security Act, and

(II) with respect to credits under section 32 of such Code in excess of tax liability allowable to residents of Puerto Rico, over

(ii) the amount of the expenditures described in clause (i) which would have been made without regard to the provisions of this Act.

**(f) RESERVATION; REGULATIONS.—**

(1) Congress explicitly reserves authority to enact appropriate transitional rules to implement the provisions of this section.

(2) The Secretary of the Treasury is authorized to promulgate such rules and regulations as are necessary or appropriate to carry out the purposes of this section and to implement the transition to statehood.

**SEC. 215. AMENDMENTS TO TRADE LAWS.**

**(a) ELIMINATION OF SEPARATE DUTIES.—**

(1) Notwithstanding any other provision of law, no additional duties may be imposed by the Legislature of Puerto Rico after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(2) Beginning on the first day of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, any duties imposed by the Legislature of Puerto Rico that are in effect on the date of such ratification shall be reduced by an amount equal to the applicable percentage of such duties in accordance with the following table:

In the case of the following calendar year after ratification:	The applicable percentage is:
2nd .....	25 percent
3rd .....	50 percent
4th .....	75 percent
5th and following .....	100 percent

(3) Section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

(4) The Act of June 18, 1934 (48 Stat. 1017, chapter 604; 19 U.S.C. 1319a) is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

(5) Any Act ratifying an Act of the Legislature of Puerto Rico which imposes tariffs or duties on articles imported into Puerto Rico is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

**(b) CARIBBEAN BASIN INITIATIVE.—**

(1) Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(A) by striking "the Commonwealth of Puerto Rico and" in the flush paragraph at the end of paragraph (1),

(B) by striking "(other than the Commonwealth of Puerto Rico)" in the flush paragraph at the end of paragraph (1), and

(C) by striking paragraphs (4) and (5).

(2) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(A) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(B) by striking "produced in Puerto Rico or" and inserting "produced in".

(3) Section 214 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 1319 note) is

amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(4) The amendments made by this subsection shall take effect on January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

**(c) CONFORMING AMENDMENTS.—**

(1) Section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended by striking subsection (e) and redesignating subsection (f) as subsection (e).

(2) Section 4 of the Act of April 12, 1900 (commonly known as the "Foraker Act"; 31 Stat. 77, chapter 191; 48 U.S.C. 740) is repealed.

(3) The amendments made by this subsection shall take effect on January 1 of the 5th calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

**TITLE III—INDEPENDENCE**

**SEC. 301. CONSTITUTIONAL CONVENTION.**

(a) Should independence be ratified pursuant to section 101(f) of the Puerto Rico Status Referendum Act, then the Legislative Assembly of the Commonwealth of Puerto Rico shall provide, within two months, for the election of delegates to a Constitutional Convention to serve until the proclamation of independence and to draft a Constitution for the Republic of Puerto Rico. The election of delegates must be held within six months after such ratification.

(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be (1) All persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the United States by Spain by virtue of the Treaty of Paris the tenth day of December 1898.

**SEC. 302. CHARACTER OF THE CONSTITUTION.**

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social, and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment and the right to own private property and to just compensation for the taking thereof.

(c) The property rights of the United States and Puerto Rico shall be promptly adjusted and settled, and all existing property rights of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of Puerto Rico.

**SEC. 303. RATIFICATION OF THE CONSTITUTION.**

(a) The Constitution adopted by the Constitutional Convention shall be submitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico. In the event such Constitution is not approved in the election, it shall be re-submitted to the convention for further consideration and re-submission to the voters as provided in this section.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 301 of this title.

**SEC. 304. ELECTION OF OFFICERS OF THE REPUBLIC.**

(a) Within thirty days of the ratification of the Constitution as provided for by section 303 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

**SEC. 305. JOINT TRANSITION COMMISSION.**

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Presiding Officer of the Constitutional Convention of Puerto Rico.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation to the appropriate officials of each government.

(c) Any necessary task forces established by the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall cooperate with the Joint Transition Commission and subsequently with the new officers of the Republic of Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) The costs of the Transition Commission shall be evenly divided between the United States and Puerto Rico, and there is hereby authorized to be appropriated such sums as are necessary for the United States share of these costs. Agencies of the United States Government shall provide technical assist-

ance to the Joint Transition Commission on a reimbursable basis.

**SEC. 306. RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.**

Except as provided in title I of this Act and beginning on the date of the ratification provided for in title I of this Act, and until the date of proclamation of independence, any action arising from this title filed in courts of the United States shall be stayed and referred to the Joint Transition Commission for resolution within a reasonable period of time.

**SEC. 307. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.**

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 304, and the approval, in accordance with the constitutional processes of Puerto Rico and the United States, of the agreements set forth in sections 312 and 313, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the people of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and the recognition of independence shall be the same as the date of the proclamation of independence as provided in subsection (d).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the Presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date in which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

**SEC. 308. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON LEGAL AND CONSTITUTIONAL PROVISIONS.**

(a) Upon the proclamation of independence as provided in section 307, and except as otherwise provided in this title or in any separate agreements hereinafter concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights, and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of

this Act, shall vest in the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with new legislation, except any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

**SEC. 309. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON JUDICIAL PROCEEDINGS.**

Unless otherwise agreed by the Governments of United States and Puerto Rico in accordance with their respective constitutional processes:

(1) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(2) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(3) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution, unless either the United States or any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

**SEC. 310. STATE SUCCESSION.**

(a) The Government of the Republic of Puerto Rico shall be deemed successor to the Government of the Commonwealth of Puerto Rico and of all the rights and obligations thereof.

(b) Upon proclamation of independence the President of the United States shall notify the governments with which the United States is in diplomatic correspondence, to the United Nations Organization, and to the Organization of American States, that—

(1) the United States has recognized the independence of the Republic of Puerto Rico; and

(2) all obligations and responsibilities of the Government of the United States which arise from any valid bilateral or multilateral international instruments affecting Puerto Rico, insofar as said instruments may be

held to have consequences for the United States because of their application to or in respect to Puerto Rico, shall cease, except that such obligations and responsibilities may be assumed by the Government of the Republic of Puerto Rico in a manner to be determined and proclaimed by the appropriate officer of the Republic of Puerto Rico in accordance with its Constitution.

#### SEC. 311. CITIZENSHIP AND MIGRATION.

(a) All matters pertaining to Puerto Rican citizenship shall be regulated pursuant to the Constitution and laws of the Republic of Puerto Rico.

(b) Upon the ratification under section 101(f) of the Puerto Rico Status Referendum Act, Puerto Rico shall no longer be deemed to be a part of the United States for the purposes of acquiring citizenship of the United States. Provisions of the Puerto Rican Federal Relations Act (commonly known as the "Jones Act", 48 U.S.C. 731 et seq.) and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) declaring Puerto Rico to be a part of the United States for the purpose of extending citizenship to persons born in Puerto Rico are repealed or modified, as appropriate, to delete any reference to Puerto Rico and Puerto Rico shall not be considered to be a part of the United States for such purposes, except that nothing in this section shall affect the citizenship of any person born prior to the date of the ratification.

(c) Notwithstanding any other provision of law, no person born outside of the United States after the ratification under section 101(f) of the Puerto Rico Status Referendum Act shall be a citizen of the United States at birth if a parent or the parents of such person acquired United States citizenship solely by virtue of birth in Puerto Rico pursuant to the provisions of the Puerto Rican Federal Relations Act (commonly known as the "Jones Act", 48 U.S.C. 731 et seq.) and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and whose principal residence, as defined under section 101(a)(33) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(33)), continued to be Puerto Rico on or after the Proclamation of Independence, unless the parent or parents at the time of the birth of such person is a citizen of the United States employed by the Government of the United States.

(d) Entry into the United States and lawfully engaging in occupations or establishing residence as immigrants in the United States for any person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon the Proclamation of Independence, or who becomes a citizen of the Republic by birth after the Proclamation of Independence, or who is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years, shall be permitted only as may be provided by law and regulation of the United States: *Provided*, That persons identified under subsection (c) above, may enter the United States and its territories and possessions as nonimmigrants for a period of twenty-five years after such Proclamation of Independence without regard to paragraphs (14), (20), and (26)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a) (14), (20), and (26)(B): *Provided further*, That this subsection does not confer on such citizen of Puerto Rico the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under such Act. This subsection, however, shall not prevent a citizen of Puerto Rico from otherwise acquiring such rights or law-

ful permanent resident alien status in the United States.

#### SEC. 312. DEFENSE.

Specific arrangements for the use of military areas by the United States in Puerto Rico shall be negotiated by a task force established by the Joint Transition Commission, and approved in accordance with the constitutional processes of the United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These specific arrangements shall include an agreement by the Government of Puerto Rico to deny to third countries any access to or use of the territory of Puerto Rico for military purposes. Consent by the United States to any alteration, modification, amendment, limitation, termination, or other change in such agreement regarding denial shall occur only pursuant to a specific Act of Congress.

#### SEC. 313. FEDERAL PROGRAMS.

The following subsections and the provisions of this title are enacted in recognition of the unique relationship between the United States and Puerto Rico, to affect a smooth and fair transition for the new Republic of Puerto Rico with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic of Puerto Rico.

(a) All Federal programs shall continue to apply in Puerto Rico until the end of the fiscal year in which independence is proclaimed, at which time, a grant shall be paid to the Republic of Puerto Rico pursuant to subsection (3).

(b) Specific arrangements for the continuation or phaseout of Federal programs shall be negotiated by a Task Force on Economic Assistance established by the Joint Transition Commission and approved in accordance with the constitutional processes of Puerto Rico and the United States, and shall come into effect simultaneously with the proclamation of independence. In general, the specific arrangements shall provide that—

(1) all Federal pension programs, such as veterans and civil service benefits, shall continue as provided by United States law;

(2) prior to the end of the fiscal year in which independence is proclaimed, an estimate will be determined by the Comptroller General of the United States of the total value of grants, programs, and services, including Medicare, provided by the Federal Government in Puerto Rico in such fiscal year, except for those grants, programs, and services which will otherwise continue under this Act;

(3) a grant equal to the value established under paragraph (2) shall be paid annually to the Republic of Puerto Rico beginning in the fiscal year following the year in which independence is proclaimed, through the ninth year following the ratification under section 101(f) of the Puerto Rico Status Referendum Act;

(4) the United States will fulfill any contractual obligations outstanding at the time of the proclamation of independence; and

(5) Puerto Rico may request that the United States renew or continue any existing contractual obligations: *Provided* that Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant made under paragraph (3).

(c) There are authorized to be appropriated such sums as may be necessary to fulfill the purposes of this section.

#### SEC. 314. SOCIAL SECURITY AND UNEMPLOYMENT INSURANCE.

(a) The Joint Transition Commission established under section 305 of this Act shall

establish a Task Force on Social Security to negotiate agreements necessary for the coordination of the social security system of the United States established by title II of the Social Security Act with a similar system to be established in the new Republic of Puerto Rico. Such agreements shall protect the benefit rights of all individuals who have attained benefit eligibility under such title as of 5 calendar years subsequent to the ratification under section 101(f) of the Puerto Rico Status Referendum Act shall provide appropriate credit for others who have contributed to such system. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) In order to provide adequate time for the negotiation and implementation of the agreements provided for in (a), the provisions of the Old Age, Survivors, and Disability Insurance programs under title II of the Social Security Act and the related provisions of chapters 2 and 21 of the Internal Revenue Code of 1986 shall apply until the end of the 5th calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(c) Except as otherwise provided in this section, all programs operated under the Social Security Act shall cease to apply in Puerto Rico at the end of the fiscal year in which independence is proclaimed.

(d) Notwithstanding any other provision of law, on December 31 of the year in which a proclamation of independence is issued under section 307(d) of this Act—

(1) any amounts remaining in the Unemployment Trust Fund which are allocable to Puerto Rico shall be transferred to the Republic of Puerto Rico; and

(2) the Republic of Puerto Rico shall cease to be treated as a State for purposes of chapter 23 of the Internal Revenue Code of 1986, titles III, IX, and XII of the Social Security Act, the Federal-State Extended Unemployment Compensation Act of 1970, and any similar law of the United States relating to unemployment taxes or benefits.

(e) Any person who is a citizen of the United States (as described in section 316(c) of this Act, without regard to clauses (i) and (ii) of subparagraph (B)) shall not be treated as an employee for purposes of any law described in subsection (d)(2).

#### SEC. 315. TRADE RELATIONS.

(a) It is the sense of the Congress that—

(1) the United States should continue to maintain an open trading relationship with the Republic of Puerto Rico after a proclamation of independence is under this title, and

(2) the President should—

(A) seek to obtain favorable treatment from other countries for exports from Puerto Rico, and

(B) encourage other countries to maintain open trading relationships with Puerto Rico and to designate Puerto Rico as a beneficiary under any preferential trade arrangements such other countries maintain.

(b) The Joint Transition Commission shall establish a Task Force on Trade to consider and develop the manner in which trade between the United States and the Republic of Puerto Rico will be governed following the Proclamation of Independence. The Task Force on Trade shall submit a report on its deliberations, along with its recommendations, to the President, the Committee on Finance of the United States Senate, and the Committee on Ways and Means of the House Representatives.

(c) Beginning on the date of the issuance of the proclamation of independence under section 307(d) of this Act, the applicable rate of duty of the general subcolumn of column 1 of the Harmonized Tariff Schedule of the United States shall apply to products of the Republic of Puerto Rico entered or withdrawn from warehouse on or after such date.

(d)(1) Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by inserting in alphabetical sequence "Puerto Rico, the Republic of".

(2)(A) Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(i) by striking "Commonwealth of Puerto Rico" in the flush paragraph at the end of paragraph (1),

(ii) by striking "(other than the Commonwealth of Puerto Rico)" in this flush paragraph at the end of paragraph (1), and

(iii) by striking paragraphs (4) and (5).

(B) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(i) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(ii) by striking "produced in Puerto Rico or" and inserting "produced in".

(C) Section 214 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 1319 note) is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(3) The amendments made by this subsection shall take effect on the date the proclamation of independence is issued under section 307(d) of this Act.

(e)(1) During the 5-year period beginning on the date the proclamation of independence is issued under section 307(d) of this Act, the President may enter into a trade agreement with the Republic of Puerto Rico that provides for the reduction or elimination of any duty imposed by the United States, the elimination of any other barriers, and the establishment of a free trade area between Puerto Rico and the United States.

(2) A trade agreement entered into under this subsection shall be reciprocal and shall provide for mutual reductions in trade barriers to promote trade, economic growth, and employment.

(3) Before the President enters into any trade agreement under this subsection, the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(4) The consultation under paragraph (4) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988; and

(C) all matters relating to the implementation of the agreement under subsection (f).

(f)(1) Any agreement entered into under subsection (e) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

(B) after entering into the agreement, the President submits a document to the House of Representatives and the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988, and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement.

(g) The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to any draft of a bill implementing a trade agreement entered into under subsection (e).

(h) Each period of time described in subsection (f) shall be computed without regard to—

(1) the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

#### SEC. 316. TAXATION.

(a) Except as provided in this section, the Republic of Puerto Rico shall, on and after the date of proclamation of independence under section 307, be treated for purposes of the internal revenue laws of the United States as a foreign country.

(b)(1) In the case of a taxable year in the transition period, the credit under section 936 of the Internal Revenue Code of 1986—

(A) shall be allowable to a taxpayer only if such taxpayer (or a predecessor) elected the application of such section for its taxable year which included the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, and

(B) shall be equal to the applicable percentage of the lesser of—

(i) the amount of such credit determined without regard to this subsection, or

(ii) 130 percent of the average amount of such credit of the taxpayer and its predecessors for the three-taxable year period ending with the taxpayer's last taxable year ending before August 1, 1990 (not taking into account years in which the taxpayer or any predecessor was not in existence).

If neither the taxpayer nor any predecessor has a taxable year ending before August 1, 1990, the amount under clause (ii) shall be treated as being equal to the amount of such credit of the taxpayer for its first taxable

year ending on or after August 1, 1990 (adjusted as provided by the Secretary in the case of a short taxable year).

(2) For purposes of this subsection, the applicable percentage for any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	The applicable percentage is:
1st taxable year .....	75 percent
2nd taxable year .....	50 percent
3rd taxable year .....	25 percent
4th and following taxable year .....	0 percent

(3) For purposes of this subsection, the term "transition period" means, with respect to any taxpayer, the period beginning with the taxpayer's second taxable year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(c)(1) In the case of taxable years ending on or after the date of proclamation of independence under section 307, section 933 of the Internal Revenue Code of 1986 shall continue to apply, but only with respect to bona fide residents of Puerto Rico—

(A) who are citizens of the United States under the provisions of the Puerto Rican Federal Relations Act (commonly known as the "Jones Act", 48 U.S.C. 731 et seq.) and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) solely by reason of—

(i) being born in Puerto Rico,

(ii) being a child of parents who are citizens of the United States under such Acts solely by reason of being born in Puerto Rico, or

(iii) being described in both clause (i) and clause (ii), and

(B) who, during such taxable year, have neither—

(i) earned income (as defined in section 911(d)(2) of such Code) in excess of the maximum amount of foreign earned income which may be excluded for such taxable year under section 911 of such Code, nor

(ii) income other than earned income (as so defined) in excess of the sum of such individual's standard deduction and the deductions for personal exemptions allowable under such Code to such individual for such taxable year.

(2) If an individual described in paragraph (1) of this subsection is married to an individual not described in such paragraph, paragraph (1) shall apply to the individual described in such paragraph only if such individuals file separate income tax returns.

(d)(1) In the case of calendar years beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, notwithstanding section 7652 of the Internal Revenue Code of 1986 and section 4 of the Act of April 12, 1900 (31 Stat. 78), the amount of taxes and customs duties covered into the treasury of Puerto Rico under such sections shall be equal to the applicable percentage of such taxes and customs duties.

(2) For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

In the case of the:	The applicable percentage is:
1st year .....	80 percent
2nd year .....	60 percent
3rd year .....	40 percent
4th year .....	20 percent
5th and following years .....	0 percent

(e)(1) Except as provided in paragraph (2), for any calendar year beginning after the

date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act—

(A) clause (i) of section 42(h)(3)(C) of the Internal Revenue Code of 1986 shall not apply with respect to Puerto Rico, and

(B) section 42(h)(4) of such Code shall not apply to any building placed in service in Puerto Rico after the calendar year in which such date occurs.

(2) For purposes of paragraph (1)(B), a building shall be treated as placed in service before the first calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act if—

(A) the bonds with respect to such building are issued before such first calendar year,

(B) the taxpayer's basis in the project (of which the building is a part), as of the close of the calendar year in which such date occurs, is more than 10 percent of the estimated project costs, and

(C) such building is placed in service before the beginning of the third calendar year beginning after such date.

(f) Section 103(a) of the Internal Revenue Code of 1986 shall continue to apply to bonds issued by Puerto Rico or any political subdivision on or before (but not after) the last day of the fifth calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(g) In the case of any transfer of property after September 27, 1990, and before the date of proclamation of independence under section 307 by a donor to whom section 2501(c) of the Internal Revenue Code of 1986 applies by reason of being a resident of Puerto Rico—

(1) if such donor dies on or after such date of proclamation of independence, the value of such property shall be included in the donor's gross estate if the donor or the donor's spouse retains directly or indirectly any beneficial interest in such property as of the date of death or disposes of such interest within three years before such date of death, and

(2) for purposes of applying subtitle B of such Code to any transfer, or to the estate of any decedent dying, after such date of proclamation of independence, such transfer of property shall be taken into account in computing taxable gifts and adjusted taxable gifts.

#### SEC. 317. CURRENCY AND FINANCE.

(a) The Joint Transition Commission established under section 305 shall establish a Task Force on Currency and Finance to negotiate an agreement to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system, to determine the extent of financial support to be provided for the system by United States insurance organizations in which Puerto Rico's financial institutions currently participate, and to make the necessary arrangements with respect to the use of United States currency by the Republic of Puerto Rico if so requested by the Republic. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) The guarantees provided by the Government of the United States to investors in the secondary market for existing loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC) and other United States Government instrumentalities, shall be maintained for Puerto Rico-

originated loans existing on the date of the proclamation until maturity.

#### SEC. 318. PUBLIC DEBT.

The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon the date of the proclamation of independence, shall be assumed by the Republic of Puerto Rico.

### TITLE IV—COMMONWEALTH

#### SEC. 401. PROVISIONS.

Should Commonwealth be ratified under section 101(f) of the Puerto Rico Status Referendum Act, the provisions of this title shall go into effect.

#### SEC. 402. PRINCIPLES OF COMMONWEALTH.

(a) The Commonwealth of Puerto Rico is a unique juridical status, created as a compact between the People of Puerto Rico and the United States, under which Puerto Rico enjoys sovereignty, like a State, to the extent provided by the Tenth Amendment to the United States Constitution and in addition with autonomy consistent with its character, culture and location. This relationship is permanent unless revoked by mutual consent.

(b) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, to seek fair treatment in Federal programs, and in matters of government to take into account local conditions in Puerto Rico.

(c) The United States citizenship of persons born in Puerto Rico shall continue to be guaranteed and indefeasible to the same extent as that of citizens born in the several States.

#### SEC. 403. APPLICATION OF FEDERAL LAW.

(a) Notwithstanding any other provision of law, the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives and the President of the Senate, that the Legislature of the Commonwealth of Puerto Rico has adopted a resolution that states that a Federal law or provision thereof should no longer apply to the Commonwealth of Puerto Rico because there is no overriding national interest in having such Federal law be applicable in the Commonwealth of Puerto Rico and such applicability does not serve the interests of the people of the Commonwealth of Puerto Rico. A Federal law or laws or provision thereof so certified shall no longer apply to the Commonwealth of Puerto Rico if a joint resolution approving the recommendation of the Government of the Commonwealth of Puerto Rico is enacted.

(b)(1) This subsection is enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but is applicable only with respect to the procedure to be followed in this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith.

(2) For purposes of this subsection, the term "resolution" means only a joint resolution, the matter after the resolving clause of which is as follows: "That the House of Representatives and the Senate approve the recommendation of the Government of the Commonwealth of Puerto Rico in the certification submitted to the Congress on (date)". Such resolution shall also include the cer-

tification received from the Governor of the Commonwealth of Puerto Rico and a copy of the resolution adopted by the Legislature of the Commonwealth of Puerto Rico.

(3) A resolution once introduced with respect to such a certification by the Governor of the Commonwealth of Puerto Rico shall immediately be referred by the Speaker of the House of Representatives and the President of the Senate, as the case may be, to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and at the same time to such other committees as the Speaker of the House of Representatives or the President of the Senate, respectively, shall determine.

(4)(A) If the committee or committees to which a resolution with respect to a certification by the Governor of the Commonwealth of Puerto Rico has been referred has not reported it at the end of forty-five calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

(B) A motion of discharge may be made only by an individual favoring the resolution and shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(5)(A) When the last committee has reported, or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. An amendment to or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that

House any other resolution with respect to the same such submittal.

(8) For the purpose of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die; and  
(B) the days on which either House is not in session because of any adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) This section shall not apply to—

(1) any Federal statutory law, or provisions thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals;

(2) any Federal statutory law, or provisions thereof, relating to legislative matters within the jurisdiction of the Committee on Finance, or the Committee on Agriculture, Nutrition and Forestry, of the Senate;

(3) any Federal statutory law or provisions thereof relating to citizenship; or

(4) any Federal statutory law or provisions thereof pertaining to the foreign relations, defense, or national security.

(d) The Governor of Puerto Rico may enter into international agreements to promote the international interests of Puerto Rico as authorized by the President of the United States and consistent with the laws and international obligations of the United States.

#### SEC. 404. REGULATORY REVIEW.

(a) For the purposes of this section, the definitions in title 5, United States Code, section 551, apply.

(b) All agencies shall be guided by the policy stated in section 402 when carrying out their duties under statutes and rules applicable in or affecting the Commonwealth of Puerto Rico. Any agency that engages in rulemaking pursuant to title 5, United States Code, section 553, shall include in the concise general statement of the basis and purpose of any final rules adopted in response to any data, views, or arguments submitted to it that raise a question of the consistency of such rules with such policy.

(c) When an agency published in the Federal Register any final rule (other than a rule issued after notice and hearing required by statute), that does by its terms apply in the Commonwealth of Puerto Rico, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness the Governor's determination that such rule is inconsistent with such policy and, if appropriate, of how it could be made consistent. Thereupon, the agency shall reconsider the question of the consistency of its rule with such policy and shall, within forth-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either—

(1) that—

(A) by the terms of the statute pursuant to which the rule is made the agency has no discretion to make the rule inapplicable in the Commonwealth of Puerto Rico or to vary the terms of the rule in its application to the Commonwealth or,

(B) there is a national interest that the rule be applicable in Puerto Rico in the terms in which it was published, or

(2) that the rule is not consistent with such policy, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico in accordance with its terms as published, shall not be so applicable or shall be applicable only in accordance

with the terms specified in the agency's finding.

(3) Within sixty days of the publication by an agency of the finding provided for in paragraph (1) the Governor of the Commonwealth of Puerto Rico, if aggrieved by such finding, may petition for review thereof in the United States Court of Appeals of the First Circuit or the District of Columbia Circuit. In any such review proceeding the scope of review shall be as prescribed in section 706 of title 5, United States Code. Federal courts shall have no jurisdiction to entertain any action brought by any other party challenging agency compliance with this subsection.

(d) This section shall not apply to any rule issued pursuant to any Federal law, or provision thereof, relating to legislative matters within the jurisdiction of the Committee on Finance, or the Committee on Agriculture, Nutrition and Forestry, of the Senate, as described in paragraph 1(i) of Rule XXV of the Standing Rules of the Senate (as in effect on the date of the enactment of this Act).

#### SEC. 405. AVIATION.

The officials of the Department of State and the Department of Transportation shall seek the advice of appropriate officials of the Commonwealth of Puerto Rico when negotiating any air transportation agreements which would affect air traffic to or from the Commonwealth of Puerto Rico.

#### SEC. 406. CARIBBEAN BASIN ECONOMIC RECOVERY ACT AMENDMENTS.

(a) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(1) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and  
(2) by striking "produced in Puerto Rico or" and inserting "produced in".

(b) The amendments made by subsection (a) shall take effect on the first day of the fifth calendar year following the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs.

#### SEC. 407. FEDERAL PROGRAMS.

##### (a) GRANT CONSOLIDATION.

Section 501 of Public Law 95-134 (91 Stat. 1159, 1164) as amended, is further amended—

(1) by deleting "Virgin Islands," and inserting in lieu thereof "Virgin Islands, Puerto Rico,"; and

(2) by adding at the end of subsection (a) the following new sentence: "In the case of Puerto Rico, no consolidation of such grants may be made with respect to any programs established or operated under the Social Security Act or the Food Stamp Act of 1977."

##### (b) NUTRITION ASSISTANCE AND FOOD STAMP PROGRAM.—

(1) INCREASED FUNDING LEVELS FOR THE NUTRITION ASSISTANCE PROGRAM IN PUERTO RICO.—Notwithstanding any other provision of law from the sums appropriated under the Food Stamp Act of 1977, the Secretary of Agriculture shall pay to the Commonwealth of Puerto Rico, in addition to the amounts required to be paid by the Secretary to the Commonwealth of Puerto Rico under subparagraph (A) of section 19(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)), the following additional sums for the years described—

(A) \$112,500,000, for the fiscal year beginning on October 1 of the first calendar year after the date of the ratification of the "Commonwealth" status option by the people of Puerto Rico (hereinafter referred to in this subsection as the "first fiscal year after ratification");

(B) \$250,000,000, for the fiscal year immediately following the first fiscal year after ratification; and

(C) \$337,500,000 for the second fiscal year after the first fiscal year after ratification.

(2) FOOD STAMP PROGRAM.—Beginning on the first day of October prior to January 1 of the 5th calendar year following the calendar year in which the ratification under section 101(e) of the Puerto Rico Status Referendum Act occurs:

(A) Puerto Rico shall participate in the food stamp program under the Food Stamp Act of 1977 on equal footing with any other State of the United States except as provided in section 19 of such Act; and

(B) the block grant program authorized under section 19 of such Act for Puerto Rico is terminated.

(3) AMENDMENTS TO THE FOOD STAMP ACT OF 1977.—Beginning on the first day of October prior to January 1 of the 5th calendar year following the calendar year in which the ratification under section 101(e) of the Puerto Rico Status Referendum Act occurs, section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended to read as follows:

"Sec. 19(a). Special Rules. Notwithstanding any other provision of this Act, the Commonwealth of Puerto Rico shall participate in the program under the requirements of this Act except as follows:

"(1) a household within such Commonwealth shall be ineligible to participate in the food stamp program (notwithstanding the provisions of section 5(c) of the Act) if such household's income, after the exclusions are made as provided for in section 5(d) of such Act and before the deductions in such income are made under section 5(e) of such Act, exceeds 65 percent of the poverty line as defined in section 5(c)(1) of such Act;

"(2) the standard deduction for purposes of determining benefits in such Commonwealth shall be 59 percent of the standard deduction determined under section 5(e) of the Act for the 48 contiguous States and the District of Columbia; and

"(3) the maximum excess shelter expense deduction to which a household within the Commonwealth may be entitled shall be 35 percent of the maximum excess shelter expenses deduction determined for the 48 contiguous States and the District of Columbia under paragraph (2) of the fourth sentence of section 5(e) of the Food Stamp Act of 1977 for the household.

"Sec. 19(b). The Commonwealth of Puerto Rico shall participate in the program under the requirements of this Act except that the Commonwealth must make benefits available through the use of intelligent benefit cards, other automated or electronic delivery system, or other benefit delivery system specifically designed to promote the integrity of the program.

(4) LEGAL RIGHT TO ADDITIONAL SUMS.—Unless otherwise provided through legislation providing federal revenues, the Secretary of Treasury is required to pay to the Secretary of Agriculture all additional amounts required to be paid by the Secretary of Agriculture to the Commonwealth of Puerto Rico under the Puerto Rico Status Referendum Act to operate the Nutrition Assistance Program under section 19 of the Food Stamp Act. The Commonwealth of Puerto Rico is legally entitled to receive from the Secretary of Agriculture such additional amounts.

#### SEC. 408. CONSULTATION IN APPOINTEES AND NOMINATIONS.

(a) In considering the qualifications of persons who may be appointed to serve as: Su-

pervisor, Caribbean National Forest; Superintendent, San Juan Historic Site; Manager, Department of Housing and Urban Development, San Juan; Director, Caribbean Field Office, Environmental Protection Agency; Director, Farmer's Home Administration, San Juan; District Director, United States Customs Service, San Juan; District Director, Small Business Administration; and District Director, Immigration and Naturalization Service; the head of such department or agency shall consult with the Governor or other appropriate official in Puerto Rico as to whether there are special circumstances or qualifications which should be considered in making the appointment.

(b) Prior to nominating any person to serve in Puerto Rico whose appointment requires the advice and consent of the Senate of the United States, the President shall consult with the Governor as to whether there are any special circumstances or qualifications which should be considered in deciding on a nomination. Nothing in this section requires or prohibits the disclosure of individuals under consideration for such position nor as a limitation on the ability of the heads of agencies to appoint, or the President to nominate any individual. This subsection shall not apply with respect to any position in the Armed Forces of the United States, the Coast Guard, and in agencies engaged in law enforcement.

#### SEC. 409. PUERTO RICO LIAISON OFFICE.

(a) There is hereby established the Office of Senate Liaison for the Commonwealth of Puerto Rico ("Office"). The Office shall be headed by an individual appointed by the Governor of Puerto Rico and who shall serve at the pleasure of the Governor and who shall be known as the Puerto Rico Liaison. The purposes of the Office shall be to facilitate the exchange of information between the Senate and the Government of Puerto Rico.

(b) The Committee on Rules and Administration shall determine what facilities and services shall be available to such Office. All personnel of such Office shall be issued such identification as will entitle them to the same privileges as are afforded to employees of the Congressional Research Service and no employee of the Office shall be permitted privilege of the Senate floor.

(c) There are authorized to be appropriated annually \$600,000 for salaries and \$56,000 for office expenses of the Office. The Liaison shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office, including the Liaison, while not employees of the Senate, shall, other than as provided in subsection (b), be treated as if they were employees of the Senate with respect to pay and employment benefits, rights, privileges, and restrictions and shall be subject to all requirements otherwise applicable to employees of the Senate.

(d) The Office shall be subject to the jurisdiction of the Committee on Rules and Administration.

#### SEC. 410. PASSPORTS.

(a) The following new section shall be added to title 22 as section 211b:

#### "SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico."

(b) The Secretary of State and the Attorney General of the United States shall consult with the Governor of Puerto Rico to determine what administrative actions can be

taken to expedite the processing of visas and also to provide an expedited consideration of visas where the Governor makes such a request to accommodate an individual or individuals who have been invited to Puerto Rico by the Governor and shall report to Congress on such consultations and administrative action by March 15, 1993.

#### SEC. 411. COMMUNITY VALUES.

(a) For purposes of this section—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12) and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(2) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and television stations and cable television operators licensed to operate in Puerto Rico and shall include any individual acting on behalf of such person; and

(3) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to (1) alleviate the negative impact of violence in telecast material, (2) alleviate the negative impact of illegal drug use in telecast material, and (3) alleviate the negative impact of sexually explicit material in telecast material, and promote local programming in the Commonwealth of Puerto Rico.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (b) shall apply only to activities conducted within thirty-six months after the date of enactment of this Act, but may be extended for other thirty-six-month periods upon declaration by the Governor of Puerto Rico.

#### SEC. 412. FEDERAL PROPERTIES.

(a)(1) The President shall report to Congress by March 15, 1993, on the Federal properties listed in paragraph (3). The report shall include an assessment of the Federal need for each property, the costs or benefits, or both, of disposal of each property, and the comments of the Government of the Commonwealth of Puerto Rico regarding each property.

(2) Unless the President finds that there is a national interest which requires continued Federal ownership of each property, then he shall provide for the transfer of such properties to the Commonwealth of Puerto Rico according to such terms as he determines to be appropriate with respect to each.

(3) The Federal properties listed in this paragraph are—

- (A) Former Stop 7½ Naval Residence;
- (B) San Geronimo Quarters;
- (C) Custom House in San Juan;
- (D) Custom House in Mayaguez;
- (E) Custom House in Ponce;
- (F) Custom House in Fajardo; and
- (G) Coast Guard facility at Puntilla.

#### SEC. 413. SAN JUAN NATIONAL HISTORIC SITE ADVISORY COMMISSION.

(a) There is hereby established a commission to be known as the San Juan National Historic Site Advisory Commission ("the commission") which shall regularly advise the Secretary of the Interior ("the Secretary") on the operation, management, and administration of the San Juan National Historic Site ("the site").

(b) The commission shall consist of the Governor of the Commonwealth of Puerto Rico (or the Governor's designee), the Director of the National Park Service (or the Director's designee), three members to be appointed by the Governor of the Commonwealth of Puerto Rico, and three members to be appointed by the Secretary. One of the members appointed by the Governor and one member appointed by the Secretary shall serve as cochairpersons of the commission.

(c)(1) Members appointed to the commission by the Governor and the Secretary shall be appointed for a term of four years. A member may serve after the expiration of his term until his successor has taken office.

(2) Any vacancy on the commission shall be filled in the manner the original appointment was made.

(3) Members of the commission shall receive no additional pay, allowances, or benefits as a result of their service on the commission, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this section on vouchers signed by the cochairpersons;

(4) A majority of the members of the commission shall constitute a quorum but a lesser number may hold hearings. Each member of the commission shall be entitled to one vote, which shall be equal to the vote of every other member of the commission.

(5) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the commission.

(d) The Secretary shall from time to time, but at least annually, meet with the commission on matters relating to the planning, management and administration of the site. Such meetings shall be open to the public and shall be held at such times and in such places as to encourage public participation. The commission shall provide the public with adequate notice of such meetings.

(e) The commission shall prepare annually and transmit to the Secretary, the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, a report containing such information and recommendations regarding the operation, management, and administration of the site as the commission deems desirable, including but not limited to recommendations with respect to the version of the general management plan for the site.

#### SEC. 414. TAXATION.

(a)(1) Section 936(a)(2)(B) of the Internal Revenue Code of 1986 shall be applied—

(A) in the case of a corporation's 4th taxable year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, by substituting "80 percent" for "75 percent", and

(B) in the case of a corporation's subsequent taxable years, by substituting "85 percent" for "75 percent".

(2) For purposes of paragraph (1), a taxpayer whose 1st taxable year begins after the date of ratification under section 101(e) of the Puerto Rico Status Referendum Act shall be treated as if such taxpayer had such

a taxable year (and subsequent taxable years) in effect on (and after) such date.

(b)(1) In the case of each fiscal year which begins in a calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, notwithstanding section 7652 of the Internal Revenue Code of 1986 and section 4 of the Act of April 12, 1990 (31 Stat. 78), the amount of taxes and customs duties covered into the treasury of Puerto Rico under such sections shall be reduced (but not below zero) by the greater of the basic reduction under paragraph (2) or the excess of—

(A) the amounts payable with respect to such year to Puerto Rico under parts A and E of title IV, title XVI (as in effect before the date of the enactment of Public Law 92-603), and title XIX of the Social Security Act, over

(B) the sum of the amount determined under paragraph (3), plus \$161,000,000.

(2) For purposes of paragraph (1), the basic reduction shall be determined in accordance with the following table:

**"In the case of the following years to which this subsection applies:**

	<b>The basic reduction is:</b>
1st .....	\$120,000,000
2nd .....	\$250,000,000
3rd .....	\$325,000,000
4th .....	\$443,000,000
5th and subsequent .....	\$422,000,000

(3) For purposes of paragraph (1)(B), the amount determined under this paragraph is determined in accordance with the following table:

**"In the case of the following years to which this subsection applies:**

	<b>The reduction is:</b>
1st .....	\$0
2nd .....	\$0
3rd .....	\$30,000,000
4th .....	\$80,000,000
5th and subsequent .....	\$101,000,000

(4)(A) In the case of the 5th and following fiscal years to which paragraph (1) applies, there shall be substituted for the \$422,000,000 amount in the table under paragraph (2) and for the \$101,000,000 amount in the table under paragraph (3), respectively, an amount equal to such amount multiplied by the applicable ratio.

(B) The applicable ratio for any fiscal year is the percentage arrived at by dividing—

(i) the gross national product for the calendar year preceding the calendar year in which the fiscal year begins, by

(ii) the gross national product for the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act.

(C) The gross national product for any calendar year is the last determination of such gross national product published as of October 1 of the succeeding calendar year by the Bureau of Economic Analysis of the Department of Commerce.

#### **SEC. 415. OPERATION OF AND TRANSITION FOR CERTAIN ENTITLEMENTS.**

(A)(1) Except as otherwise provided in this subsection, if Commonwealth for Puerto Rico is ratified under section 101(f) of the Puerto Rico Status Referendum Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide, beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referen-

dum Act, and subject to paragraph (2), that no payments be made to the Commonwealth of Puerto Rico under title XVI of the Social Security Act (as in effect before the date of the enactment of Public Law 92-603), or under titles I, X, or XIV of the Social Security Act, or under title XIX of the Social Security Act unless the Secretary determines that assistance levels applicable to aged, blind, or disabled in Puerto Rico under titles I, X, XIV, or XVI are set at levels consistent with the levels provided under section 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act adjusted so as not to exceed 50 percent of the per capita income of Puerto Rico as determined on the basis of the most recent reliable data available from the Secretary of Commerce, and under section 1611(a)(2)(A) and 1611(b)(2) of the Social Security Act adjusted so as not to exceed 75 percent of the per capita income of Puerto Rico (as determined on the basis of the most recent reliable data available from the Secretary of Commerce). The Secretary shall promulgate the amounts determined under this paragraph for Puerto Rico at the same time and in the same manner as amounts are promulgated for cost of living adjustments in benefits under section 1617 of the Social Security Act.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(e) of the Puerto Rico Status Referendum Act, the provisions described in paragraph (1), shall be implemented on a modified basis providing that benefit levels under any of the programs described in paragraph (1) shall after any reduction under the per capita limitation described in paragraph (1) be set at—

(A) 25 percent of the otherwise applicable level in such 2nd calendar year;

(B) 50 percent of such level in the calendar year immediately following such 2nd calendar year; and

(C) 75 percent of such level in the 2nd calendar year following such 2nd calendar year.

(b)(1) Beginning on January 1 of the 2nd calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, Federal funding of the Aid to Families with Dependent Children program provided under part A of title IV of the Social Security Act shall be set at 50 percent of the total cost of providing benefits under such program.

(2) Beginning on January 1 of the second calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the limitation on expenditures provided for under section 1108 of the Social Security Act shall not apply with respect to expenditures under the Aid to Families with Dependent Children program operated in Puerto Rico.

(c)(1) The Medicaid program provided for under title XIX of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except as may be provided for through agreement of the Government of Puerto Rico and the Secretary.

(2) Beginning on January 1 of the second calendar year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, the limitation on expenditures provided for under section 1108 of the Social Security Act shall not apply with respect to expenditures under the Medicaid program operated in Puerto Rico, except that for the first three fiscal years beginning after the end of the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referen-

dum Act occur Federal payments to Puerto Rico with respect to title XIX of the Social Security Act shall not exceed an amount equal to \$79,000,000, increased by the applicable percentage of the excess of the amount payable without regard to such section 1108 over \$79,000,000. The applicable percentage is 25 percent for the 1st such fiscal year, 50 percent for the second such fiscal year, and 75 percent for the third such fiscal year.

(d) The Secretary shall reduce the amounts otherwise payable to Puerto Rico under parts A and E of title IV, title XVI (as in effect before the date of the enactment of Public Law 92-603), and title XIX of Social Security Act with respect to expenditures under such titles for any fiscal year beginning after the end of the calendar year in which the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act occurs to the extent that the sum of such amount exceeds the sum of—

(1) \$161,000,000, plus

(2) the amount which, but for the provisions of section 414(b) of this Act, would have been covered over to Puerto Rico for excise taxes and custom duties under the laws in effect as of January 1, 1990, plus

(3) the amount determined under section 414(b)(3) of this Act. The Secretary of the Treasury shall make an annual determination of such amount and provide for appropriate adjustment in such amount as determined for prior years.

(e) The Medicare Hospital Insurance Benefits for the Aged and Disabled program provided for under part A of title XVIII of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that, the Prospective Payment Assessment Commission shall examine current levels of reimbursement under such part and advise the Secretary within six months of the date of the enactment of this Act as to whether the system in place on the date of the enactment of this Act accurately and appropriately reflects cost differentials between Puerto Rico and the States. The Secretary shall, if such study finds that the system in effect on the date of the enactment of this Act does not accurately reflect such cost differentials, submit to the appropriate committees of Congress within six months of the date of completion of such study a legislative proposal to correct any deficiencies in the reimbursement system.

(f)(1) Except as provided in paragraph (2), in the case of any fiscal year, beginning with the fifth fiscal year beginning after the date of the ratification under section 101(f) of the Puerto Rico Status Referendum Act, Puerto Rico shall be treated as a State for purposes of determining the amount of its allocation of funds under title XX of the Social Security Act.

(2) Notwithstanding section 2003(b) of the Social Security Act, Puerto Rico shall be responsible for 50 percent of the cost of the allocation of funds described in paragraph (1).

Mr. WALLOP. Mr. President, I join in cosponsorship of this legislation which, if enacted, would provide for a referendum in Puerto Rico on its future political status. The legislation generally reflects the work done in the Senate last Congress and incorporates recommendations which were made either formally or informally by several committees as well as various Members. It also reflects comments which we received from representatives of the three principal political parties in

Puerto Rico. To that extent, I think it fairly poses the issues which the Senate will need to address and resolve prior to enactment. It also fairly presents the issues which will need to be examined in the committee hearings which the chairman plans to hold on this legislation.

I agree with the chairman of the committee that we need to act expeditiously if a referendum is to be conducted this year to avoid the complexities which would attend such a referendum during the campaigns next year during the general elections in Puerto Rico. That objective, however, does not outweigh the need for the Congress to act responsibly on the details of the options which we will present to the residents of Puerto Rico.

In 1979, when the Senate was considering Senate Concurrent Resolution 35 expressing the commitment of the United States to the principle of self-determination, Senator JOHNSTON stated that:

I sincerely believe that in lieu of this resolution, we should develop the precise terms and conditions for Statehood, Independence, and Commonwealth with all the social, economic, and cultural implications, and lay those alternatives before the Congress. Once the Congress has indicated either the precise terms or parameters for considerations of each status, then the people of Puerto Rico can vote with full assurance that their vote will be implemented by the Congress.

I agree with those sentiments and the history of this legislation last Congress only serves to reinforce my belief that we need to devote both the time and effort to spell out precisely what this vote entails. We should deceive neither the citizens of Puerto Rico nor ourselves. If we are prepared to permit a vote, then we should be prepared to accept the result.

Enactment of this legislation in a responsible and timely fashion will be a daunting task. The sensitivity of the political leadership in Puerto Rico to the nuances of particular words and phrases makes the task all that much more difficult. I would hope that we will be able to avoid becoming embroiled in the local political debate, but we also must be careful to not err in being so general that the courts are left to define what it is that we intended. Our responsibility must be to make it clear exactly what is being offered so that there can be an informed vote in Puerto Rico. Last Congress' consideration of S. 712 made it abundantly clear that each of the three parties in Puerto Rico had expectations which are not realistic.

In making these remarks, I should also mention that I am not endorsing every provision of this legislation. I expect to have a considerable number of questions for not only each of the three parties, but also for the administration. I fully expect that we will have a lively debate both in committee and later on the Senate floor. So there is

no misunderstanding, however, I want to make it clear that I fully support the objective of this legislation to bring the issue of a referendum on status options for Puerto Rico before the Senate. What the details of those options will be remains to be seen, and I may very well offer amendments to this legislation after we have concluded the hearing process. I may in the end, as I did a year ago, choose to vote against the resolution. The first choice in the statehood or independence question resides with the 50 States. How they speak will ultimately determine the scope of Puerto Rico's choice.

For the moment, however, I want to congratulate Senator JOHNSTON for his commitment to continue this process. As I indicated earlier, this legislation does fairly present the issues which the Congress needs to consider, and I am hopeful that we will be able to consider it in a timeframe which will permit a referendum to occur this year.

• Mr. MOYNIHAN. Mr. President, I would like to commend my distinguished colleague, Senator JOHNSTON, chairman of the Committee on Energy and Natural Resources, who has today introduced legislation to provide for a referendum on the political status of Puerto Rico. The Senator from Louisiana has been untiring in his efforts, for some 2 years now, to get this legislation passed, which will provide for self-determination for the people of Puerto Rico. It is our solemn duty in the Senate to do so. The referendum is necessary to fulfill the promise made to the Puerto Rican people by every American President since Harry S. Truman: That Puerto Rico is free to choose the nature of its affiliation with the United States.

In January 1989, the heads of the three principle political parties in Puerto Rico sent joint letters to the President, the majority leader of the Senate, and the Speaker of the House asking for a "resolution of the status issue" through a vote of the people of the Commonwealth of Puerto Rico. Shortly thereafter, the President, in his first address to Congress on February 9, 1989, specifically endorsed the proposal, and called upon Congress to take action. He said:

There's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.

Senators JOHNSTON and MCCLURE introduced legislation in April, the Energy Committee conducted extensive hearings in Washington and San Juan, and reported a bill in September 1989. Since the legislation included a number of provisions within the jurisdictions of the Finance and Agriculture

Committees, the bill was sequentially referred to those committees. The Finance Committee also held hearings, and reported recommended amendments to the Energy Committee bill in September 1990. The House of Representatives meanwhile passed a very different referendum bill. To the dismay of myself and many others, there was insufficient time in the waning days of the last Congress to get a bill passed in the Senate and reconcile the differences with the House in conference.

The bill introduced today by Senator JOHNSTON has made a number of modifications to the legislation reported by the Energy Committee last year, including the incorporation of the amendments recommended by the Senate Finance Committee.

A number of issues remain to be settled. One has to do with the date of admission to statehood, if that is the status chosen by a majority of Puerto Ricans.

The Energy Committee last year concluded that it was constitutionally permissible for a new State of Puerto Rico to be given a reasonable transition period, during which the special tax provisions affecting the island could be phased out gradually, rather than abruptly terminated upon the effective date of statehood. To provide for a transitional phasing out of existing special tax provisions after the effective date of statehood brings into play the uniformity clause of the U.S. Constitution. Nevertheless, the Energy Committee thought it reasonable—given the generous benefits provided to newly admitted States in the past, no doubt—and not in violation of the Constitution's uniformity clause, to afford Puerto Rico this temporary transitional treatment.

But the issue is not without doubt. The Finance Committee, when considering the statehood option, was persuaded that there was at least a risk that the uniformity clause would be violated by treating a new State differently from others with respect to taxation, for however brief a time. And any subsequent court decision finding a uniformity clause violation could result in an immediate and retroactive termination of the transitional tax relief intended for the statehood option, the committee reasoned. Thus the committee, wishing to provide both for a gradual phase out of Puerto Rico's special tax provisions and a gradual phase in of full Federal entitlements on the island, proposed to postpone Puerto Rico's effective date of admission as a State until the conclusion of a 5-year transition period.

I suggested a compromise to the committee, albeit at the last minute, which sought to meet the constitutional concerns without subjecting the Puerto Rican people to a 5-year delay in achieving full statehood, if they

chosed that option. I offered an amendment, supported by Finance Chairman BENTSEN, that would have provided for an expedited court test of the constitutionality of the transition treatment for the new State. If it were found constitutional, Puerto Rico would be admitted as a State promptly, and its Representatives and Senators could begin to vote, without further delay. If the transition treatment were found to be unconstitutional, then Puerto Rico would wait to be admitted as a State until the transition period was completed. Though I received the support of the chairman and others, the amendment was defeated, and the Finance Committee's recommendations included the 5-year delay in the statehood admission date.

I continue to hope, however, that some provision can be devised and adopted enabling Puerto Rico, if it chooses statehood, to be received into the Union without a long and frustrating delay. Puerto Ricans may not choose statehood, but if they do, they would not, in my opinion, have to wait 4 or 5 years before receiving it.

As the Senator from Louisiana considers the referendum legislation in his committee, I hope he will give renewed attention to this issue and suggest to the Senate, in the bill his committee reports, a technique by which the Constitution, orderly transition, and the will of the Puerto Rican people may all be served.

In all events, I hope that the Congress will do its duty by Puerto Rico in 1991, and give the people of the island the consequential choice to which they are so fundamentally entitled—the choice of how they shall relate to the United States. I know that my distinguished colleague from Louisiana hopes to move the referendum legislation on an expedited basis, and I will certainly support him in that endeavor. Millions of Eastern Europeans have gained the right of self-determination within the last 2 years. It is imperative that this Congress address and resolve this issue without further delay. As I have affirmed many times before, it is our duty to Puerto Rico, and how we meet it will be watched by the world.●

By Mr. SPECTER:

S. 245. A bill to establish constitutional procedures for the imposition of the death penalty for terrorist murders; to the Committee on the Judiciary.

#### TERRORIST DEATH PENALTY ACT

Mr. SPECTER. Mr. President, today I am introducing legislation entitled "Terrorist Death Penalty Act of 1991." Earlier in today's proceedings, when the distinguished majority leader was outlining the business for the Senate for the week, I engaged in a short colloquy with the majority leader concerning this proposed legislation because I had written to him earlier sug-

gesting the possibility that I might add it on to pending legislation because of the importance of this legislation and because of the urgency of its enactment in light of the problem of terrorism against U.S. citizens around the world.

As I said to the majority leader, I had decided not to follow that course but instead to ask for his consideration for a prompt scheduling of this legislation which already has been voted upon by the Senate on a bill which I introduced last year.

I will consult with the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the distinguished ranking Republican on the Judiciary Committee, Senator THURMOND, so that we may coordinate with that committee. That is a committee on which I serve as well.

I believe, Mr. President, we face an unusual threat of terrorism. It may surprise people to know there is no death penalty on the books to impose capital punishment on terrorists who murder a U.S. citizen anywhere in the world, and that is an oversight which ought to be corrected promptly.

This Senator has been working on this issue, Mr. President, since 1985 when I introduced, on July 26, 1985, Senate bill 1108, which would have provided for the death penalty for a terrorist who murders U.S. citizens during a hostage taking.

Then, in 1986, legislation was enacted which I had introduced making it a violation of U.S. law for a terrorist to assault, maim, or murder a citizen of the United States anywhere in the world. For those who may not know of the technical jurisdictional considerations, it is customary that a crime is prosecuted in the jurisdiction where the offense is committed. If a murder occurs in Pennsylvania, it is prosecutable in Pennsylvania. As a matter of United States and international law, the United States may assert jurisdiction for a murder of a U.S. citizen anywhere in the world because of the nexus, the legal word meaning connection, with a U.S. interest in the prosecution of that crime, even though it occurs outside of the United States, on so-called extraterritorial jurisdiction. That was the basis for the 1984 legislation making it a violation of U.S. law to have a hijacking of a U.S. plane or to have a hostage taking of a U.S. citizen, and the extraterritorial jurisdiction was the basis of legislation introduced by this Senator, which was enacted, which makes it a violation of U.S. law to assault, maim, or murder a citizen of the United States anywhere in the world.

Thus, there was a major gap prior to 1986, illustrated by the murders in the Vienna and Rome airports in December 1985 when machineguns were sprayed in those airports and many people were murdered or wounded. We now have as

a matter of U.S. law that it is a violation of our laws to murder a citizen of the United States anywhere in the world, but the death penalty is not provided under existing legislation.

On January 25, 1989, Mr. President, this Senator introduced S. 36 providing for the death penalty for terrorists, and then I offered it as an amendment on July 20, 1989, to the 1990 Foreign Relations Authorization Act. At the urging of the majority leader I withheld pressing that amendment and there was a scheduled floor debate on the bill and it was enacted on October 26, 1989 by a vote of 79 to 20.

Unfortunately, last year, the death penalty for terrorists was not agreed to by the House-Senate conference, so it is important, I submit, that the matter be taken up promptly. The issue is especially timely now because we are having terrorist attacks by Iraq against Israel and Saudi Arabia, where missiles are going into civilian population centers like Tel Aviv, and going into civilian population centers in Saudi Arabia. And that is terrorism, pure and simple. It is not a matter of response in a war setting.

Those missile attacks, like the one that struck Tel Aviv yesterday, are aimed at civilian populations, and it is well known that there are many United States citizens who are yet traveling in Israel. They have a legitimate right to do so. Or they are traveling in Saudi Arabia. And should a U.S. citizen be murdered by one of these terrorist attacks, and we could bring the perpetrators to justice in the U.S. courts, we would not have the death penalty.

It should be noted, Mr. President, that it is not fanciful or farfetched to bring the terrorists to trial in U.S. courts, because as I speak, and as the Senate is in session, we have a terrorist, Fawaz Yunis, who was brought back to the United States. He was apprehended by the FBI in the Mediterranean for a terrorist act committed outside the United States, a hijacking, and brought back to the United States for trial. He was convicted and he is now serving in a Federal penitentiary.

U.S. law ought to be available to vindicate U.S. interests if any terrorist attacks a U.S. citizen anywhere in the world. For that act of murder, the death penalty ought to be available. The possible defendants would range anywhere from the individual who pulls the trigger, launches a missile, to the head of state of Iraq and those in between who are responsible for that act.

Beyond the issue of the risk to United States citizens in Israel, for example, or Saudi Arabia, there is the threat of terrorist attacks around the world. It might also be possible that the acts against our prisoners of war may constitute terrorism if death should result to the prisoners of war, where there has been the threat of

making them hostages for mobile missile sites.

It is possible that the terrorist laws could even apply to killings of U.S. servicemen under other circumstances. That is a more complicated question of international law and domestic law, as to our terrorism laws when we have the use of force in a war situation.

But there is no question about the applicability of our terrorism laws to the killing, murder, of a United States citizen to be struck by a missile in Israel or in Saudi Arabia.

There is a question, Mr. President, some might raise, about what effect this kind of legislation might have on deterrence. I suggest the apprehension of Fawaz Yunis, who is now in a Federal penitentiary, had a significant effect on terrorists and on Fawaz Yunis himself.

When we had the case of the murder of Colonel Higgins sometime back, and we had Sheikh Obeid involved, one of the concerns Sheikh Obeid had was coming to a U.S. court or U.S. prison, where there would be no way to buy his way out or maneuver his way out.

Similarly there is the case of Colombian drug terrorists, which is very much in the news today, and United States extradition of those criminals. That is a separate subject and one where the United States, I think, has to press hard to maintain extradition for the drug dealers who send drugs into the United States.

The point I am making now, Mr. President, is limited to the known fact that the Colombian drug dealers are very fearful about landing in a United States court and in a United States jail where they cannot maneuver or buy their way out of that kind of a prosecution. So the aspect of deterrence is present. The aspect of punishment is present. The aspect of vindication is present. These are matters I hope the Senate will act on promptly, and the Congress will act on promptly, because of the immense importance of this issue at the present time.

I have stated very briefly just an overview of some of the aspects here. We are in morning business with limited time available, although there is no other Senator on the floor.

But, so the record may be complete, I will have printed in the RECORD the more extended comments which I made on October 26, 1989, on the consideration of the death penalty for terrorists, on the occasion when it was enacted by the Senate 79 to 20, which sets forth in more detail my reasoning and the precedents on the international legal aspects, and also on the deterrent aspects.

I ask unanimous consent that that statement be printed in the RECORD at the close of my remarks.

I further ask unanimous consent that the text of a Congressional Research Service Issue Brief be printed at the

conclusion of my remarks, since this research brief recounts and updates terrorist incidents involving U.S. citizens or property from 1981 to 1990, which was updated as recently as October 9, 1990, and gives a comprehensive picture of the problems of terrorism.

Mr. President, I also ask unanimous consent that a full copy of the text of the bill, the Terrorist Death Penalty Act of 1991, be printed also at the close of my remarks.

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

S. 245

*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 "Terrorist Death Penalty Act of 1991".

**SEC. 2. DEATH PENALTY FOR TERRORIST ACTS.**

(a) OFFENSE.—Paragraph (1) of subsection 2331(a) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both; and

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;"

(b) DEATH PENALTY.—Section 2331 of title 18, United States Code, is amended by adding at the end thereof the following:

"(f) DEATH PENALTY.—

"(1) SENTENCE OF DEATH.—A defendant who has been found guilty of an offense under subsection (a)(1)(A), if the defendant, as determined beyond a reasonable doubt at a hearing under paragraph (3) either—

"(A) intentionally killed the victim;

"(B) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(C) acting with reckless disregard for human life, engaged or substantially participated in conduct which the defendant knew would create a grave risk of death to another person or persons and death resulted from such conduct,

shall be sentenced to death if, after consideration of the factors set forth in paragraph (2) in the course of a hearing held under paragraph (3), it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"(2) 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:

"(i) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, re-

gardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(ii) 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.

"(iii) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstances of the offense that the defendant may proffer as a mitigating factor exists.

"(B) AGGRAVATING FACTORS FOR HOMICIDE.—In determining whether a sentence of death is justified for an offense described in paragraph (1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(i) DEATH OCCURRED DURING COMMISSION OF ANOTHER CRIME.—The death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under 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 1201 (kidnapping), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following a finding of not guilty only by reason of insanity), 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)).

"(ii) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(I) during and in relation to the commission of the offense or in escaping apprehension used or possessed a firearm as defined in section 921 of this title; or

"(II) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(iii) 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.

"(iv) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 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.

"(v) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to

one or more persons in addition to the victim of the offense.

"(vi) 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.

"(vii) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(viii) 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.

"(ix) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(x) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(xi) TYPE OF VICTIM.—The defendant committed the offense against—

"(I) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(II) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(III) a foreign official listed in section 1116(b)(3)(A) of this title, if that official is in the United States on official business; or

"(IV) a public servant who is 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—

"(aa) while such public servant is engaged in the performance of the public servant's official duties;

"(bb) because of the performance of such public servant's official duties; or

"(cc) because of such public servant's status as a public servant.

For purposes of this clause, 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 magistrate.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(3) 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 paragraph (1), 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—

"(i) that the Government in the event of conviction will seek the sentence of death; and

"(ii) setting forth the aggravating factor or factors enumerated in paragraph (2) and any other aggravating factor not specifically enumerated in paragraph (2), that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

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 subparagraph (A) and the defendant is found guilty of an offense described in paragraph (1), 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. Before such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(i) before the jury that determined the defendant's guilt;

"(ii) before a jury impaneled for the purpose of the hearing if—

"(I) the defendant was convicted upon a plea of guilty;

"(II) the defendant was convicted after a trial before the court sitting without a jury;

"(III) the jury that determined the defendant's guilt was discharged for good cause; or

"(IV) after initial imposition of a sentence under this paragraph, reconsideration of the sentence under the section is necessary; or

"(iii) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to clause (ii) shall consist of 12 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—

"(i) any matter relating to any mitigating factor listed in paragraph (2) and any other mitigating factor; and

"(ii) any matter relating to any aggravating factor listed in paragraph (2) for which notice has been provided under subparagraph (A)(i) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

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 paragraph (2) of this title found to exist and any other aggravating factor for which notice has been provided under subparagraph (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 paragraph (2) 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 an aggravating factor required to be considered under paragraph (2)(C) 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 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, before the return of a finding under subparagraph (E), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, 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, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subparagraph (E), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching the juror's 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, religious beliefs, national origin, or sex of the defendant or any victim may be.

"(4) IMPOSITION OF A SENTENCE OF DEATH.—Upon the recommendation under paragraph (3)(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 or furlough.

(5) 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 paragraph 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—

"(i) the evidence submitted during the trial;

"(ii) the information submitted during the sentencing hearing;

"(iii) the procedures employed in the sentencing hearing; and

"(iv) the special findings returned under paragraph (3)(D).

(C) DECISION AND DISPOSITION.—

"(i) If the court of appeals determines that—

"(I) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(II) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(ii) In any other case, the court of appeals shall remand the case for reconsideration under paragraph (3) of this title or for imposition of another authorized sentence as appropriate.

"(iii) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this paragraph.

(6) IMPLEMENTATION OF A SENTENCE OF DEATH.—

"(A) IN GENERAL.—A person who has been sentenced to death pursuant to this subsection 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) IMPAIRED MENTAL CAPACITY, AGE, OR PREGNANCY.—A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out 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—

"(i) 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

"(ii) 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.

A sentence of death shall not be carried out upon a woman while she is pregnant.

"(C) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau 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 paragraph, if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subparagraph, 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.

"(7) 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 as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

(8) APPOINTMENT OF COUNSEL.—

(A) FEDERAL CAPITAL CASES.—

"(i) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subparagraph 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 paragraph (9)(B) has occurred.

"(ii) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subparagraph 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.

"(iii) 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 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subparagraph for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order (I) 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; (II) 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 (III) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this clause 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.

"(iv) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subparagraph, at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 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 5 years and have at least 3 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.

"(v) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subparagraph, the provisions of section 3006A of this title shall apply to appointments under this subparagraph.

"(vi) 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.

"(B) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a State court or other State proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a State capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

(9) COLLATERAL ATTACK ON JUDGMENT IMPOSING SENTENCE OF DEATH.—

"(A) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in paragraph (8)(A)(ii), a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under paragraph (8)(A)(iii). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this paragraph 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—

"(i) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subparagraph (A), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(ii) 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 (I) the time for filing a petition for certiorari has expired and no petition has been filed; (II) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (III) 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

"(iii) 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 subparagraph (B) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(i) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(ii) the failure to raise the claim is (I) the result of governmental action in violation of the Constitution or laws of the United States; (II) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (III) 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

"(iii) 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."

[From the Congressional Record, Oct. 26, 1989]

Mr. SPECTER. Mr. President, this bill proposes a death penalty for an act of murder by a terrorist against a U.S. citizen anywhere in the world.

Mr. President, the death penalty is a very important weapon in the war against violent crime, generally, which includes the war against drugs and the war against terrorists.

Most people would be surprised to know that there had not been the availability of the death penalty for any Federal crime since 1972, until 1988, when Congress enacted legislation providing for the death penalty for major drug dealers, where death results. That is aside from the Uniform Code of Military Justice.

In 1972, the Supreme Court of the United States, in a landmark decision captioned *Furman versus Georgia*, the Supreme Court said that the death penalty could not be constitutionally imposed in the absence of mitigating and aggravating circumstances being considered by a jury, in order to eliminate indiscriminate application of the death penalty.

Although there are many Federal offenses traditionally which had called for the death penalty—treason, espionage, murder, assassination of an American President, explosives causing death, train wrecks causing death—the Congress had never been able to bring back the death penalty until 1988 when, in the midst of the great national concern over the drug issue, the death penalty was brought back for that limited item.

Mr. President, I believe that the death penalty is necessary as an important weapon against the war on violent crime, and that it ought to be available on an act like terrorism, resulting in the death of U.S. citizens.

It ought to be available more broadly, but the issue which we have before us at the moment is limited to that one item. When we consider the incidents of terrorism, Mr. President, and recall just a few of the atrocities involving mass murders of U.S. citizens, I think it becomes very apparent why the death penalty is an appropriate penalty.

On December 21, 1988, in the famous Pan Am 103 tragedy, that plane was blown up by a terrorist bomb over Lockerbie, Scotland, and 259 passengers were brutally murdered; 79 of those 259 passengers were women and children, with 189 United States citizens.

On July 31, 1989, Lt. Col. Higgins was reportedly hanged by Hezbollah captors in retaliation for the Sheik Obeid incident, bringing an outraged reaction worldwide. Regrettably, our outrage on incidents like Colonel Higgins and like Pan Am 103 are short lived. We have to continue our focus on them, and see to it that appropriate responses are undertaken.

Mr. President, there is a long line of terrorist activities resulting in deaths of U.S. citizens which, regrettably, tend to be forgotten. I would like to review just a few of them at this moment.

The year of 1985 was a big year for terrorism, and a very serious year for the murder of U.S. citizens as a result of terrorist acts.

On June 14, 1985, a 17-day ordeal occurred on TWA flight 847, where three U.S. citizens were severely and repeatedly beaten by terrorists. Robert Stethem, a Navy diver, was not only savagely beaten, but executed with a shot to his head, his body dumped out of the plane onto the airfield in an egregious and reprehensible act of murder as a result of a terrorist plot.

On October 7, 1985, Leon Klinghoffer, an American citizen, was taking a pleasure cruise on the ship *Achille Lauro*. Mr. Klinghoffer was confined to a wheelchair. He was rolled to the open deck of the cruise ship, *Achille Lauro*, where he was hit in the head and chest by terrorists and his body dumped into the Mediterranean Sea.

On December 27, 1985, at the Rome airport, 15 people were killed, including 5 U.S. citizens, and 73 wounded in a grenade and machinegun attack by the Abu Nidal terrorist organization.

Back in 1973, members of the Black September organization terrorists group murdered the United States Ambassador chargé and the Belgian chargé, after being marched into the basement of the Saudi Embassy and machinegunned to death.

Mr. President, on April 2, 1986, TWA flight 840 was en route to Athens, Greece, a bomb was placed under a passenger seat by terrorists; it exploded, causing four United States citizens, including a mother and her infant child and the child's grandmother, to be sucked out of the aircraft, falling to their deaths.

Later that year, Mr. President, on September 5, 1986, Pan Am 73 at Karachi, Pakistan,

was held by terrorists for 17 hours; gunmen indiscriminately exploding grenades and firing machineguns; 21 people died, 100 people were wounded, two United States citizens were killed.

Mr. President, as a result of the escalating problems of terrorism, the Congress of the United States has responded by moving for what we call extraterritorial jurisdiction, which is a unique approach in the fight against worldwide crime, including terrorism and including drug activities.

Customarily, the case is tried in the jurisdiction which takes control of a criminal matter in the locale where it occurs. If there is a murder in Pennsylvania, the incident is tried in Pennsylvania, customarily in the county, until there is a change of venue. But some offenses have been so notorious and so troublesome that nations have legislated to undertake what we call extraterritorial jurisdiction.

The first time that was done by the United States was in the Omnibus Crime Control Act of 1984, where we made it a violation of United States law for terrorists to take hostages or to hijack U.S. planes. That law was augmented in 1986 by legislation which this Senator introduced, which makes it a violation of U.S. law to attack, maim, or murder a U.S. citizen anywhere in the world. That was in response to serious gaps in the legislation from the 1984 Omnibus Crime Control Act. For example, we saw the murders in the Vienna and Rome airports in December 1985.

So, Mr. President, the United States of America has made a forceful declaration that we are not going to rely upon the laws of any nation where U.S. citizens may be victimized by terrorism. We are going to make it a violation of United States law, and we are going to enforce laws of the United States where Americans are victimized.

It was pursuant to that extraterritorial jurisdiction that Fawaz Yunis was brought to the United States on a daring James Bond type of maneuver, where Yunis was lured onto a fishing boat in the Mediterranean on a very unique act of law enforcement by FBI agents, far beyond the territorial limits of the United States. Yunis was brought back to the United States where he was tried, convicted, and sentenced to 30 years in jail.

Mr. President, I suggest that the time has come to specify that where death results to a U.S. citizen as a result of an act of a terrorist anywhere in the world, that it is appropriate that the jury should have the option of imposing the death penalty on that kind of a heinous act.

If we are able to bring to justice the perpetrators of the Pan Am bombing, who could doubt that, in a context where 259 people are ruthlessly murdered, it would be appropriate to have the jury have the option of imposing the death penalty?

Who could deny that in a case like the brutal murder of Robert Stethem after being beaten, executed and tossed onto the tarmac, that the jury ought to have the option of imposing the death penalty, or, in the case of Leon Klinghoffer, or in the case of many, many incidents where U.S. citizens have been victimized by terrorism?

I am not saying, Mr. President, that the death penalty has to be imposed. That is the province of the jury under U.S. constitutional law. One great thing about the United States of America is whoever the defendant is, in our court he receives a full range of constitutional rights. For example, when Fawaz Yunis was brought into the United States for prosecution, the United States accorded him an opportunity to challenge his

confession, to challenge the prosecution procedures, to challenge the way he was treated, considerations which Yunis and other terrorists would never dream of according their victims. So it is a matter for jury discretion, and it might be necessary on some extradition matters to make a commitment not to impose the death penalty.

When the United States was negotiating to try to get Hamadi back to the United States for trial for the murder of Stethem, the commitment was made by our State Department that we would not seek the death penalty. The fact was, really, we did not have the death penalty available to us. We could not impose it *ex post facto*. The death penalty was not in existence. This ought to be an option and ought to be a remedy and ought to be available when evaluating the propriety of the punishment of death.

Mr. President, it is not an easy matter, and there are many who have conscientious scruples against the death penalty, and I respect that. But I believe in a fair evaluation of what is appropriate, what may serve as a deterrent and what is in society's interest, that the death penalty ought to be available for certain kinds of outrageous, heinous, reprehensible acts.

I believe, Mr. President, that the death penalty has to be very carefully used.

When I served as district attorney of Philadelphia, from 1966 through 1974, it was my policy to review personally every case where the death penalty was to be requested. Out of some 500 homicides a year in the city of Philadelphia, the death penalty was requested in a very limited number of cases. A strict standard was applied because I felt it was necessary to be very, very restrained in the use of the death penalty, as a matter of fairness and also as a matter of retention of the death penalty. I do not think that it can be overused.

Chief Justice Earl Warren is one of the most noted of the American jurists, widely respected for his broad view of civil rights. In 1958, when he considered the issue of the death penalty and its constitutionality in the case of *Trop versus Dulles*, Chief Justice Warren said the following:

"At the outset let us put to one side the death penalty as an index of the constitutional limit on punishment. Whatever the arguments may be against capital punishment both on moral grounds and in terms of accomplishing the purpose of punishment, and they are forceful, the death penalty has been employed throughout our history and, in a day when it is still widely accepted, it cannot be said to violate the constitutional concept of cruelty."

The death penalty was considered at length, Mr. President, in the 1976 decision of *Gregg versus Georgia*, and in the learned opinion filed by Justice Potter Stewart, joined in by Justice Powell and Justice Stevens, there are some very illuminating descriptions of the purpose of the death penalty, its proportionality, and its justification.

Justice Stewart wrote as follows:

"Indeed, the decision that capital punishment may be the appropriate sanction in extreme cases is an expression of the community's belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the penalty of death."

He wrote further:

"In part, capital punishment is an expression of society's moral outrage at particularly offensive conduct. This function may be unappealing to many, but it is essential in

an ordered society that asks its citizens to rely on legal processes rather than self-help to vindicate their wrongs."

Justice Stewart quotes from Lord Justice Denning, Master of the Rolls of the Court of Appeal in England, when Lord Justice Denning spoke to the British Royal Commission on capital punishment, as follows:

"Punishment is the way in which society expresses its denunciation of wrong doing; and in order to maintain respect for law, it is essential that the punishment inflicted for grave crimes should adequately reflect the revulsion felt by the great majority of citizens for them. It is a mistake to consider the objects of punishment as being deterrent or reformatory or preventive and nothing else. The truth is that some crimes are so outrageous that society insists on adequate punishment, because the wrong-doer deserves it, irrespective of whether it is a deterrent or not."

Mr. President, I will come in a moment to some of the other considerations on capital punishment such as its deterrent effect, but I believe that it is both fair and accurate to say that, on basic concepts of fairness and basic concepts of justice, the death penalty is fair in certain kinds of egregious cases like murder resulting from the act of terrorism.

I think it appropriate at this time, to discuss the second aspect of society's interest in the death penalty, and that is as a deterrent.

Again a good starting point is the comprehensive and erudite opinion of Justice Stewart in *Gregg versus Georgia*, where he summarizes in a few words a great body of the raging debate on whether capital punishment is or is not a deterrent, and Justice Stewart said this:

"Although some of the studies suggest that the death penalty must not function as a significantly greater deterrent than lesser penalties, there is no convincing empirical evidence either supporting or refuting this view. We may, nevertheless, assume safely that there are murderers, such as those who act in passion, for whom the threat of death has little or no deterrent effect. But for many others, the death penalty undoubtedly is a significant deterrent. There are carefully contemplated murders, such as murder for hire, where the possible penalty of death may well enter into the cold calculus that precedes the decision to act. And there are some categories of murder, such as murder by life imprisonment where other sanctions may not be adequate."

Mr. President, I think it is hard to deny the necessity for an additional penalty for someone serving life imprisonment. If a lifer faces no penalty beyond an additional sentence for life, he can only obviously do one sentence, why not murder a guard or another prisoner when no other penalty is present?

I think, too, Mr. President, that capital punishment is a deterrent just as Justice Stewart outlines it. There are statistics and there are studies on both sides of this issue.

A very interesting study by Prof. Steven Gabison, an econometric analyst comes to the conclusion, after studying some 7,092 executions between 1900 and 1985, that approximately 125,000 innocent lives have been saved by the death penalty.

These studies, Mr. President, go both ways. But I am personally convinced that the death penalty is a deterrent based upon substantial experience that I have had as a prosecuting attorney, cases where hoodlums did not take along a weapon where they were about to undertake a robbery because they

were worried about the possibility of the death penalty; professional criminals, burglars, robbers, who made forceful statements about their concern about the death penalty.

There was one very unique opinion—it is a dissenting opinion—when the Supreme Court of California was badly divided on a case of capital punishment, and the majority reversed the death penalty but three of the justices came to the conclusion that the death penalty should have been imposed. And an opinion by Justice McComb written in 1961 is unique in setting out some 14 cases where criminals stated that they did not take along a weapon or they were concerned about killing because the death penalty might result.

Mr. President, I ask unanimous consent that the full text of this dissenting opinion be printed in the RECORD.

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

Gibson, C. J., and Peters, White and Dooling, J.J., concur.

McComb, Justice.

I dissent.

First: I do not believe that the district attorney's argument to the jury constituted prejudicial misconduct.

In my opinion, it is a matter of common knowledge that the death penalty is a deterrent, because:

(a) Christians and Jews from the beginning of recorded history have recognized that the death penalty is a deterrent to murder.

This is demonstrated by the fact that, according to the account contained in the Old Testament (see New American Catholic Edition, The Holy Bible (1950), the Lord spoke to Moses and said: "He that striketh and killed a man: dying let him die." (Leviticus 25, verse 17.) "If any man strike with iron, and he die that was struck: he shall be guilty of murder, and he himself shall die. If he throw a stone, and he that is struck die: he shall be punished in the same manner. If he that is struck with wood die: he shall be revenged by the blood of him that struck him. \* \* \* These things shall be perpetual, and for an ordinance in all your dwellings. \* \* \* You shall not take money of him that is guilty of blood: but he shall die forthwith." (Numbers 35, verses 16-31.)

(b) In the early history of the western states of the United States of America, including California, the death penalty was imposed by the early settlers to stop the rustling of cattle. It is a matter of common knowledge that in the early days of this state the apprehension and hanging of cattle rustlers reduced, and almost stopped, the theft of cattle.

(c) In the early history of San Francisco, law enforcement broke down and chaotic conditions prevailed. A group of citizens, known as the Vigilantes, undertook to restore order. To do this, they apprehended criminals and after trial promptly executed the guilty parties. Order was restored, and the civil authorities assumed control again. Clearly fear of the death penalty was the basic reasons for the restoration of order.

(d) Any prosecuting attorney or criminal defense attorney or any trial judge who has sat for a substantial period in a department of the superior court devoted to the trial of felony cases knows that many felons are careful to refrain from arming themselves with a deadly weapon because they do not want to take the chance of killing anyone and suffering death as a penalty.

A few recent examples of the accuracy of this view are to be found in the following

cases involving persons arrested by officers of the Los Angeles Police Department:<sup>1</sup>

(i) Margaret Elizabeth Daly, of San Pedro, was arrested August 28, 1961, for assaulting Pete Gibbons with a knife. She stated to investigating officers: "Yeh, I cut him and I should have done a better job. I would have killed him but I didn't want to go to the gas chamber."

(ii) Robert D. Thomas, alias Robert Hall, an ex-convict from Kentucky; Melvin Eugene Young, alias Gene Wilson, a petty criminal from Iowa and Illinois; and Shirley R. Coffee, alias Elizabeth Salquist, of California, were arrested April 25, 1961, for robbery. They had used toy pistols to force their victims into rear rooms, where the victims were bound. When questioned by the investigating officers as to the reason for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, as if someone were killed in the commission of the robberies, they could all receive the death penalty.

(iii) Louis Joseph Turck, alias Luigi Furchiano, alias Joseph Farino, alias Glenn Hooper, alias Joe Moreno, an ex-convict with a felony record dating from 1941, was arrested May 20, 1961, for robbery. He had used guns in prior robberies in other states but simulated a gun in the robbery here. He told investigating officers that he was aware of the California death penalty although he had been in this state for only one month, and said, when asked why he had only simulated a gun, "I knew that if I used a real gun and that if I shot someone in a robbery, I might get the death penalty and go to the gas chamber."

(iv) Ramon Jesse Velarde was arrested September 26, 1960, while attempting to rob a supermarket. At that time, armed with a loaded .38 caliber revolver, he was holding several employees of the market as hostages. He subsequently escaped from jail and was apprehended at the Mexican border. While being returned to Los Angeles for prosecution, he made the following statement to the transporting officers: "I think I might have escaped at the market if I had shot one or more of them. I probably would have done it if it wasn't for the gas chamber. I'll only do 7 or 10 years for this. I don't want to die no matter what happens, you want to live another day."

(v) Orelus Mathew Stewart, an ex-convict with a long felony record, was arrested March 3, 1960, for attempted bank robbery. He was subsequently convicted and sentenced to the state prison. While discussing the matter with his probation officer, he stated: "The officer who arrested me was by himself, and if I had wanted, I could have blasted him. I thought about it at the time, but I changed by mind when I thought of the gas chamber."

(vi) Paul Anthony Brusseau, with a criminal record in six other states, was arrested February 6, 1960, for robbery. He readily admitted five holdups of candy stores in Los Angeles. In this series of robberies he had only simulated a gun. When questioned by investigators as to the reason for his simulating a gun rather than using a real one, he replied that he did not want to get the gas chamber.

(vii) Salvador A. Estrada, a 19-year-old youth with a four-year criminal record, was arrested February 2, 1960, just after he had stolen an automobile from a parking lot by wiring around the ignition switch. As he was being booked at the station, he stated to the

arresting officers: "I want to ask you one question, do you think they will repeal the capital punishment law. If they do, we can kill all you cops and judges without worrying about it."

(viii) Jack Colevris, a habitual criminal with a record dating back to 1945, committed an armed robbery at a supermarket on April 25, 1960, about a week after escaping from San Quentin Prison. Shortly thereafter he was stopped by a motorcycle officer. Colevris, who had twice been sentenced to the state prison for armed robbery, knew that if brought to trial, he would again be sent to prison for a long term. The loaded revolver was on the seat of the automobile beside him and he could easily have shot and killed the arresting officer. By his own statements to interrogating officers, however, he was deterred from this action because he preferred a possible life sentence to death in the gas chamber.

(ix) Edward Joseph Lapienski, who had a criminal record dating back to 1948, was arrested in December 1959 for a holdup committed with a toy automatic type pistol. When questioned by investigators as to why he had threatened his victim with death and had not provided himself with the means of carrying out the threat, he stated, "I know that if I had a real gun and killed someone, I would get the gas chamber."

(x) George Hewitt Dixon, an ex-convict with a long felony record in the East, was arrested for robbery and kidnaping committed on November 27, 1959. Using a screwdriver in his jacket pocket to simulate a gun, he had held up and kidnaped the attendant of a service station, later releasing him unharmed. When questioned about his using a screwdriver to simulate a gun, this man, a hardened criminal with many felony arrests and at least two known escapes from custody, indicated his fear and respect for the California death penalty and stated, "I did not want to get the gas."

(xi) Eugene Freeland Fitzgerald, alias Edward Finley, an ex-convict with a felony record dating back to 1951, was arrested February 2, 1960, for the robbery of a chain of candy stores. He used a toy gun in committing the robberies, and when questioned by the investigating officers as to his reasons for doing so, he stated: "I know I'm going to the joint and probably for life. If I had a real gun and killed someone, I would get the gas. I would rather have it this way."

(xii) Quentin Lawson, an ex-convict on parole, was arrested January 24, 1959, for committing two robberies in which he had simulated a gun in his coat pocket. When questioned on his reason for simulating a gun and not using a real one, he replied that he did not want to kill someone and get the death penalty.

(xiii) Theodore Roosevelt Cornell, with many aliases, an ex-convict from Michigan with a criminal record of 26 years, was arrested December 31, 1958, while attempting to hold up the box office of a theater. He had simulated a gun in his coat pocket, and when asked by investigating officers why an ex-convict with everything to lose would not use a real gun, he replied, "If I used a real gun and shot someone, I could lose my life."

(xiv) Robert Ellis Blood, Daniel B. Gridley, and Richard R. Hurst were arrested December 3, 1958, for attempted robbery. They were equipped with a roll of cord and a toy pistol. When questioned, all of them stated that they used the toy pistol because they did not want to kill anyone, as they were aware that the penalty for killing a person in a robbery was death in the gas chamber.

(e) The people of the State of California have, through their Legislature, on many occasions considered whether the death penalty should be abolished in this state—this as recently as the 1961 session of the Legislature—and in each instance have come to the conclusion that the death penalty is a deterrent and have retained it. Therefore, the judiciary of this state is bound to follow the legally expressed will of the sovereign people of the State of California.

Second: Defendant did not object to the prosecutor's statements. Therefore, he cannot raise the issue of their propriety on appeal unless they were of such character that the error could not have been cured by prompt admonition and instructions of the trial court. (People v. Hampton, 47 Cal. 2d 239, 240 [3], 302 P.2d 300.) In my opinion, any alleged prejudice could have been cured by a prompt request for, and the giving of, an admonition and instruction by the trial judge.

Third: In my opinion, the trial judge properly exercised his discretion in denying the motion for a new trial on the penalty phase.

Any judge or attorney who has had trial court experience knows that a trial judge is not always familiar with all the procedural law at the outset of the trial of a case. This is particularly true at the present time and is in part due to the ever-changing rules of law. This view was recently expressed by Hon. Evelle J. Younger, of the Los Angeles Superior Court, in an address which he delivered before the Lawyers Club. The following report on Judge Younger's remarks appeared in one of the Los Angeles legal newspapers: \*

"As an example Judge Younger noted the recent changes in the rules on admissibility of evidence obtained by illegal search and seizure. 'We have just recently run the gamut from the common law rule that such evidence was admissible in Federal or State courts regardless of how obtained, if of probative value, to absolute exclusion.' The latest rule of absolute exclusion was handed down this year in the case of Dolly Mapp. [Dollree Mapp v. Ohio, 364 U.S. 868, 81 S.Ct. 111, 5 L.Ed.2d 90].

"The result of these changes is that it becomes increasingly difficult for local peace officers to determine what are, and what are not, allowable procedures in 'coping with mounting criminal activity.' An arrest, he stated, cannot be justified if it shocks the conscience—but whose conscience is the determining factor? 'Not the community's. Not the Police Chief's. \* \* \* We are talking about the conscience of the Ninth Member of the United States Supreme Court. And, we are not talking about his conscience yesterday; we are talking about his tomorrow's conscience.'

"If judges and legal scholars have difficulty in defining due process, one can sympathize with the lonely policeman patrolling his beat who is expected to make legally correct split-second decisions, he commented.

\* \* \* \* \*

"The speaker concluded by reiterating, 'We must zealously guard the rights of individuals; but in protecting the individual charged with crime we should never lose sight of the rights of society.'" (Metropolitan News, Vol. XXXIX, No. 152 (8/31/61); The Los Angeles Daily Journal, Vol. LXXIV, No. 175 (9/1/61).

The result is that a trial judge must rely to a large measure upon the information furnished him by the attorneys appearing before him. In the present case this was done. After the trial judge expressed doubts as to

<sup>1</sup>The cases cited are taken from the records on file in the Los Angeles Police Department. 16 Cal.Rptr.—50

his authority to reweigh the evidence following the jury's fixing of the death penalty, counsel for the defendant pointed out to him that he did have such authority. Whereupon the judge accepted the view that he had authority on the motion for a new trial to reweigh the evidence as to the application of the death penalty. He then stated that assuming he had such authority, he would deny the motion, as the penalty was properly imposed, and that this view was supported by the fact that three juries had imposed the death penalty for the crime of which the defendant was convicted.

The problem presented is not a mere academic one. The people of this state are faced with an extremely important situation.

I would affirm the judgment and the order denying the motion for a new trial.

Schauer, Justice (dissenting).

I concur in the conclusions stated by Mr. Justice McComb and in his reasoning. I find it necessary, however, to emphasize my differences with the majority opinion.

I can understand with the majority that there is a reasonably debatable question as to whether the record affirmatively and satisfactorily shows that the trial court performed its full duty to independently weigh the evidence as required by *People v. Borchers* (1958) 50 Cal.2d 321, 328 [1, 2], 330 [9, 10], 325 P.2d 97 and *People v. Moore* (1960) 53 Cal.2d 451, 454 [2], 2 Cal.Rptr. 6, 348 P.2d 584. However, construing the record favorably to affirmance, as is the duty of a reviewing court, I am satisfied with Justice McComb's conclusion that the judgment should be affirmed.

The reversal of a judgment in a case of this character (and this is a second reversal in the same case) even when clearly required under established law, is in itself a serious matter. But far transcending the importance of the reversal in adverse effect on law enforcement, are certain pronouncements in the opinion (hereinafter quoted) which, whether so intended or not, constitute an attack on the death penalty. I cannot find justification in fact or in law for the majority's criticism of the prosecutor's argument to the jury regarding the death penalty or for the pronouncements which constitute an undermining attack on that penalty.

The majority relate that "For the third time a jury has fixed defendant's penalty at death for the murder of his wife \* \* \*. [After the first trial] the trial court granted a new trial on the ground of newly discovered evidence, and we affirmed. [Citation.] Defendant was again \* \* \* found guilty \* \* \*; again the jury fixed the penalty at death. We affirmed the judgment as to the adjudication that defendant is guilty of murder of the first degree and was sane \* \* \*. We reversed [McComb, J., and Schauer, J., dissenting] \* \* \* as to the imposition of the death penalty because of the admission of evidence tending to inflame and prejudice the jury. (*People v. Love* [1960] 53 Cal.2d 843 [3 Cal.Rptr. 665, 350 P.2d 705].)"

The order of the majority in the above referred to reversal is as follows (page 858 of 53 Cal.2d, at page 674 of 3 Cal.Rptr., at page 714 of 350 P.2d): "The judgment is reversed as to the imposition of the death penalty, and the cause is remanded for retrial and redetermination of the question of penalty only and for the pronouncement of a new sentence and judgment in accordance with such determination and the applicable law." The applicable law includes the provision of section 190.1 of the Penal Code, that "Evidence may be presented at the further proceedings on the issue of penalty, of the circumstances

surrounding the crime, of the defendant's background and history, and of any facts in aggravation of mitigation of the penalty. The determination of the penalty of life imprisonment or death shall be \* \* \* on the evidence presented \* \* \*." (Italics added.)

Yet today the majority rule that (ditto, p. 9 [16 Cal.Rptr. 781, 366 P.2d 37]) "Since it appears, \* \* \* that the prosecutor committed prejudicial misconduct in arguing the deterrent effect of the death penalty to the jury, the judgment \* \* \* must be reversed."

What possible rationality can be found in the provision of section 190.1 that "Evidence may be presented \* \* \* on the issue of penalty \* \* \* and of any facts in aggravation or mitigation of the penalty" if evidence and argument cannot be addressed to what is then the sole issue in litigation? What can the words "Evidence \* \* \* in aggravation or mitigation of the penalty" mean if they do not relate to a basis for selecting as between the more drastic penalty—the greater deterrent—and the mitigated one of imprisonment?

I agree with the majority that (p. 2 of ditto [16 Cal.Rptr. 779, 366 P.2d 35]) "The court did not err in dismissing defendant's subpoena for Governor Brown and Warden Duffy. \* \* \* He had subpoenaed Governor Brown to elicit his views on capital punishment. The penalties for first degree murder have been fixed by the Legislature. (Pen.Code, §190.) The wisdom or deterrent effect of those penalties are for the Legislature to determine and are therefore not justifiable issues. [Manifestly the Legislature has made the determination.] Hence evidence as to these matters is inadmissible." Certainly the above holding is correct. But most assuredly no inference can properly be drawn from that holding that the Legislature has left any doubt that on its findings and in its judgment both the death penalty—for its greater deterrent effect, particularly in aggravated cases—and so-called life imprisonment—with its lesser effect for mitigated cases—are essential for the protection of society in California.

But in contrast to the law the majority go on to assert that the judgment here must be reversed and remanded for a new (fourth) trial on the issue of penalty because: "[The prosecutor] stated as a fact the vigorously disputed proposition that capital punishment is a more effective deterrent than imprisonment." Would "vociferously" perhaps be a more accurate adverb than "vigorously"? And since, as the majority already had held, the Legislature has fixed the penalties for first degree murder and they "are therefore not justifiable issues," why should the prosecutor not accept the findings of the Legislature and the law as to the two alternative penalties, exactly as he did, and offer evidence and argument pertinent to the jury's performance of duty, as clearly contemplated by the Legislature in its enactment of Penal Code, sections 190 and 190.1?

The majority continues: "The Legislature has left to the absolute discretion of the jury the fixing of the punishment for first degree murder [i.e., without any control by the judge of their discretion but, of course, presumably rationally in the light of the evidence]. [Citation.] There is thus no legislative finding, and it is not a matter of common knowledge, that capital punishment is or is not a more effective deterrent than imprisonment." The italicized pronouncement, in my view, is obnoxious to fact and law. Unsupported by statute or prior decision, it is a blow which appears to be aimed directly against rational application, and therefore toward ultimate abolition, of the death penalty. If the quoted

italicized pronouncement were true—that there is neither legislative finding nor common knowledge "that capital punishment is or is not a more effective deterrent than imprisonment" then, of course, the death penalty should be abolished.

Further implementing its tenet the majority opinion continues: "Since evidence on this question [presumably evidence in aggravation or mitigation of penalty as contemplated by Penal Code, section 190.1] is inadmissible, argument thereon by prosecution or defense could serve no useful purpose, is apt to be misleading, and is therefore improper. It is true that in *People v. Friend* [1957] 47 Cal.2d 749, 766-768, 306 P.2d 463, we stated that counsel could advance arguments as to which penalty will better serve the objectives of punishment' and listed deterrence of crime as one of those objectives. To the extent that *People v. Friend* is inconsistent with our conclusion herein it is overruled." (Italics added.)

By the above quoted holdings the majority in effect place the prosecutor in a forensic strait jacket as to argument for the greater deterrent. Those holdings also effectually emasculate the provision of Penal Code, section 190.1, for the taking of evidence to aid the jury in making an intelligent and informed selection as between the alternative, but by no means equal, penalties of death or imprisonment. In so doing it appears to me that the majority action trenches upon an invasion of the legislative province in disregard of the distribution of powers prescribed by California Constitution, article III, section 1. (Compare *Muskopf v. Corning Hospital Dist.* (1961) 55 Cal.2d 211, 213-221, 11 Cal.Rptr. 89, 359 P.2d 457; see also dissenting opinion, pp. 221-224; Civ. Code, §22.3; Stats. 1961, ch. 1404, p. 3209). To the same end today's majority also disregard the doctrine of *stare decisis* in overruling (as above quoted) the decisional law which admittedly had bound the trial court at the time of trial.

Although overruling the cited decision the majority rely on it as a basis for reversal. They say "That decision (*Friend* (1957)), however, was binding on the trial court at the time this case was tried, and it would have been an idle act for defendant to object in the trial court to the prosecutor's argument that capital punishment is a more effective deterrent than imprisonment. He is therefore not precluded from raising the question for the first time on appeal." The trial court thus is reversed for following the law as it existed at the time of trial—and as it also existed at the time of this court's first reversal of the judgment and remand "for retrial and redetermination of the question of penalty only."

Actually the correct rules, as had been held by this court in the *Friend* (1957) decision, relative to the selection of penalty (as between death and so-called life imprisonment) are stated or indicated in the now overruled case. Insofar as appears proper to be quoted here, the opinion in that case declares (page 764 [8] of 47 Cal.2d at page 472 of 306 P.2d): "We note \* \* \* that the trend is toward the more liberal admission of evidence pertinent only to the selection of penalty. For example, if has become established practice to advise the jury of the facts concerning the possibilities of pardon, commutation, parole, etc. [Citations.] Obviously, the law pertaining to pardons, commutations and paroles has not the slightest relevancy to the issue of guilt; it is pertinent only as a fact which may be considered in selecting the penalty to be imposed; i.e., it is evidence which may be considered as relevant to the 'aggravation' or 'mitigation' of punishment

in the sense in which those terms have been used in relation to the selection of penalty. \* \* \* [Page 767 [13], 306 P.2d at page 474.] They [the jury] should be told \* \* \* that beyond prescribing the two alternative penalties the law itself provides no standard for their guidance in the selection of the punishment; \* \* \* that in deciding the question whether the accused should be put to death or sentenced to imprisonment for life it is within their discretion alone to determine, each for himself, how far he will accord weight to the considerations of the several objectives of punishment, of the deterrence of crime, of the protection of society, of the desirability of stern retribution, or of sympathy or clemency. \* \* \* (Italics in last sentence added.) We pointed out also that (footnote 8, page 766, 305 P.2d at page 474) "For some years many courts and writers on criminal law and penology have held that the purpose of legally adjudicated punishment is not or should not be vengeance, but rather deterrence of the offender and other prospective offenders from crime. \* \* \* (Italics added.) All of the foregoing, the majority today brush aside.

Regardless of individual preferences among the justices I deem it to be the duty of this court to accept the fact that the Legislature has determined that the death penalty, in the cases wherein it is prescribed, is the strongest deterrent against the commission of such crimes. The fact that the jury (or the trial judge) has a final power of determination as to whether the death penalty or life imprisonment shall be imposed in a given case is of course not a legislative determination that life imprisonment is an equally strong deterrent. It merely shows the concern of the Legislature that liability to suffer the strongest deterrent be surrounded by the strongest safeguards for the accused. Even as the death penalty is the strongest deterrent against murder, so is it also the most effective protector of the lives of the victims of those who deliberately choose the commission of crimes of violence as a profession.

That the ever present potentially in California of the death penalty, for murder in the commission of armed robbery,<sup>1</sup> each year saves the lives of scores,<sup>2</sup> if not hundreds of victims of such crimes, cannot I think, reasonably be doubted by any judge who has had substantial experience at the trial court level with the handling of such persons. I know that during my own trial court experience, which although not extensive in criminal law, included some four to five years (1930-1934) in a department of the superior court exclusively engaged in handling felony cases, I repeatedly heard from the lips of robbers—some amateurs (no prior convictions), some professionals (with priors)—substantially the same story: "I used a toy gun [or a simulated gun or a gun in which the firing

<sup>1</sup> I use robber as the example for discussion because the deterrent effect of the death penalty for murder in the commission of (or attempt to commit) robbery is particularly well known among law enforcement officers who handle such cases at the investigation, arrest, and trial court levels. The point of my discussion, however, is equally applicable to the deterrent effect of the death penalty against harming kidnap victims and against murder committed in the perpetration or attempt to perpetrate arson, rape, burglary, mayhem or lascivious acts upon a child under the age of fourteen. (See Pen.Code, §§ 209, 189, 190, and 288.)

<sup>2</sup> According to the 1958-1960 Report of the Department of Justice the number of robberies reported in California in 1959 was 11,548.

It may be noted also that in the same year 108,002 burglaries were reported in this state.

pin or hammer had been extracted or damaged] because I didn't want my neck stretched." (The penalty, at the time referred to, was hanging; death by lethal gas was substituted in 1941.)

I, of course, recognize that there are persons who in all sincerity urge that the death penalty be abolished. They point to the cases which reach the courts and say: "See, it has not deterred the commission of these crimes." Certainly the potentiality of the penalty is not 100 per cent effective as a deterrent as to all criminals. But it would be absurd to claim that because it did not deter all it did not deter any. As to each victim of each armed robbery whose life is spared because that one robber was deterred from killing, I dare say that the victim and his loved ones would not quibble over the percentage of the deterrent's efficacy.

There are also persons who entertain a conscientious scruple against any taking of human life. When a person who conscientiously believes that the state should never take a human life is called upon to take part in the operation of a death penalty law he, understandably—being conscientious in duty as well as in personal conviction—will suffer grievously. Whether he shall advocate repeal of the law would be one thing; urging forbearance of execution might be another. But regardless of whether a person has or has not any official connection whatsoever with law enforcement, and whether he realizes it or not, the death penalty law is a matter of importance to his safety. Whether any citizen would urge amendment of the law to make its application more swift and sure, or would repeal it altogether, or change it otherwise, the decision he makes should be of grave concern to him—and to his neighbors. Certainly each person must live with his own conscience. It is, however, to be hoped that his decision, as to any action affecting the death penalty which is motivated by conscience, will be an enlightened decision; that the decision he makes will be more than superficially consistent with his true objective. To make such a decision requires thinking—and information. By information, I mean facts, not theories. Probably all of us who have thought on the subject—and particularly those of us who have some responsibility in these cases (even as remote as it is at the appellate level)—devoutly wish that the death penalty were no longer necessary. But we have not yet reached the state which Sir Thomas More envisioned. Until a Utopian government has become reality, organized society (if it is to exist) must continue on the posit of free will and personal responsibility for one's choices of action (see *People v. Gorshen* (1959) 51 Cal.2d 716, 724, 336P.2d 492) with sanctions for crimes appropriate to their gravity. A good government owes protection to its law abiding citizens.

Let us consider further this business of armed robbery. It is much more profitable, ordinarily, than burglary but it entails more risk. Robbery means facing the victim and taking the property "from his person or immediate presence \* \* \* against his will, accomplished by means of force or fear." (Pen.Code, § 211). The victim (if not blind and deaf) is a potential witness. Robbery is "in the first degree" if "perpetrated by torture or by a person being armed with a dangerous or deadly weapon. \* \* \* (Pen.Code, § 211a). Other kinds of robbery are of the second degree. Robbery in the first degree is punishable "by imprisonment in the state prison \* \* \* for not less than five years;" that of the second degree, by like imprisonment "for not less than one year." [Pen.Code, § 213]. The

maximum in both cases is life imprisonment. Few, if any, law respecting people would contend that these sentences, particularly in view of the early parole probabilities, are too severe.

The risk of undergoing such a sentence is just as much a calculated risk of the professional robber as is the risk of deflation (or competition) a calculated risk of the conventional businessman. But the robber can do one thing that will vastly decrease the risk of identification and conviction: he can eliminate the known witnesses—the victims he robs. To accomplish any robbery he must at least make a show of force and induce fear; and for that reason he usually carries a gun—or something that looks like a gun. It cannot be validly disputed that the choice as to which he carries—a gun or what looks like a gun—is in case after case controlled solely by his respect for the death penalty. If the punishment he risks for robbery is to be imprisonment—and only imprisonment, even if he eliminates the only witness—it would seem inevitable that the incentive to kill would be greatly increased. The greater chance of escaping any punishment would, in the minds of some at least, outweigh the slighter risk of having the term increased. Many a robber who would take the risk of a longer term would absolutely shun any plan which substituted death for imprisonment.

And now I return to the subject of conscientious scruples against the execution of a human being. From what has already been said it must be obvious that I understand that it would be poignantly desirable (in the faithful performance of their law enforcement duties) for jurors and trial judges particularly, and also for justices of courts of review, and governors or other officers having the power of commutation, if the death penalty were abolished. But I comprehend also that it would be tragically undesirable to the families of the innocent victims who would die violently as a result.

Because of what my own eyes have seen and my ears have heard I cannot doubt the efficacy of the death penalty as a savior of the lives of victims of robbers, kidnapers, burglars, and criminals of similar dispositions. But if there were doubt in my mind I should resolve it in favor of protecting the innocent victims of the future rather than sparing the guilty killers of the past.

Inasmuch as today's majority opinion (1) may well be construed as at least approaching an invitation to the Legislature to repeal the death penalty; (2) as it declares a proposition which, if accepted, would constitute a basis arguably demanding repeal;<sup>3</sup> and (3) as it shackles district attorneys and trial courts in effective administration of the present law as it was enacted, it may well be that the Legislature should give attention to the legislation so affected. In that connection, in view of today's court action and of the entire record of appeals from penalty determinations under Penal Code, sections 190 and 190.1 (as those sections were, respectively, amended and added by Stats. 1957, ch. 1968, p. 3509, and Stats. 1959, ch. 738, p. 2727), the Legislature perhaps will wish to give consideration to the possible desirability of eliminating the alternative of imprisonment in certain situations to be designated by the Legislature, and making the greater deterrent the sole penalty, to follow as a matter of law on final conviction in any such designated situation. It would seem that, if such

<sup>3</sup> Why, indeed, should it not be repealed if, as the majority declare, it is no more of a deterrent to murder than is mere imprisonment?

action is contemplated, the Legislature in its study might consider whether the greater deterrence of such certainty might reasonably be made applicable to those who personally would kill, or direct another to kill, "in the perpetration or attempt to perpetrate arson, rape, robbery, burglary, mayhem, or any act punishable under section 288," or in kidnapping (See Pen. Code, §§189, 209.)

Finally, I emphasize: each person who officially or unofficially participates in or advocates enforcement, repeal or amendment of the subject law—and who receives the benefits of its protection—must live with his own conscience. But I respectfully and earnestly urge that he who would consider repealing or otherwise defeating operation of this law, the principal purpose of which is to protect the lives of the victims of crimes of violence, will either make sure that the information on which he acts is sound and convincing or will pause to consider what his conscience may tell him as to some measure of moral responsibility for the "eliminations" which reason suggests may thereby be encouraged. McComb, J., concurs.

Rehearing denied; Schauer and McComb, JJ., dissenting.

There are many, many cases like this, some 14 cities in this opinion, Mr. President. But I believe that the realistic inference, as a matter of human experience, are that people are deterred by capital punishment, that those who receive the death penalty, almost all of them, ask for commutation of sentences to life imprisonment because of their obvious concern about the death penalty.

When Sheik Obeid was taken into custody by the Israelis earlier this year in what was an appropriate act of an arrest and taking into custody under international law principles, the one thing that Sheik Obeid was most concerned about was the possibility that he might be extradited to the United States for the murder of Colonel Higgins because of the certainty of punishment in the United States, albeit not a death penalty. But even a known terrorist like Sheik Obeid is worried about punishment.

The Colombian drug dealers are very apprehensive about being brought to the United States, extradited, because once you are in the United States judicial criminal justice system, you do not get out even though it is only jail and not the death penalty.

Mr. President, just a few more comments on this subject with respect to what may be the differences with terrorists who may be motivated by fanaticism, who may say they are not to be concerned about the death penalty. It is entirely possible that some are not so concerned.

The terrorist who drove his vehicle, his truck, laden with explosives into the U.S. compound resulting in the death of 241 U.S. Marines back on October 23 of 1983, may have been someone driven by a fanatical urge. But there are many, many who are concerned about punishment and who would be concerned about the death penalty.

Sheik Obeid, Bahwal Ghamas, the Colombian drug dealers, as long as there are any, even one, who would say, "I do not want to face the death penalty as a result of a prosecution in a United States court," then, Mr. President, I say that it is appropriate that that penalty be available in the United States prosecution for terrorism. There is absolutely no question from many, many, many, many cases that criminals are concerned about the death penalty. And my own view is that terrorists similarly have such a concern. Nobody can assert with absolute positiveness what is in any man's mind, but

as a result of our experience, I believe that that is a fair conclusion.

When United States citizens are confronted by terrorists around the world and blown out of airplanes or murdered as they discharge their official duties in Greece, as one United States Marine was in 1988, or murdered ruthlessly, as Colonel Higgins was in Lebanon, then I think it is not too much for the Congress of the United States to enact legislation allowing for the option of imposing the death penalty.

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TERRORIST INCIDENTS INVOLVING U.S. CITIZENS OR PROPERTY 1981-1990: A CHRONOLOGY  
(By James P. Wootten, Foreign Affairs and National Defense Division)

CHRONOLOGY OF TERRORIST ACTIONS

10/1/90—An American woman, as yet unidentified, was killed while travelling in China. The victim was a passenger aboard a plane that was hijacked and then crashed on landing, hitting two other jets and killing 127.

8/2/90—Timothy Swanson, a U.S. Peace Corps volunteer, was released by communist rebels in a village about 300 miles south of Manila. Mr. Swanson was unharmed after 2 months of captivity.

5/4/90—U.S. Marine Gunnery Sgt. John Fredette was shot to death outside Subic Base, 50 miles northwest of Manila and 30 miles west of Clark AFB. No one claimed responsibility, although communist guerrillas are suspected.

4/28/90—American geologist Scott Heimdal was kidnapped in Ecuadorian territory and held for ransom by a Colombian guerrilla group, American Battalion. Heimdal was released unharmed on June 29, 1990.

4/14/90—Gunmen killed two U.S. airmen in the Philippines. Airmen John Raven and James Green were shot as they left a hotel near Clark AFB, 50 miles north of Manila. No one claimed responsibility, although communist guerrillas are suspected.

3/30/90—Six U.S. Air Force personnel stationed in Honduras were wounded, two seriously, in a sniper attack on their bus near Tegucigalpa, the capital. A leftist group, the Morazanista Patriotic Front, claimed responsibility.

3/27/90—William Robinson, an American missionary, was shot to death by masked gunmen in Rashaya Foukhar, a village in the Israeli-designated "security zone" in southern Lebanon. The Lebanese National Resistance Front, a leftist group aligned with Syria, claimed responsibility.

3/16/90—16 Americans and three Panamanians were slightly wounded by a bomb explosion in a bar usually frequented by U.S. military personnel in Panama City.

2/21/90—An American geologist, John Robert Mitchell, his Filipino wife, and his father-in-law were killed in an ambush on a road in Bohol province in the Philippines. It is suspected that the victims, riding in an open jeep, were shot by rebels.

2/13/90—Two U.S. citizens, David Kent and James Donnelly, were kidnapped in Medellin, Colombia, by the Marxist Army of National Liberation (ELN) in protest of President Bush's February 15 visit.

1/1/90—Maureen Courtney, of Milwaukee, was one of two Catholic nuns killed by shots fired at their vehicle just after dark on a road in Nicaragua, about 80 miles southwest of Puerto Cabezas. Bishop Paul Schmitz, another American in the vehicle, was wounded. The Sandinista government and the U.S.-supported contras accused each other of the attack.

10/26/89—Two Americans were killed by guerrillas near Clark Air Force Base in the Philippines. William H. Thompson and Donald G. Buchner, civilian technicians hired by Ford Aerospace Corporation, were employed at small Air Force installations near Clark. The insurgent New Philippines Army (NPA) is believed to be responsible for the murders.

9/20/89—Mrs. Robert Pugh, the wife of the U.S. Ambassador to Chad, was among the 171 passengers and crew killed when a French DC-10 airliner was destroyed by a bomb over a remote section of Niger in West Africa. An anonymous caller said that the Shiite organization Islamic Jihad was responsible.

9/18/89—The offices of the American Express Bank in East Beirut were damaged by an explosive device planted in front of the main entrance to the bank.

7/31/89—U.S. Marine Lt. Col. William Richard Higgins, a hostage in Lebanon since Feb. 18, 1988, was reportedly hanged by his captors in retaliation for the Israeli seizure of a Shiite cleric in southern Lebanon. Experts believe that Higgins was killed much earlier by the "Organization for the Oppressed on Earth."

7/13/89—Seven U.S. soldiers were wounded, three seriously, by a bomb attack as they were leaving a discotheque in the Honduran port of La Ceiba. No one claimed responsibility. Four suspects were held.

6/23/89—Chris George, an American aid worker in the Israeli-occupied Gaza Strip, was released after 30 hours in the hands of Palestinian kidnappers. George was taken by three gunmen who claimed to be part of the PFLP. Demands for the release of 7 Palestinians prisoners held by Israel were ignored and George was released unharmed.

6/21/89—An American nun was shot in El Salvador by unknown assailants. Sister Mary MacKey, 63, was seriously wounded as she rode in a pickup truck along a road 10 miles south of San Salvador. The shot came from another truck carrying six men. No one claimed responsibility.

4/21/89—Colonel James N. Rowe, a U.S. military adviser to the Philippines, was shot to death in his car on a crowded Manila street. An urban guerrilla band from the New People's Army (NPA) is suspected.

3/10/89—A bomb exploded under a van being driven by Sharon Lee Rogers, wife of the captain of the U.S.S. Vincennes that mistakenly shot down one Iranian jet last July. Mrs. Rogers was unharmed, but the van was demolished. Speculation is that terrorism was involved and that Iran was connected.

12/21/88—Pan Am flight 103, just out of London's Heathrow airport en route to New York City, exploded in the air about 6 miles southeast of the Scottish town of Lockerbie. All 259 persons on board the plane were killed in the explosion and crash. About 17 Scottish residents of the town were killed by the falling wreckage. There is overwhelming evidence that a bomb exploded in the cargo hold of the plane. Several terrorist organizations claimed responsibility for the incident, the most likely being the radical PFLP-GC, headed by Ahmed Jabril.

7/17/88—Unknown assailants fired upon 6 U.S. servicemen in the small town of San Pedro Sula, about 125 miles north of the Honduran capital, Tegucigalpa.

6/28/88—Navy captain William E. Nordeen, the U.S. defense attache in Greece, was killed by a bomb as he was driving to the embassy from his residence in an Athens suburb. The bomb was apparently placed in the trunk of a parked car and detonated by remote control. A radical terrorist group called November 17 claimed responsibility.

5/15/88—Three Americans were among those wounded in a hotel in Khartoum, Sudan, when it was attacked by terrorists armed with machine guns, grenades, and tear gas. Seven people were killed in the attack and 21 were wounded. Five of the dead were foreigners, including a British family of 4. Police arrested 3 gunmen carrying Lebanese passports.

4/15/88—A bomb exploded outside an Air Force radio relay station near Torrejon, a large U.S. air base outside Madrid. The bomb caused minor damage to the installation and no one was injured by the explosion.

4/14/88—Angela Simone Santos, a 31-year-old Navy petty officer stationed in Naples, was killed by a car bomb that exploded outside an American USO club in that city. Four other U.S. sailors were wounded by the explosion. Four Italians were also killed and at least 17 others injured by the attack. A unit of the Japanese Red Army calling itself the Jihad Brigade claimed responsibility.

2/18/88—A U.S. Marine officer serving with the U.N. observer group in Lebanon was kidnapped. Lt. Col. William R. Higgins was taken from his car near Tyre, a port in southern Lebanon, by gunmen believed to be members of the Moslem fundamentalist Party of God. This brings to 10 the number of U.S. hostages still in Lebanon.

12/27/87—Ronald Strong, an American sailor, died from wounds received December 26, in a grenade attack on a temporary USO club in Barcelona, Spain. The Catalan Red Liberation Army, a new organization, claimed responsibility for the attack, which injured 9 other U.S. sailors.

11/28/87—Two American servicemen and a Filipino-born U.S. Air Force retiree were killed near Clark Air Force Base in the Philippines. The 2 airmen were: A1C Randy A. Davis and Sgt. Steven Faust. The other man was Herculana Manganta, a retired Air Force sergeant. The killers could have been communist NPA rebels or right-wing military extremists.

9/27/87—A bomb blast in central Athens caused extensive structural damage to the U.S. military commissary. The Revolutionary Popular Struggle, a leftist guerrilla group, claimed responsibility.

8/10/87—Nine U.S. servicemen were injured by a bomb attack on a bus near Athens. November 17, an urban guerrilla group, claimed responsibility.

8/8/87—Five U.S. soldiers on duty in Honduras were slightly wounded when a bomb exploded outside a restaurant in Comayagua (the main U.S. base in Honduras), a small city near Palmerola. Another American, a civilian contractor working at Palmerola, was also wounded. No one has claimed responsibility for the bombing.

6/17/87—Charles Glass, a U.S. TV journalist, was kidnapped in Lebanon along with his host, Ali Oseiran, son of the Lebanese Minister of Defense. A State Department spokeswoman said that Glass was in Lebanon without official knowledge and in technical violation of U.S. passport rules imposed in February 1987 to keep Americans out of that country. No one has claimed responsibility. Glass escaped from his captors on Aug. 18, 1987.

6/9/87—Two bombs exploded on the grounds of the American Embassy in Rome. Another bomb destroyed a car parked on a street, next to the embassy. There were no injuries by the blasts.

5/26/87—Two U.S. Embassy officials were injured in a Cairo suburb. The wounded men were Dennis L. Williams, the embassy security chief, and John Hucke, his assistant. An

anonymous caller later said that a group called "Egypt's Revolution" was responsible for the attack, the first in Egypt against Americans since relations were restored in 1973.

4/24/87—Sixteen Americans were injured when a bomb exploded under a bus carrying them to the U.S. base near Hellenikon near Athens. The injured included 12 military and 4 civilian dependents. November 17, a Greek guerrilla group, later claimed responsibility for the attack.

1/24/87—Gunmen, posing as Lebanese policemen, seized 3 Americans and an Indian from the campus of Beirut University College, not to be confused with American University of Beirut, which is about 3 blocks south in Moslem-controlled West Beirut. The 3 Americans were Alann Steen, Jesse Turner, and Robert Pohill. The Indian, a longtime U.S. resident associated with other U.S. universities, was Mitheleshwar Singh. All were employed as professors at the U.S. sponsored school. Several groups have been mentioned as the abductors.

10/31/86—Edward Austin Tracy, an American and long-time resident of Moslem-controlled west Beirut was kidnapped, becoming the 7th U.S. citizen held hostage by Lebanese extremists. A group calling itself the Revolutionary Justice Organization said it seized Tracy, accusing him of spying for the United States and Israel. The same group took responsibility for seizing another American, Joseph Cicippio, a month earlier.

10/28/86—Two bombs exploded at separate military installations in Puerto Rico, injuring 1 person and causing extensive damage. Eight other bombs were later discovered and defused. Three pro-independence groups claimed responsibility for the actions.

9/12/86—Joseph Cicippio, an American on the staff of the American University in Beirut (AUB), was seized by 5 armed men while crossing the AUB campus in west Beirut. Cicippio, a convert to Islam and married to a Lebanese woman who works for the U.S. Embassy in east Beirut, was struck on the head and forced into a car by his assailants. No one claimed responsibility for the kidnapping.

9/9/86—Frank Herbert Reed, headmaster of the Lebanese International School, was kidnapped in south Beirut, near Beirut Hospital. Islamic Jihad, a Shi'ite terrorist organization, claimed responsibility for the kidnapping. The caller alleged that Reed was a CIA agent and had converted to Islam and a married Syrian woman as a cover for his intelligence activities.

9/5/86—Pan Am flight 73 was hijacked in Pakistan. At 5:55 PM (Washington time), 4 Arab-speaking gunmen seized a PanAm 747 at Karachi International Airport as the plane was loading passengers for a flight to Frankfurt, Germany. The hijackers held 374 passengers and 15 crew members hostage for 16 hours while sporadic negotiations were attempted. Suddenly, at 9:45 PM the following night when the ground power units run out of gas and lights dimmed on the plane, the gunmen panicked and began firing indiscriminately at the huddled passengers. Before Pakistani commandoes could storm the plane, 21 hostages were dead and more than 60 were seriously wounded. Four Americans were among those killed.

8/11/86—The U.S. Citibank office in Paleo Falio, an Athens suburb, was heavily damaged by a firebomb allegedly thrown by the "Revolutionary Popular Struggle", a terrorist group operating in the Athens area. There were no personal injuries reported.

8/10/86—A U.S. soldier's car was blown up by a bomb in Hanau, West Germany, a small town located near the city of Frankfurt.

6/7/86—A second U.S. soldier died from injuries he received during the bombing of a West Berlin discotheque on Apr. 5. Staff Sergeant James E. Goins, 26, of Ellerbe, NC, died in a West Berlin hospital, the second American and the third victim of the bombing blamed on Libyan agents in Berlin, leading up to the U.S. raids on that country on Apr. 15.

5/28/86—A bomb exploded outside a PanAm airline office in Karachi, Pakistan, killing 1 local citizen and injuring 4 others. No Americans were injured in the blast.

5/6/86—A bomb exploded at Heidi barracks, a small, unguarded U.S. installation near Kirchheimbalden about 35 miles south of Frankfurt, West Germany.

4/29/86—A bomb blast caused minor damage to the U.S. Ambassador's residence in Santiago, Chile. A bomb also went off in front of a Mormon church. These were 2 of a number of bombs that exploded in Santiago and Valparaiso. Leftist guerrillas were suspected of setting off the bombs.

4/26/86—An explosion seriously damaged the American Express office in Lyon, France, injuring 1 person.

Police defused a car bomb outside the U.S. Embassy in Mexico City, Mexico. A group calling itself the "Simon Bolivar Anti-Imperialist Command" claimed the bomb was intended as retaliation for the U.S. attack on Libya on Apr. 15.

4/25/86—Unknown gunmen shot and killed the managing director of the U.S. Black and Decker firm in Lyon, France. The victim, Kenneth Marston, 43, was a British subject. It is not clear if the shooting was related to terrorism or was related to recent organized crime thefts from Black and Decker.

Arthur Pollick, 41, a U.S. Embassy communications officer in Sanaa, North Yemen, was shot and wounded while driving home from church services.

4/21/86—A bomb exploded outside the U.S. Embassy in Lima, Peru. There was a bomb threat to the U.S. Information Office in Dar es Saalam, Tanzania. No one was injured.

4/19/86—A bomb exploded outside the Mormon church in Puerto Ordaz, Venezuela.

4/18/86—Turkey arrested 4 Libyans attempting to place a bomb in a U.S. officers' club in Ankara. The same day a bomb was defused at a Turkish-owned American Express bank in Istanbul. Turkey has also apprehended 10 people, 2 Tunisians and 8 Turks, suspected of plotting to attack the U.S. consulate, the former U.S. consul general, and the Turkish-Iraqi pipeline.

4/17/86—Peter Kilburn, a librarian at the American University of Beirut, Lebanon, was 1 of 3 westerners killed as apparent revenge for the air raids on Libya Apr. 15. Kilburn, 62, disappeared in West Beirut Dec. 3, 1984. The pro-Libyan Arab Fedayeen cells claimed responsibility for Kilburn's death. The other 2 victims were British school teachers John Leigh Douglas and Philip Padfield, who were kidnapped in West Beirut Mar. 28, 1986.

A fire bomb was thrown at the U.S. Marine guard compound for the U.S. Embassy in Tunis, Tunisia, setting a car on fire. No one was injured.

A grenade exploded outside the U.S. consulate in San Jose, Costa Rica. There were no injuries and only minor damage. There were also bomb threats at the U.S. Embassy in Lagos, Nigeria, and the U.S. Army Southern Command headquarters in Panama.

4/15/86—William J. Calkins, an American employee of the U.S. Embassy in Khartoum,

Sudan was shot and wounded while riding home from the Embassy. The shooting was believed to be in retaliation for the U.S. air raids on Libya earlier in the day.

4/5/86—Army Sgt. Kenneth T. Ford of Detroit, MI, was killed in a bomb explosion in a West Berlin Discotheque. A Turkish woman, Nermin Haney, was also killed. There were nearly 200 people injured, including 64 Americans. On Apr. 15, 1986, President Reagan said intelligence intercepts linked Libya to the Berlin bombing, which justified the U.S. attack on Libya that day as "self-defense."

4/2/86—Four Americans were killed and 9 people including 5 Americans, were injured in a bomb explosion aboard TWA Flight 840 en route from Rome to Athens. Alberto Ospina of Stratford, CT, 52-year-old Demetra Stylianopoulos, her 24-year-old daughter Maria Klug, and 9-month-old granddaughter Demetra Klug, all of Annapolis, MD were killed. The plane landed safely at the Athens, Greece airport.

3/22/86—A statue of Harry Truman in Athens was destroyed by an explosion. A Greek revolutionary group claimed responsibility. The statue was restored and replaced in August 1987 by the Greek government.

2/18/86—A car bomb exploded at the U.S. embassy in Lisbon, Portugal. There were no injuries nor other damage.

2/15/86—Unidentified gunmen killed a U.S. citizen, Peter Hascall, in San Salvador, El Salvador. Hascall was engaged in selling military patrol boats to the Salvadoran navy for a Louisiana shipbuilding company. There is some question whether this was a terrorist incident or a street crime.

12/27/85—Palestinian gunmen attacked airports at Rome and Vienna with grenades and machine guns, killing 18 (including 5 Americans) and wounding 116 (22 Americans). A note found in the pocket of 1 terrorist claimed responsibility for the "Martyrs of Palestine," but officials believe that was a pseudonym for Abu Nidal's Revolutionary Fatah group. (The slain Americans, all of whom died in the Rome attack, were John Buonocore, 20, of Delaware; Frederick Gage, 29, of Wisconsin; Don Daland, 30, of Florida; Natasha Simpson, 11, of Rome; Elena Tomarello, 67, of Florida.)

11/24/85—Thirty-three Americans were among 36 wounded when a car bomb exploded at a U.S. Army shopping center in Frankfurt, West Germany.

11/23/85—Arab gunmen of uncertain political affiliation hijacked an Egypt Air flight and landed at Malta after an in-flight gun battle with Egyptian security guards. Three Americans and 2 Israelis were shot at close range and dumped onto the runway; one from each country was killed and the others injured. During the Egyptian commando assault on the plane on Nov. 24, 56 passengers were killed and the 1 surviving terrorist was arrested.

10/7/85—Four Palestinian gunmen hijacked the Italian cruise ship "Achille Lauro" off Alexandria, Egypt, with 80 passengers and 320 crewmen aboard, sailed it to Syria and Cyprus (where it was refused port entry) and back to Egypt. While off the Syrian port of Tartus, the terrorists killed wheelchair-bound American Leon Klinghoffer. Egypt and Italy negotiated the return of the ship and the remaining hostages on board in exchange for safe passage out of Egypt for the terrorists. On Oct. 10, American F-14 fighters accompanied by E-2C electronic surveillance planes intercepted an Egyptian jet carrying the hijackers and forced it down at the Italian-NATO base at Sigonella. Italy ordered

the terrorists to stand trial but released 1 Palestinian negotiator (Muhammad Abbas Zaida, alias Abu Abbas). The sharp U.S. protest over the release of Abbas provoked a crisis in the Italian government of Prime Minister Bettino Craxi.

9/16/85—Nine Americans were among 38 people injured when a Palestinian threw a hand grenade at an outdoor cafe in Rome.

8/15/85—Two bombs exploded at a U.S. Army installation near the Netherlands-West Germany border, damaging a radio tower. Two other incendiary devices were discovered and defused.

8/12/85—An incendiary device was found by cleaning women in the sleeping quarters on a U.S. Army troop train in West Germany. The bomb had failed to explode because it was defective.

8/8/85—Two arsonists fled when they were discovered trying to set fire to a U.S. cultural center in Hamburg.

A car bomb exploded outside the headquarters of the U.S. Rhein-Main airbase near Frankfurt, killing 2 Americans and wounding about 20 other U.S. and West German citizens. The West German Red Army Faction and the French Direct Action claimed responsibility in a letter.

7/22/85—The Copenhagen offices of Northwest Orient Airlines and a nearby Jewish synagogue-nursing home were damaged by a bomb that killed 1 and injured 26. Islamic Jihad claimed responsibility in Beirut.

7/1/85—Unknown terrorists bombed the Madrid offices of Trans World Airlines and British Airways, apparently in retaliation for President Reagan's threat the previous day to strike against terrorism.

6/19/85—Leftist gunmen shot and killed 13 people, including 4 U.S. Marines and 2 U.S. businessmen, as they sat in a sidewalk cafe in San Salvador. Two days later the Urban Guerrillas-Mardoqueo Cruz group, associated with the leftist FMLN, took responsibility. (Five Salvadorans, a Chilean, and a Guatemalan were also killed.) Military officials announced that 3 leftist rebels had been arrested Aug. 27 in connection with the slayings; another suspect had been shot and killed in the arrest and 7 more suspects were still at large.

6/14/85—Shi'ite gunmen hijacked TWA flight 847 from Athens, Greece. The hijackers shot and killed U.S. Navy diver Robert Stehman in Beirut, and dispersed the remaining hostages throughout the city. On June 30, 39 American citizens were released in Damascus.

6/9/85—The Dean of the School of Agriculture of the American University of Beirut, Thomas B. Sutherland, was kidnapped. Sutherland may have been mistaken for AUB President Calvin Plimpton.

5/28/85—The director of the AUB hospital, David Jacobsen, was seized in Beirut.

4/12/85—An explosion in a restaurant frequented by U.S. servicemen near Madrid injured 14 U.S. personnel and family members. Islamic Jihad made the "most reliable" claim for the bombing; the Basque separatist group ETA also claimed responsibility.

3/16/85—Terry Anderson the chief Middle East correspondent for the Associated Press, was kidnapped in Beirut.

2/2/85—Seventy-eight persons, mostly U.S. citizens, were injured when a bomb exploded at a bar frequented by U.S. military personnel in an Athens, Greece, suburb. The National Front, a previously unknown group, claimed responsibility, saying the act was directed at Americans responsible for "the continuing occupation of Cyprus." (While the bomb caused no fatalities, some of the

seriously injured were airlifted to a U.S. military base in West Germany for treatment.)

1/15/85—The Communist Combatant Cells exploded a car bomb at a U.S. military recreation center in Brussels. One military policeman was injured and the blast caused \$500,000 damage.

1/8/85—Fr. Lawrence Martin Jenco, a Roman Catholic priest and the director of the Catholic Relief Services operation in Lebanon, was taken hostage.

1/2/85—The homes of the U.S. and French consuls general were firebombed. The next day an empty guardpost at the U.S. Army headquarters in Heidelberg airfield was also bombed. No injuries were reported, and the Red Army Faction claimed responsibility.

12/28/84—U.S. citizens Gerhart Opel and Alan Bongard were taken hostage along with 20 other foreigners by Angolan rebels. The National Union for the Total Independence of Angola, led by Jonas Savimbi, took the hostages during a raid on a diamond-mining complex close to the Zairan border. The Americans were crew members for the Trans-American airline, which had contracted to fly supply runs for the Angolan government.

12/4/84—Four Islamic Jihad terrorists hijacked a plane bound for Pakistan from Kuwait, ordered it flown to Tehran, and killed 2 Agency for International Development (AID) officials before surrendering to Iranian security forces who stormed the plane. Charles Hegna and William Sanford were fatally shot, and the 2 other Americans on board, AID official Charles Kaspar and businessman John Costa, were tortured during the ordeal. The United States issued a statement of thanks to Iran after the plane was successfully retaken by Iranian forces, but subsequently charged Iran with aiding the terrorists after the 2 U.S. hostages were safely en route to Kuwait.

12/3/84—Peter Kilburn, a U.S. citizen and a librarian at AUB, disappeared in Beirut.

11/25/84—The Popular Forces of 25 April fired four 60-mm mortar rounds at the U.S. Embassy in Lisbon. No injuries were reported.

9/20/84—A small van, loaded with approximately 400 pounds of explosives, drove past a guard checkpoint to the front of the U.S. Embassy annex in Awkar, Lebanon, where it exploded, killing 23 (2 Americans) and wounding 71 (20 Americans). The driver was shot and killed by British security guards. Islamic Jihad claimed responsibility in a call to Agence France-Presse.

5/30/84—Linda Frazier, a U.S. journalist working in Latin America, was among 5 killed when a bomb exploded at a press conference held by Nicaraguan rebel leader Eden Pastora Gomez just inside the Nicaraguan border with Costa Rica.

5/22/84—The Ricardo Franco Front, a breakaway group from the Soviet-aligned Revolutionary Armed Forces of Colombia, bombed eight U.S. facilities in two Colombian cities, but caused no injuries. In Bogota, the terrorists attacked the U.S. Embassy, the U.S. Ambassador's residence, a binational center, two IBM installations, and the IIT offices; in Cali, attacks were sustained at the binational center and a Texaco warehouse.

5/1/84—Tamil separatists kidnapped a newlywed American couple, Stanley and Mary Allen, in Jaffna, Sri Lanka. The kidnapers demanded \$2 million in gold and the release of 20 Tamil prisoners, but after Sri Lankan President Junius Jeyewardene rejected the demands, the couple was released unharmed.

5/8/84—Islamic Jihad claimed responsibility for the kidnapping of Benjamin Thomas

Weir, a U.S. Presbyterian minister, in West Beirut. Weir was released on Sept. 14, 1985.

4/15/84—A bomb exploded in a northwestern Namibia gas station, killing U.S. envoys Dennis Keogh and Lt. Col. Ken Crabtree, as well as 1 Namibian. Although South African authorities blamed the South West Africa People's Organization, SWAPO denied responsibility, and the United States called the explosion an "act of random terrorism." The victims were the first Americans to die in the 17-year war in Namibia.

4/3/84—Master Sgt. Robert H. Judd was shot and wounded while driving to a U.S. airbase near Athens. The Greek November 17 organization claimed responsibility, protesting the four U.S. military bases in Greece.

3/26/84—Robert Onan Homme, the U.S. consul general in Strasbourg, France, was shot and wounded by a Lebanese Armed Revolutionary Faction gunman.

3/16/84—William Buckley, first secretary in the political section of the U.S. Embassy, was kidnapped in Beirut by a carload of gunmen. On Oct. 4, Islamic Jihad claimed it had executed Buckley in retaliation for the Oct. 1, 1985, Israeli air raid on Tunisia. The United States did not regard as definitive the blurry photo purported to be Buckley, which appeared in a Beirut newspaper.

3/7/84—Jeremy Levin, American network correspondent, was kidnapped in Beirut. Levin was released, or escaped, from captivity in the Bekaa Valley in eastern Lebanon Feb. 13, 1985.

2/15/84—Leamon R. Hunt, the American director of the Multinational Force and Observers peacekeeping force in Sinai peninsula, was shot and killed as he drove to his home in southwest Rome. A radical offshoot of the Red Brigades, known as the Fighting Communist Party, claimed responsibility.

2/10/84—Frank Reiger, the head of the Electrical Engineering department at the American University of Beirut, was kidnapped in West Beirut. Reiger was freed Apr. 15 by Amal militiamen during a raid on the West Beirut hideout of another extremist organization.

1/26/84—Linda L. Cancel was shot and killed in eastern El Salvador, after ignoring a rebel warning to stop while she was driving with her husband and 2 children, who were unhurt.

1/18/84—Malcolm Kerr, President of American University of Beirut, was shot and killed as he stepped off the elevator to his office on the West Beirut campus. Islamic Jihad claimed responsibility by phone to Agence France-Presse Beirut office.

1/11/84—Chief Warrant Officer Jeffrey C. Schwab was killed when Nicaraguan fire downed a U.S. helicopter in Honduras. The attack occurred after the helicopter had landed a few yards away from the Honduran-Nicaraguan border.

12/12/83—A truck bomb damaged the U.S. Embassy in Kuwait. Similar attacks occurred at the French Embassy, a U.S. housing compound, a Kuwaiti oil facility, an airline terminal building, and a Kuwaiti government office. Islamic Jihad claimed responsibility for the bombings; 25 Lebanese, Iraqis, and Kuwaitis were subsequently arrested, tried, and imprisoned.

11/15/83—U.S. Navy Captain George Tsantes was shot and killed on his way to work in Athens; his chauffeur was also slain. The November 17 group claimed responsibility.

10/23/83—A truck laden with explosives crashed through guardposts, circumvented other security precautions, and was detonated in the courtyard of the U.S. Marine headquarters at the Beirut airport, killing

241 American armed forces personnel (220 Marines, 18 Navy, and 3 Army personnel). Islamic Jihad called Agence France-Presse in Paris to claim responsibility.

9/23/83—111 people, including 1 American, were killed when an on-board bomb exploded, downing an Omani Gulf jet en route from Karachi to Abu Dhabi.

8/15/83—Leftist guerrillas in Colombia kidnapped a U.S. rancher, Russell Martin Stendhal, and demanded \$500,000 for his release. His family paid an unspecified ransom and Stendhal was released Jan. 18, 1984. Although earlier reports had identified the kidnapers as members of the Colombian Revolutionary Armed Forces, the family identified them as belonging to the People's Liberation Army.

6/21/83—Dial Torguson of the Los Angeles Times and freelance journalist Richard Cross were killed in Honduras, a few yards from the Nicaraguan border. Honduras and the United States claimed that they were killed by a rocket-propelled grenade fired from Nicaragua, but the Sandinista government denied the claim.

5/25/83—Navy Lt. Cmdr. Albert A. Schaufelberger was shot and killed while sitting in a car in San Salvador. The Popular Liberation Forces, the most radical group under the FMLN umbrella, claimed responsibility for the killing, although U.S. officials were skeptical about the claim.

4/18/83—A car bomb detonated in front of the U.S. Embassy in Beirut, killing 63, of whom 17 were Americans, and wounding over 100. Islamic Jihad claimed responsibility, citing the explosion as "part of the Iranian revolution," although Iran denied any role in the attack. The Embassy building was declared beyond repair May 3, and operations subsequently were moved to Awkar, north-east of Beirut.

4/7/83—Catherine Woods Kirby, a U.S. rancher, was kidnapped by members of the leftist Colombian Revolutionary Armed Forces. She was reported released on Nov. 14, 1983.

3/7/83—Kenneth Bishop, an executive at Texas Petroleum Company, was kidnapped in Colombia by the People's Revolutionary Organization. Texas Petroleum refused to negotiate with the kidnapers, but Bishop was freed Apr. 4 after his family paid several thousand dollars in ransom.

10/31/82—A bomb exploded in a U.S. military housing area in Giessen, West Germany. No injuries were reported.

8/21/82—A bomb was attached to the car of Roderick Grant, commercial counsellor at the U.S. Embassy in Paris, but failed to detonate. After detection, the device exploded, killing 1 bomb disposal expert and wounding the other 2. The Lebanese Armed Revolutionary Forces claimed responsibility.

8/12/82—A small bomb exploded in a U.S. military housing area in Frankfurt, West Germany, damaging a car.

8/9/82—Gunmen threw a grenade into a Jewish restaurant in Paris and then opened fire with automatic weapons, killing 6 and wounding 27. Two of the wounded and 2 of the slain were American citizens. The leftist Direct Action first claimed and, then, denied responsibility for the attack; the Israeli government blamed the PLO, but PLO spokesmen denied the charge and condemned the attack.

8/7/82—Nine people, including 1 American woman, were killed and over 70 wounded in an attack on the Turkish airport at Ankara by the Armenian Secret Army for the Liberation of Armenia.

8/3/82—A bomb blew off the door of an officers' club in Karlsruhe, West Germany.

Later, two jeeps were destroyed and a truck damaged when a time bomb exploded at a U.S. base in Schwabish-Gmund, West Germany.

7/19/82—American University of Beirut president David Dodge was kidnapped; he was released on July 19, 1983.

6/1/82—Bombs exploded in U.S. army officers' clubs in Hanau, Gelnhausen, and Bamberg, and in the U.S. 5th Army Corps headquarters in Frankfurt. The explosions caused material damage but no injuries. The Revolutionary Cells took responsibility in a letter.

4/17/82—Sniper fire wounded a U.S. assistant military attache in Lebanon.

3/18/82—A U.S. International Communications Agency office in Pusan, South Korea was burned by a band of youths, killing 1 visitor. The South Korean government responded by arresting 5,739 persons, of whom most were tried and fined immediately. Some were released, and about 200 were detained.

1/18/82—Lt. Col. Charles Robert Ray, an assistant military attache, was shot and killed while walking to his car in Paris. The Lebanese Armed Revolutionary Faction claimed responsibility in Beirut.

12/17/81—U.S. Brigadier General James L. Dozier was kidnapped in Verona, Italy by the Red Brigades. On Jan. 28, 1982, Italian antiterrorist forces rescued Dozier from a padua apartment, subduing 5 terrorists without firing a shot.

12/7/81—Two U.S. Army soldiers were wounded when a bomb was thrown through the window of their office in Kassel, West Germany. The detonator went off but the explosives, packed into a fire extinguisher, failed to explode.

11/12/81—A gunman described as "Middle Eastern in appearance" fired six shots at Christian Chapman, the U.S. charge d'affaires at the U.S. Embassy in Paris. All six shots missed.

10/23/81—Bombs exploded outside the Rome offices of the Bank of America, the Avis Rental Car Co., and Reader's Digest. The next day, an American Express office was also bombed, along with government offices of Chile, Guatemala, and Argentina. The Communist Groups for Proletarian Internationalism claimed responsibility.

9/23/81—Leftist gunmen fired into a car containing 5 U.S. military advisers in Tegucigalpa, Honduras, wounding 2. The Lorenzo Zelaya Popular Revolutionary Command took responsibility for the attack, which came as U.S. and Honduran officials were planning joint military maneuvers.

9/15/81—The Red Army Faction, using machine guns and anti-tank grenades, failed in an assassination attempt against Gen. Frederick Kroesen, the commander of the U.S. Army forces in Europe. Kroesen and his wife were attacked while in their armor-plated car near Heidelberg, West Germany, but sustained only minor injuries from shattered glass. The Red Army Faction claimed responsibility in a letter.

8/31/81—Bombs exploded at the U.S. Embassy and at the Ambassador's residence in Peru as well as at the offices of four U.S. companies: Ford Motor Co., Bank of America, the Coca-Cola Co., and the local representative of the Carnation Co. No one was injured, no group took responsibility, and police made no arrests.

By Mr. LOTT (for himself, Mr. COCHRAN, Mr. BURNS, Mr. HOLLINGS, Mr. HELMS, Mr. SANFORD, Mr. MCCONNELL, Mr.

COHEN, Mr. STEVENS, and Mr. GORTON):

S. 246. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or Reserve units of the Armed Forces will be allowed in computing adjusted gross income; to the Committee on Finance.

TAX TREATMENT OF CERTAIN DEDUCTIONS OF MEMBERS OF THE NATIONAL GUARD AND RESERVES

Mr. LOTT. Mr. President, I rise on behalf of the men and women of our National Guard and Reserves. These citizen soldiers make up 40 percent of our Nation's defense. These individuals comprise a strong well-trained, and cost effective element of our Armed Forces.

Very often the Guardsman and Reservists spend money out of pocket on travel expenses, lodging, mileage on personal owned vehicles and uniforms. So, Mr. President, let us reward these patriotic men and women of the reserve component and not penalize them. Today, I am introducing legislation that will amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or reserve units of the Armed Forces will be allowable in computing adjusted gross income.

I introduced similar legislation in the last Congress. We did get some consideration of it but did not get it through the entire process. I think today we see that there is an ever-increasing need for this. We recognize even more today that we did just a few weeks ago the importance of our National Guard and Reserves.

When the bugle blew for Operation Desert Shield, these units of Guard and Reserve proudly answered that call. And as Operation Desert Storm continues, our citizen soldiers in the theater of operation whether they be combat units or support elements are there defending America and its allies.

I say to my distinguished colleagues that support me and others who have joined in cosponsoring this legislation. This is certainly an endeavor to show our support to our reserve component.

I thank the Chair.

By Mr. DIXON (for himself, Mr. LEVIN, and Mr. RIEGLE):

S. 247. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending, and for other purposes; to the Committee on Governmental Affairs.

STATE MINIMUM RETURN ACT OF 1991

Mr. DIXON. Mr. President, I rise today to reintroduce the State Minimum Return Act along with my colleagues, Senators RIEGLE and LEVIN. This Act will correct imbalances in Federal spending that certain States receive in return for the tax dollars they send to Washington.

I want to assure my colleagues and the U.S. taxpayers that the bill does not increase taxes or spending. The bill merely redistributes existing funds, so as not to increase the deficit.

This bill addresses a real hardship in States principally in the Midwest, Mid-Atlantic, and Northeast regions. The Midwest, in particular, suffers substantially. Illinois, for example, got back an average of 69 cents for every Federal tax dollar paid from 1981 through 1988. For every dollar paid out to the Federal Government, the Midwest, as a region, got back 80 cents. The Northeast got back 92 cents.

From fiscal 1981 through 1988, the Northeast-Midwest received 40.7 percent of Federal spending, but carried 46.9 percent of the Nation's tax burden, and was home to 43.6 percent of the Nation's population.

If the Northeast-Midwest's share of total Federal spending had equaled its share of the Nation's tax burden during the fiscal 1981 to 1988 period, the region would have received \$359.1 billion more in Federal spending. If the region's share of total Federal spending had equaled its share of the Nation's population, it would have received \$166.1 billion more.

The Northeast-Midwest region has long been one of the Nation's most prosperous. Historically, the Midwest and the Northeast, because of their productive farms and industries, have paid for the development of other regions. Now, our regions need help.

Many of the States in the Northeast-Midwest region were among those that suffered most during the 1982 recession and will suffer again in the current slowdown of the economy. While other States have seen dramatic growth helped along with Federal funds, States like mine have been sending money to Washington, subsidizing the growth of the South and West as our own region tries to rebuild to meet foreign competition. States like mine can ill afford the ongoing drain of billions of dollars to Washington.

Federal fiscal policy must change to provide for a more equitable allocation of funds. Federal policy should not be designed to make a bad situation worse. Rather, it should lend a hand to States whose economies have needed the most help.

The bill I am introducing will adjust Federal spending in the categories of Government contracts and grant programs. Contracts and grants accounted for \$298.7 billion of the Federal budget in fiscal 1988, and are the chief imbalances among States. These spending categories help stimulate economic growth, creating jobs and spurring private investment. Grants and contracts cause a ripple effect in the economy of a community. Not only do the companies awarded Government contracts benefit, but grants and contracts also increase business and creates jobs in

local companies supplying goods to the contractor.

Grant programs that will be eligible for this 10-percent adjustment include those administered by the Departments of Interior, Transportation, Agriculture—Except farm income supports—Housing and Urban Development, the Environmental Protection Agency, and the U.S. Army Corps of Engineers. These are the grants that create jobs and economic growth in States and communities.

For grant programs that require an income test to determine eligibility for assistance, such as Aid to Families with Dependent Children, this bill will require an increase of 1 percent per year in the share of each eligible State. This increase will ease the fiscal burdens on the State governments of eligible States, which share the cost of these programs; let me add that the bill requires that benefit levels for needy individuals in all States may not be reduced as a result of a shift in the Federal share of these program funds among States.

Disadvantaged States will also receive additional moneys in the area of Federal contracts. With respect to competitive procurements and non-competitive procurements, each Federal agency will be required to award a contract to a firm that will do the work in a disadvantaged State if it submits a bid that is lower or equivalent to a bid from a firm that would do the work elsewhere. This means that if a metal cabinet for a Government office can be made in Illinois more cheaply, or at the same price, than it can be made in a State that gets more than its fair share of spending from the Federal Government, that cabinet is going to be made in Illinois by workers and businesses in Illinois.

What is being suggested here is a reallocation of Federal moneys among the States, rather than the creation of a new Government spending program. In addition, in order not to penalize the needy and other citizens who currently receive direct Government benefits, the bill will not affect payments to individuals by the Federal Government. Such programs as Social Security, food stamps, supplemental security income, Pell grants, lower income housing assistance, veterans assistance, black lung disability, guaranteed student loan interest subsidies, retirement payments for railroad workers, Federal workers' compensation, retirement and disability, and employee life and health insurance will not be affected by the bill.

The State Minimum Return Act is an attempt to develop the comprehensive approach we need to stop the disinvestment in Illinois and many other States.

I urge my colleagues to join me in this effort to help these disadvantaged

States get back a fair share of their tax dollars.

I ask unanimous consent that the bill be printed at this point in the RECORD.

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

S. 247

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Minimum Return Act of 1991".*

#### STATEMENT OF POLICY

SEC. 2. It is the purpose of this Act to provide, within existing budgetary limits, authority to reallocate the distribution of certain Federal spending to various States in order to ensure by the end of fiscal year 1996 that each State receive in each fiscal year an amount of Federal expenditures equal to a minimum of 90 percent of the Federal tax burden attributable to such State for such fiscal year.

#### DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "Federal agency" means any agency defined in section 551(1) of title 5, United States Code.

(3) The term "State" means each of the several States and the District of Columbia.

(4) The term "historic share" means the average percentage share of Federal expenditures received by any State during the most recent three fiscal years.

(5) The term "Federal expenditures" means all outlays by the Federal Government as defined in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(1)).

(6) The term "Federal tax revenues" means all revenues collected pursuant to the Internal Revenue Code of 1986.

(7) The term "need-based program" means any program which results in direct payment to individuals and which involves an income test to help determine the eligibility of an individual for assistance under such program.

#### DESIGNATION OF ELIGIBLE STATES

SEC. 4. (a) Any State shall be eligible for a positive reallocation of Federal expenditures described in section 5 and received by such State under section 7(a), if such State, for any fiscal year, has a Federal expenditure to Federal tax ratio which is less than 90 percent.

(b) Any State shall be eligible for a positive reallocation of Federal expenditures described in section 5 and received by such State under paragraph (1) of section 7(a), if such State, for any fiscal year, has a Federal expenditure to Federal tax ratio which is less than 100 percent but greater than or equal to 90 percent.

(c) During each fiscal year, the Director after consultation with the Secretary of the Treasury and the Director of the Census Bureau, shall determine the eligibility of any State under this section using the most recent fiscal year data and estimated data available concerning Federal tax revenues and Federal expenditures attributable to such State. The Secretary of the Treasury shall determine the attribution of Federal tax revenues to each State after consultation with the Comptroller General of United States.

(d) For purposes of determining the eligibility of any State under subsection (c), any

water or power program in which the Federal Government, through Government corporations, provides water or power to any State at less than market price shall be taken into account in computing such State's Federal expenditure to Federal tax ratio by characterizing as an imputed Federal expenditure the difference between the market price and the program's actual price of providing such water or power to such State.

#### DESIGNATION OF REALLOCABLE FEDERAL EXPENDITURES

SEC. 5. All Federal expenditures in any fiscal year shall be subject to reallocation to ensure the objective described in section 2 with respect to eligible States designated under section 4, except for such expenditures with respect to the following:

(1) Water and power programs which are described in section 4(d).

(2) Compensation and allowances of officers and employees of the Federal Government.

(3) Maintenance of Federal Government buildings and installations.

(4) Offsetting receipts.

(5) Programs for which the Federal Government assumes the total cost and in which a direct payment is made to a recipient other than a governmental unit. Such programs include:

(A) Social Security, including disability, retirement, survivors insurance, unemployment compensation, and Medicare, including hospital and supplementary medical insurance;

(B) Supplemental Security Income;

(C) Food Stamps;

(D) Black Lung Disability;

(E) National Guaranteed Student Loan interest subsidies;

(F) Pell grants;

(G) lower income housing assistance;

(H) social insurance payments for railroad workers;

(I) railroad retirement;

(J) excess earned income tax credits;

(K) veterans assistance, including pensions, service connected disability, nonservice connected disability, educational assistance, dependency payments, and pensions for spouses and surviving dependents;

(L) Federal workers' compensation;

(M) Federal retirement and disability;

(N) Federal employee life and health insurance; and

(O) farm income support programs.

#### REALLOCATION AUTHORITY

SEC. 6. (a) Notwithstanding any other provisions of law, during any fiscal year the head of each Federal agency shall, after consultation with the Director, make such reallocations of expenditures described in section 5 to eligible States designated under section 4 as are necessary to ensure the objective described in section 2.

(b) Notwithstanding any other provisions of law and to the extent necessary in the administration of this Act, the head of each Federal agency shall waive any administrative provisions with respect to allocation, allotments, reservations, priorities, or planning and application requirements (other than audit requirements) for the expenditures reallocated under this Act.

(c) The head of each Federal agency having responsibilities under this Act is authorized and directed to cooperate with the Director in the administration of the provisions of this Act.

#### REALLOCATION MECHANISMS

SEC. 7. (a) Notwithstanding any other provisions of law, for purposes of this Act, dur-

ing any fiscal year reallocations of expenditures required by section 6 shall be accomplished in the following manner:

(1)(A) With respect to procurement contracts, and beginning in fiscal year 1994 subcontracts in excess of \$25,000, the head of each Federal agency shall—

(i) identify qualified firms in eligible States designated under section 4 and disseminate any information to such firms necessary to increase participation by such firms in the bidding for such contracts and subcontracts,

(ii) in order to ensure the objective described in section 2, increase the national share of such contracts and subcontracts for each eligible State designated under section 4(a) by 10 percent each fiscal year, and

(iii) thirty days after the end of each fiscal year, report to the Director regarding progress made during such fiscal year to increase the share of such contracts and subcontracts for such eligible States, including the percentage increase achieved under clause (ii) and if the goal described in clause (ii) is not attained, the reasons therefor.

Within ninety days after the end of each fiscal year, the Director shall review, evaluate, and report to the Congress as to the progress made during such fiscal year to increase the share of procurement contracts and subcontracts the preponderance of the value of which has been performed in such eligible States.

(B) With respect to each fiscal year, if any Federal agency does not attain the goal described in subparagraph (A)(ii), then during the subsequent fiscal year such agency shall report to the Director prior to the awarding of any contract or subcontract described in subparagraph (A) to any firm in an ineligible State the reasons such contract or subcontract was not awarded to any firm in an eligible State.

(C) In the case of any competitive procurement contract or subcontract, the head of the contracting Federal agency shall award such contract or subcontract to the lowest bid from a qualified firm that will perform the preponderance of the value of the work in an eligible State designated under section 4 if the bid for such contract or subcontract is lower or equivalent to any bid from any qualified firm that will perform the preponderance of the value of the work in an ineligible State.

(D) In the case of any noncompetitive procurement contract or subcontract, the head of each Federal agency shall identify and award such contract or subcontract to a qualified firm that will perform the preponderance of the value of the work in an eligible State designated under section 4 and that complete such contract or subcontract at a lower or equivalent price as any qualified firm that will perform the preponderance of the value of the work in an ineligible State.

(E) For purposes of this paragraph, in the case of any procurement contract or subcontract, any firm shall be qualified if—

(i) such firm has met the elements of responsibility provided for in section 8(b)(7) of the Small Business Act (15 U.S.C. 637(b)(7)) as determined by the head of the contracting Federal agency to be necessary to complete the contract or subcontract in a timely and satisfactory manner, and

(ii) with respect to any prequalification requirement, such firm has been notified in writing of all standards which a prospective contractor must satisfy in order to become qualified, and upon request, is provided a prompt opportunity to demonstrate the abil-

ity of such firm to meet such specified standards.

(F) In order to reallocate expenditures with respect to subcontracts as required by subparagraph (A), each Federal agency shall collect necessary data to identify such subcontracts beginning in fiscal year 1991.

(2)(A) With respect to need-based programs, any eligible State designated under section 4(a) shall receive 110 percent of such State's historic share with respect to such programs.

(B) With respect to all other expenditures described in section 5, including all grants administered by the Department of Transportation, the Department of the Interior, the Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers, and funds provided under general revenue sharing, any eligible State designated under section 4(a) shall receive 110 percent of such State's historic share with respect to such expenditures.

(b)(1) Except as provided in paragraph (2), no reallocation shall be made under this section with respect to expenditures for any program to any State in any fiscal year which results in a reduction of 10 percent or more of the amount of such expenditures to such State.

(2) No reallocation shall be made under subsection (a)(2)(A) with respect to expenditures for any need-based program to any State in any fiscal year which results in a reduction of 1 percent or more of the amount of expenditures to such State for any such program.

(c) No reallocation shall be made under the provisions of this Act which will result in any Federal expenditure to Federal tax ratio of any State being reduced below 90 percent.

(d) With respect to any need-based program eligible for reallocation under subsection (a)(2)(A), notwithstanding any reallocation of such program funds that may be mandated under this section, no State or eligible governmental unit may reduce program benefits to the ultimate beneficiaries of such program or change such program's eligibility requirements because of such reallocation of funds.

#### AMENDMENTS

SEC. 8. No provision of law shall explicitly or implicitly amend the provisions of this Act unless such provision specifically refers to this Act.

#### EXTENSION OF CONSOLIDATED FEDERAL FUNDS REPORT

SEC. 9. Subsection (a) of section 6202 of title 31, United States Code, is amended by striking out "and 1992" and inserting in lieu thereof "1992, 1993, 1994, 1995, and 1996".

#### STUDY

SEC. 10. (a) The Secretary of the Treasury or a delegate of the Secretary shall conduct a study on the impact of Federal spending, tax policy, and fiscal policy on State economies and the economic growth rate of States and regions of the United States.

(b) The report of the study required by subsection (a) shall be submitted to Congress not later than December 31, 1991.

#### EFFECTIVE DATE

SEC. 11. The provisions of this Act shall take effect for fiscal years beginning after the date of the enactment of this Act.

By Mr. EXON (for himself and Mr. KERREY):

S. 248. A bill to amend the Wild and Scenic Rivers Act to designate certain

segments of the Niobrara River in Nebraska and a segment of the Missouri River in Nebraska and South Dakota as components of the Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

#### NIORRARA SCENIC RIVER DESIGNATION ACT

Mr. EXON. Mr. President, today I am reintroducing legislation to designate a portion of the Niobrara River in Nebraska as scenic under the Wild and Scenic Rivers Act. This legislation was approved by the Senate late last year and I am hopeful that it can receive prompt approval this year. It was tailor made for the Niobrara and was essentially written by those living along the river.

I will not go into a long dissertation about the scenic characteristics of the Niobrara River and its biological significance. I have taken to the floor on other occasions to do just that and will simply say that it is truly a scenic and biological masterpiece.

The history of the Niobrara River has been tumultuous. Over a decade ago there was an effort to build the Norden Dam on this segment of the river. That proposal was killed in the House of Representatives and landowners in the area subsequently brought this legislation to me. After it was offered, some area residents protested and sought to enact their own river protections. I withdrew the bill and held-off on reintroducing it during the following Congress in order to give them time to work. Unfortunately, those efforts never came to fruition.

Efforts are being made by long-time proponents of the Norden Dam to provide some sort of river protection. I am skeptical of those efforts, but in no way do I want to extinguish any legitimate river protection initiative.

This legislation will not prevent them from going forward. Instead, it will provide a workable backstop.

I have worked hard to provide meaningful protections for the river, as well as area landowners, and I urge the Senate to approve this bill expeditiously.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 248

*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 "Niobrara Scenic River Designation Act of 1991".

#### SEC. 2. DESIGNATION OF THE RIVER.

Section 3 (a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end thereof the following:

"( ) NIOBRARA, NEBRASKA.—(A) The 40-mile segment from Borman Bridge southeast of Valentine downstream to its confluence with Chimney Creek and the 30-mile segment from the river's confluence with Rock Creek

downstream to the State Highway 137 bridge, both segments to be classified as scenic and administered by the Secretary of the Interior. That portion of the 40-mile segment designated by this subparagraph located within the Fort Niobrara National Wildlife Refuge shall continue to be managed by the Secretary through the Director of the United States Fish and Wildlife Service.

"(B) The 25-mile segment from the western boundary of Knox County to its confluence with the Missouri River, including that segment of the Verdigre Creek from the north municipal boundary of Verdigre, Nebraska, to its confluence with the Niobrara, to be administered by the Secretary of the Interior as a recreational river.

After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section.

"( ) MISSOURI RIVER, NEBRASKA AND SOUTH DAKOTA. The 39-mile segment from the headquarters of Lewis and Clark Lake to the Ft. Randall Dam, to be administered by the Secretary of the Interior as a recreational river."

#### SEC. 3. STUDY OF 6-MILE SEGMENT.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276 (a)) is amended by adding the following at the end:

"( ) NIOBRARA, NEBRASKA.—The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek."

(b) WATER RESOURCES PROJECT.—If funds are not authorized and appropriated, within 5 years after the date of the enactment of this Act, for the construction of a water resources project on the 6-mile segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek, at the expiration of such 5-year period, the 6-mile segment shall be designated as a component of the national wild and scenic rivers system, by operation of law, to be administered by the Secretary of the Interior in accordance with sections 4 and 5 of this title and the applicable provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287). The Secretary of the Interior shall publish notification to that effect in the Federal Register.

#### SEC. 4. LIMITATIONS ON CERTAIN ACQUISITION.

(a) LIMITATIONS.—In the case of the 40-mile and 30-mile segments of the Niobrara River described in the amendment to the Wild and Scenic Rivers Act made by section 2 of this Act, the Secretary of the Interior shall not, without the consent of the owner, acquire for purposes of such segment land or interests in land in more than 5 percent of the area within the boundaries of such segments, and the Secretary shall not acquire, without the consent of the owner, fee ownership of more than 2 percent of such area. The limitations on land acquisition contained in this subsection shall be in addition to, and not in lieu of, the limitations on acquisition contained in section 6 of the Wild and Scenic Rivers Act.

(b) FINDING; EXCEPTION.—The 5 percent limitation and the 2 percent limitation contained in subsection (a) of this section shall not apply if the Secretary of the Interior finds, after notice and opportunity for public comment, that State or local governments are not, through statute, regulation, ordinance, or otherwise, adequately protecting the values for which the segment concerned is designated as a component of the national wild and scenic rivers system.

**SEC. 5. NIOBRARA SCENIC RIVER ADVISORY COMMISSION.**

(a) **ESTABLISHMENT.**—There is hereby established the Niobrara Scenic River Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall advise the Secretary of the Interior (hereinafter referred to as the "Secretary") on matters pertaining to the development of a management plan, and the management and operation of the 40-mile and 30-mile segments of the Niobrara River designated by section 2 of this title which lie outside the boundary of the Fort Niobrara National Wildlife Refuge and that segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek.

(b) **MEMBERSHIP.**—The Commission shall consist of 11 members appointed by the Secretary—

(1) 3 of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville;

(2) 3 of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the bridge on Highway 137;

(3) 1 of whom shall be a canoe outfitter who operates within the river corridors;

(4) 1 of whom shall be chosen from a list submitted by the Governor of Nebraska;

(5) 2 of whom shall be representatives of the affected county governments or natural resources districts; and

(6) 1 of whom shall be a representative of a conservation organization who shall have knowledge and experience in river conservation.

(c) **TERMS.**—Members shall be appointed to the Commission for a term of 3 years. A member may serve after the expiration of his term until his successor has taken office.

(d) **CHAIRPERSON; VACANCIES.**—The Secretary shall designate 1 of the members of the Commission, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as Chairperson. Vacancies on the Commission shall be filled in the same manner in which the original appointment was made. Members of the Commission shall serve without compensation, but the Secretary is authorized to pay expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

(e) **TERMINATION.**—The Commission shall cease to exist 10 years from the date of enactment of this Act.

**SEC. 6. MISSOURI RIVER PROVISIONS.**

(a) **ADMINISTRATION.**—The administration of the Missouri River segment designated in section 2 of this title shall be in consultation with a recreational river advisory group to be established by the Secretary. Such group shall include in its membership representatives of the affected States and political subdivisions thereof, affected Federal agencies, organized private groups, and such individuals as the Secretary deems desirable.

(b) **BRIDGES.**—The designation of the Missouri River segment by the amendment made by section 2 of this title shall not place any additional requirements on the placement of bridges other than those contained in section 303 of title 49, United States Code.

(c) **EROSION CONTROL.**—Within the Missouri River segment designated by the amendment made by section 2 of this title, the Secretary shall permit the use of erosion control techniques, including the use of rocks from the

area for streambank stabilization purposes, subject to such conditions as the Secretary may prescribe, in consultation with the advisory group described in subsection (a) of this section, to protect the resource values for which such river segment was designated.

**SEC. 7. NATIONAL RECREATION AREA STUDY.**

(a) **IN GENERAL.**—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake and complete a study, within 18 months after the date of enactment of this section, regarding the feasibility and suitability of the designation of lands in Knox County and Boyd County, Nebraska, generally adjacent to the recreational river segments designated by the amendments made by section 2 of this title and adjacent to the Lewis and Clark Reservoir, as a national recreation area. The Secretary may provide grants and technical assistance to the State of Nebraska, the Santee Sioux Indian Tribal Council, and the political subdivisions having jurisdiction over lands in these 2 counties to assist the Secretary in carrying out such study. The study under this section shall be prepared in consultation with the Santee Sioux Tribe, affected political subdivisions, and relevant State agencies. The study shall include as a minimum each of the following:

(1) A comprehensive evaluation of the public recreational opportunities and the flood plain management options which are available with respect to the river and creek corridors involved.

(2) An evaluation of the natural, historical, paleontological, and recreational resources and values of such corridors.

(3) Recommendations for possible land acquisition within the corridor which are deemed necessary for the purpose of resource protection, scenic protection and integrity, recreational activities, or management and administration of the corridor areas.

(4) Alternative cooperative management proposals for the administration and development of the corridor areas.

(5) An analysis of the number of visitors and types of public use within the corridor areas that can be accommodated in accordance with the full protection of its resources.

(6) An analysis of the facilities deemed necessary to accommodate and provide access for such recreational uses by visitors, include the location and estimated costs of such facilities.

(b) **SUBMISSION OF REPORT.**—The results of such study shall be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

**SEC. 8. STUDY OF FEASIBILITY AND SUITABILITY OF ESTABLISHING NIOBRARA-BUFFALO PRAIRIE NATIONAL PARK.**

(a) **IN GENERAL.**—The Secretary of the Interior shall undertake and complete a study of the feasibility and suitability of establishing a national park in the State of Nebraska to be known as the Niobrara-Buffalo Prairie National Park within 18 months after the date of enactment of this Act.

(b) **AREA TO BE STUDIED.**—The areas studied under this section shall include the area generally depicted on the map entitled "Boundary Map, Proposed Niobrara-Buffalo Prairie National Park", numbered NBP-80,000, and dated March 1990. The study area shall not include any lands within the boundaries of the Fort Niobrara National Wildlife Refuge.

(c) **RESOURCES.**—In conducting the study under this section, the Secretary shall conduct an assessment of the natural, cultural, historic, scenic, and recreational resources

of such areas studied to determine whether they are of such significance as to merit inclusion in the national park system.

(d) **STUDY REGARDING MANAGEMENT.**—In conducting the study under this section, the Secretary shall study the feasibility of managing the area by various methods, in consultation with appropriate Federal agencies, the nature Conservancy, and the Nebraska Game and Parks Commission.

(e) **SUBMISSION OF REPORT.**—The results of the study shall be submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

• Mr. KERREY. Mr. President, today I am pleased to rise in support of legislation being introduced by Senator EXON to designate a 70-mile section of the Niobrara River in Nebraska as scenic under the Wild and Scenic Rivers Act.

This is similar to legislation Senator EXON introduced last year which was strongly supported in both the Senate and the House. I do not think I need to reiterate the value of the Niobrara River to Nebraskans and others. An overwhelming number of Nebraskans believe this river deserves protection and I hope that we can fulfill their wishes in this Congress.

The legislation that we are introducing today is the language that was agreed on by House and Senate conferees in the closing days of the 101st Congress. Although the Senate passed that legislation, the bill died in the House in the closing minutes of the House's last session.

Legislation to protect the Niobrara grew out of the defeat of the proposed Norden Dam on the Niobrara. It was initiated by a group of area landowners who were interested in seeing that the Niobrara River was protected for future Nebraskans. Over the years Senator EXON has worked with local landowners and Government units to draft a bill that protects the private landowners' rights, but also protects the most spectacular section of the Niobrara from future development.

Both of us welcome local protection efforts that are currently underway because we believe they are compatible with Federal designation. The Secretary has the authority to limit the National Park Service's role if a local management entity demonstrates that it is capable of carrying out the aims of the designation.

I understand the concerns of the local landowners. I believe this legislation does much to ensure that their property rights will be protected. My involvement with this issue will not end the day this legislation is passed. I will follow the implementation of this legislation and work to resolve conflicts that may arise between local landowners and the National Park Service. In the end, I believe that all

Nebraskans will benefit from the protection of this important part of their natural and cultural heritage.

I look forward to working with Senator EXON and other members of the Nebraska delegation to see that this bill is enacted.●

By Mr. GRASSLEY:

S. 249. A bill for the relief of Trevor Henderson; to the Committee on the Judiciary.

RELIEF OF TREVOR HENDERSON

● Mr. GRASSLEY. Mr. President, today I am reintroducing legislation for the relief of Trevor Henderson. This legislation is identical to a bill, S. 1657, which I introduced during the 101st Congress and which the administration supports. This bill passed the Senate late last fall and subsequently was referred to the House of Representatives for consideration.

Unfortunately, due to the short period of time remaining in the 101st Congress after S. 1657 was referred to the House, and, due to the large amount of legislation that was being rushed through during the last remaining hours of the 101st Congress, the House was not able to complete its consideration of this bill. Therefore, I am introducing identical legislation today.

As I explained when I introduced this legislation during the 101st Congress, this bill would benefit Trevor Henderson, who, because of an administrative error, did not receive full payment of a survivor benefit plan annuity.

When Trevor's father, Delvin D. Henderson, died on December 13, 1972, Trevor became eligible for annuity payments from the survivor benefit plan that his father had participated in. An initial payment was paid to Trevor in January 1974, representing payments due from the time of his father's death through November 1973. However, as a result of an administrative error at the U.S. Army Finance and Accounting Center, no further payments were made to Trevor for 13 years, until September 1987, after the error was discovered.

At this time, an attempt was made to rectify the error of the unpaid annuity payments. Accordingly, Trevor then received partial compensation for annuity payments missed after August 1, 1981. However, a 6-year statute of limitations, created by the Barring Act of 1940, prevented Trevor from receiving payments due to him for the period of December 1, 1973, through July 31, 1981.

This bill would simply direct the Comptroller General to pay Trevor the amount of these missed annuity payments, payments to which he is fully entitled and payments which his father had attempted to provide him by participating in the survivor benefit plan.●

By Mr. FORD (for himself and Mr. HATFIELD):

S. 250. A bill to establish national voter registration procedures for Federal elections, and for other purposes; to the Committee on Rules and Administration.

NATIONAL VOTER REGISTRATION ACT

Mr. FORD. Mr. President, today, I am introducing the National Voter Registration Act of 1991. I am pleased to be joined in this effort by the distinguished senior Senator from Oregon [Mr. HATFIELD].

This bill, commonly referred to as the "motor-voter" bill, incorporates a similar measure which was before the Senate in the last session, with the amendments that Senator Hatfield and I had intended to offer.

Mr. President, this past November, the American people went to the polls to elect the 102d Congress. The turnout for that election was approximately 36 percent—the lowest level since 1942. It is a sad commentary on the state of our democracy that so few people exercise their right to vote. The average voter turnout in other Democratic nations is about 80 percent, according to a recent study conducted by the General Accounting Office. Most of these nations have some form of automatic voter registration.

This bill will require the States to simplify the registration process and make registration readily available to anyone who is qualified to vote. It will also assure that once registered, a voter will remain on the rolls so long as he or she is eligible to vote without unnecessary re-registration.

Both Senator HATFIELD and I are aware that an increase in voter turnout cannot be guaranteed by this, or any legislation. But, we believe that this legislation can, and will, go a long way to make an increase in voter turnout possible.

With the adoption of this bill, the National Voter Registration Act will assure an increase in the number of people who will be eligible to vote. The bill's passage will be an important step toward improving voter turnout. By eliminating the barriers towards universal registration, the candidates, the parties, and other public interest groups can concentrate their efforts on voter education and turnout.

The Outreach Program consists of three parts: First, voter registration would be combined with the application and renewal process for driver's licenses; second, mail registration would be established nationwide; and third, an extensive agency registration program would be established to make registration possible at many State and local agencies that serve the public.

This bill balances the objective of increasing our rolls of registered voters with the legitimate concern of all that the integrity of our voting rolls be safeguarded.

This legislation would establish Federal penalties for voter and registration fraud; require clear, plain language statements on registration forms regarding fraud; and require procedures, such as notices to all applicants, that have proven successful in dealing with fraud in States that already provide some of these procedures. State and local registration officials would also have latitude to implement additional safeguards in their systems based on their experience and circumstances.

States would be permitted to provide by law that a first-time voter who registered by mail vote in person. This should give those States that are concerned with the possibility of fraud in the mail registration program, where voters may never appear in person, an additional means of protection. Military personnel and others covered by the Overseas Voting Rights Act would be exempted from this provision.

The bill requires that the States "make all reasonable efforts" to remove the name of a voter from the rolls by reason of death, or by reason of a change in residence. The process to determine when a person has moved must be uniform and non-discriminatory, notice by forwardable mail with return card enclosed, and the person given 30 days to respond. After this has occurred, a person is still eligible to vote if that person comes to the polls by the second Federal general election following the notice.

Registrars would be given reduced mail rates for all mail required by, authorized by, or in furtherance of the requirements of the bill. This reduced rate would be funded through a revenue foregone appropriation.

Lastly, the bill has two effective dates: January 1, 1993 for all States except those States that have constitutional obstacles to conforming State requirements of this bill. The effective date for such States would be January 1, 1994. States which have no voter registration requirement for any voter or States which provide that all voters may register to vote on the day of a Federal general election at the polling place would be exempt from this bill.

Mr. President, I send a copy of the bill to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. Without objection, the bill will be appropriately referred.

Mr. FORD. Mr. President I send to the desk a summary of the bill just sent to the desk and ask unanimous consent that it be printed in the RECORD.

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

SUMMARY OF NATIONAL VOTER REGISTRATION ACT OF 1991

To establish national voter registration procedures for elections for Federal office, and for other purposes.

States shall establish procedures to permit voter registration:

- i. Simultaneously with application for a driver's license;
- ii. by uniform mail application;
- iii. by application in person, either at an appropriate registration office, or at a Federal, State or private sector location—agency registration.

The Act does not apply to States with no voter registration requirement for any voter in the State with respect to elections for Federal office or to a State in which all voters may register to vote at the polling place at the time of voting in a general election for Federal office.

DRIVER'S LICENSE APPLICATION REGISTRATION

1. Unless a person declines in writing, an application for or the renewal of a driver's license shall serve as an application for voter registration.

2. The voter registration application shall be part of the driver's license application; shall not require information which duplicates the license portion of the form except such information as shall be required to prevent duplicate registration and to make an assessment of eligibility; shall include a box to permit an applicant to decline to register; shall include a statement that specifies each eligibility requirement, contains attestation clause that applicant meets each requirement and requires signature of applicant under penalty of perjury; and shall be made available to appropriate state election officials.

3. A driver's license change of address notice may serve as a voter registration change of address, if driver so indicates.

MAIL REGISTRATION

1. Each State shall accept and use a mail voter registration application form promulgated by the FEC. In addition, a State may develop and use its own form which meets the criteria of the FEC form. Notarization or other formal authentication is not allowed. Forms shall be readily available for public and private distribution, and especially for organized registration programs.

2. A State may, by law, require a personal appearance to vote if the person was registered to vote in a local jurisdiction by mail and the person has not previously voted in that jurisdiction. Individuals who are entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act and those provided the right to vote other than in person by the Voting Accessibility for the Elderly and Handicapped Act are exempt.

AGENCY REGISTRATION

1. State, Federal and private sector locations shall be designated for the distribution and processing of voter registration applications. All offices providing public assistance, unemployment compensation, vocational rehabilitation, and related services shall be included in the designated locations and shall provide same assistance in completion of registration application as is provided with regard to that agency's forms. States shall designate other agencies, such as libraries, schools, fishing/hunting license bureaus, marriage license offices, etc. to provide forms, assistance and processing of applications.

2. The Federal Government shall cooperate in this program.

OTHER REQUIREMENTS

1. Registration cut-off is 30 days before election or such lesser period as State may provide.

2. State election officials will notify each applicant of the disposition of his or her registration application.

3. A voter's name may be removed from voter rolls only (1) at the request of the voter; or (2) as provided by State law, by reason of criminal conviction or mental incapacity. The States must make all reasonable efforts to provide that the name of a voter will be removed from the official list of voters by reason of (1) death; or (2) by reason of a change of residence of the voter. A voter's name may not be removed for non-voting.

4. No systematic procedure to confirm voting lists may be undertaken within 60 days of an election.

5. No State may remove the name of a voter from the rolls due to possible change of address unless the registrant confirms in writing having moved out of voting jurisdiction, or the voter fails to respond to a notice and does not appear to vote during period between date of notice and second general election for Federal office. Where change of address is to an address within a registrar's jurisdiction, the registrar shall correct the record and may not remove the name.

6. The FEC will promulgate regulations, prescribe the mail registration application form for use by all States, and report to Congress its assessment of the Act's impact and its recommendations following each general Federal election.

7. Civil enforcement through injunction or declaratory relief may be brought by U.S. Attorney General, or an individual with notice to the chief election official of the State.

8. Federal criminal penalties will apply for registration offenses.

9. State and local voting registration officials would be able to receive reduced postal rates for the purpose of making any mailing which is required by, authorized by, or made in furtherance of the Act. This reduced rate would be funded through a revenue foregone appropriation.

10. The effective date of the Act is January 1, 1993 for all States; except those States that have constitutional obstacles to conforming state requirements of the act, in which case, the effective date would be January 1, 1994.

Mr. HATFIELD. Mr. President, I am very happy to join with my colleague from Kentucky, Senator FORD, in introducing today a bill to encourage voter registration with the expectation that with voter registration we can increase voter participation. The sorry record of the Nation in turning out at the polls on election day has been thoroughly documented.

Senator FORD, in his opening remarks, spoke of the small percentage of those eligible voters that turned out in the election just concluded, the 1990 general election.

There is hope of increasing interest and participation. I am proud to report today that in my State of Oregon, instead of a voter turnout in the low thirties, which was the national average, our voter turnout this last general election was 76.7 percent of the eligible voters.

I do not stand here to take credit for that large turnout because I was a candidate on the ballot, but I will say we had some unique issues that were confronting the voters of Oregon. I also say the series of Secretaries of State in my State who, as in most States, have charge of the election procedures, have been very attentive to the registration process. Their simplifying it over the years and making it more accessible, moving it from a fixed place for county registration and local registration into roving registrars, into shopping centers, into bank lobbies where people congregate for commerce and other activities, has certainly increased the voter participation in our State.

The current Governor just elected this last November, Mrs. Barbara Roberts, was the Secretary of State in my State prior to her election as Governor and undertook very great activity in this direction. The previous Secretary of State was Norma Paulus, and she has now been elected as the State Superintendent of Public Construction. She, likewise, gave great leadership to this matter of making voter registration easier, more accessible, and enjoying, then, the fruits of that effort by seeing a larger voter turnout at election time.

Mrs. Roberts, the Governor today is a Democrat. Mrs. Paulus, her predecessor, was a Republican. So we have moved this activity on a bipartisan basis in our State. Both Republican and Democratic parties, both Republican and Democratic Secretaries of State certainly can take great credit for this phenomenal turnout of 76.7 percent in the previous election of 1990.

I say that because I join with Senator FORD who has been giving very outstanding leadership to this effort for a number of years, to illustrate the fact this is not a Democratic proposal or Republican proposal, but it is an American proposal in the sense it will enhance and strengthen our democracy to have more participation. I do not think it can be read as something that will enhance the Democratic Party status at election time or the Republican Party status at election time.

Senator FORD and I had a press conference this morning and in that press conference we both pointed out a lot of the old traditions that we have accepted as truisms in politics have been fading from our political scene. I pointed out the fact that we have two Republican Senators from the old solid south State of Mississippi today. Certainly within my lifetime, to have thought of electing a Republican statewide from the State of Mississippi, would have been unthinkable. We have seen also the shifting character of American voters as it relates to the Democratic Party not having support amongst business, particularly large business. We find today that large businesses and individuals representing business en-

terprise openly, without fear of reprisals, support the Democratic candidates. So a lot of these old ideas that somehow this will favor one party and that will favor another party; that a large voter turnout favors the Democrats and a small voter turnout favors the Republicans; or there are more Republicans who vote absentee than Democrats—if we check the last elections in each of our own States we will find many of those old traditions, as we came to accept them, are no longer true.

Interestingly, this last election in Oregon I think the absentee voter was about evenly divided between the votes counted for the Democratic candidates and the Republican candidates. Our State, like most, earlier on—say even within the last 5 years or 6 years—would traditionally show more Republican absentee voters than Democratic absentee voters. Not this last election.

So I think we have to look at this objectively to realize it is not a partisan matter. It is a bipartisan matter and I am very proud to join my colleague, a man I have worked with as a fellow Governor in the National Governors Conference and now as a fellow Senator, a man I have deep admiration and respect for, and a man who has established a remarkable record both in Kentucky and here in the U.S. Senate. I commend this bill to our colleagues and hopefully many of them will co-sponsor this bill.

One last word, this bill got mixed up and entangled in the closing hours of the session of the 101st Congress. I think a lot of that was because there were other fish to fry and other objectives to achieve, at least in the minds of those who were controlling the events of those closing days, and the merits of this bill were never discussed or debated. I do not think, frankly, they were ever challenged.

So I hope in introducing this bill early this session we will have an opportunity through the hearings of the committee which Senator FORD will be chairing, for Senators to participate in either modifying or amending. I know Senator FORD feels as I do, that this is a proposal that certainly will wend its way through the normal process not locked in concrete. We think it is the best we have been able to find and come up with, but certainly we are open to any improvement in the bill or any other role our colleagues wish to play.

We also had a wide range of civic organizations, nonpolitical organizations today in our press conference: The League of Women Voters, who have given very strong support to this over the years; the Rainbow Coalition was represented; the People for the American Way—I could go on, Rock Vote, and a wide range of support from all directions.

So I hope we can see this bill progress rapidly and become a law of the land to strengthen our partnership for democracy.

In summary, I am pleased to join Senator FORD in introducing to the 102d Congress a piece of legislation which is of interest to all Americans, and in the interest of all Americans. We are introducing the National Voter Registration Act of 1991.

The bill addresses the inconsistency of voter registration practices in this country as it affects the election of Federal officials.

We should all be concerned with the sad state of participation in our electoral process. Participation of voting age persons was below 40 percent in the 1990 general election, compared to the participation in Oregon which was in the 70's. This is an abysmal statistic for a country which prides itself on freedom and democratic values. We are seeing countries worldwide grasp for these rights, but the citizens of this country do not seem interested in using the rights which have been granted them.

Why do U.S. citizens not vote? An important piece of the answer is that we have made it too difficult for people to exercise their right, by creating intricate systems of registration—simply to ensure that the individual is eligible to vote. Unfortunately, we must protect the rights of eligible voters by ensuring that only those who are eligible to vote, will vote. But we must remember that the purpose of registration is not to keep any element of society from exercising their right to vote, nor is the registration process to make people prove that they have a right to vote. The purpose of a registration process is to protect the value and integrity of those votes cast.

This legislation is a step in the search for an ideal world where an eligible voter can simply exercise his or her right without worrying about jumping through the hoops of registration. As an example: since the motor/voter program was introduced in Washington, DC, an average of over 1,500 new voters per month have been registered to vote through this program.

Senator FORD has outlined the structure and components of the bill, so I will not do so again. Let me just say, my original concern with this legislation was the increased possibility of fraud in the electoral process. I have worked closely with Senator FORD to address these problems.

As submitted, the National Voter Registration Act mandates that States "make all reasonable efforts" to maintain the accuracy and integrity of the registration rolls. I know this has been a concern of a number of Senators and citizens' groups throughout the country, and I want to assure everyone that we too are concerned, and have not

taken lightly the need to mandate such action by the States.

I look forward to Rules Committee hearings on this issue and moving it to the floor for debate and final passage.

Earlier today Senator FORD and I sponsored a press conference to announce the introduction of this important piece of legislation. We were joined by several significant supporters of this legislation and experts on the subject of voter registration: Secretary of State of Washington and president of the National Secretary of States Association; executive director of the D.C. Board of Elections, Emmett Fremaux; president of the National League of Women Voters, Dr. Susan Lederman; and representing People for the American Way, former Representative John Buchanan of Alabama; and Greg Moore of the Rainbow Coalition.

By Mr. WARNER:

S. 252. A bill to amend the Internal Revenue Code of 1986 to allow individuals to transfer separation pay from the Armed Forces into eligible retirement plans; to the Committee on Finance.

ROLLOVERS OF MILITARY SEPARATION PAY

• Mr. WARNER. Mr. President, I rise today to introduce legislation to provide a savings incentive to the men and women of our Armed Forces who are involuntarily discharged from active duty.

Mr. President, in the final hours of the second legislative session of the 101st Congress, I placed legislation before the U.S. Senate to provide military personnel, who are eligible to receive severance pay, with an incentive to invest these funds in an individual retirement account [IRA] and defer taxation until the time of retirement. At that time, I expressed my interest in receiving comments from the Department of Defense [DOD], military associations, and other interested parties before I considered reintroducing the concept into the fiscal year 1992 DOD authorization bill. Based on the extremely favorable comments I have received from both military personnel and the military departments, I have concluded that such legislation is needed.

Mr. President, because of dramatic military and political changes that occurred in Eastern Europe and the Soviet Union last year and because of the desire on the part of the American people to reduce the size of our Federal deficit, the Secretary of Defense is authorized to systematically reduce the end strength of active duty military personnel by 363,405 over a 5-year period beginning in fiscal year 1991. This represents an 18-percent decrease over the fiscal year 1990 end strength of 2,044,069. In fiscal year 1991, 67,664 soldiers, sailors, and airmen and women, or 19 percent of the 5-year force reduc-

tion plan, may be involuntarily discharged.

Moreover, to assure that the size, shape, and structure of our defense forces is realistically aligned with the changing international threats, the Secretary of Defense also has authority to reduce the military end strength by an additional 0.5 percent in fiscal year 1991 or by as many as 80,000 personnel.

While it is premature to determine whether any or all of these reductions will occur by the timelines mandated in the fiscal year 1991 Defense Authorization Act because of our current military involvement in Saudi Arabia, such reductions are inevitable as a necessary means of reducing the Federal budget deficit and defense expenditures.

Mr. President, at no other time in our Nation's history have we so dramatically reduced the size of our defense forces during peacetime. Of equal importance, but without precedence, is the fact that this reduction represents the largest reduction of an all volunteer force. I wish to emphasize the word "volunteer" because soon, thousands of well-trained and well-educated men and women, who voluntarily chose the military as a profession, will involuntarily be notified that they must find another means of employment.

Mr. President, these military personnel do not want to lose their jobs. Severance pay is modest compensation for their selfless dedication and personal sacrifices. The origins of severance pay can be found in the act of May 14, 1800 (2 Stat. 85) where the Federal Government recognized its responsibility to provide an adequate amount of readjustment pay to service men and women to help them ease their transition into civilian life. For 179 years however—since the act of December 24, 1811 (2 Stat. 669)—nondisability separation pay has only been authorized for officers in military service—both commissioned and warrant officers, Regular and Reserve—and Reserve enlisted personnel involuntarily discharged, released, or otherwise not continued in military service after at least 5 years of continuous active duty.

Last year, however, the 101st Congress amended section 1174 of title 10, United States Code, to extend the eligibility of severance pay to enlisted personnel, thereby recognizing the equally important contributions of all military personnel serving our Nation on active duty. Under these amendments, Congress repealed the maximum allowable payment limit of \$30,000 but retained the formula for calculating the amount of separation pay, which is based on the number of years of active service and the monthly basic pay. Moreover, the Congress increased the rules of eligibility for active service from 5 to 6 or more years but less than 20 years.

Mr. President, today I am introducing legislation to modify Federal tax

rules to provide an incentive to military personnel who receive severance pay to establish or enhance a retirement portfolio. My legislation would defer taxation for the amount of severance pay transferred to an eligible retirement plan until the funds are withdrawn. Such transfers or rollovers must take place within 60 days of receipt, as current Federal rules allow. My bill does not alter the existing tax rules on penalties for early withdrawal.

The Congressional Budget Office [CBO] estimates that if all end strength reductions occur as authorized in the fiscal year 1991 Defense Authorization Act, total severance payments could amount to \$3.71 billion by the end of fiscal year 1995. CBO estimates that the anticipated revenue loss due to the tax-free status of interest earned on this amount would be \$4.5 billion, assuming that all service members elect to transfer 100 percent of their severance pay into an eligible retirement account. While it is difficult to predict the amount of severance pay that service members may transfer to eligible retirement accounts, we might expect that 13 percent of these individuals would choose the tax-deferred option of my bill, based on the results of a national population survey reported in congressional hearings last year before the House Select Committee on Aging on the disposition of lump-sum pre-retirement funds where 11 percent of Americans reported rollovers into an IRA and 2 percent reported a transfer to an insurance annuity or retirement plan.

Mr. President, we have a unique opportunity to recognize the personal and professional sacrifices of service men and women who will be involuntarily discharged from military service as a result of force structure and organizational realignments. My bill will modestly compensate them for their selfless dedication. Because of the importance of this issue, I plan to address this legislation in hearings this year before the Senate Armed Services Committee.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the RECORD.

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

#### S. 252

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

#### SECTION 1. ROLLOVERS OF MILITARY SEPARATION PAY.

(a) IN GENERAL.—Section 402(a)(6) of the Internal Revenue Code of 1986 (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

“(J) MILITARY SEPARATION PAY.—If—

“(i) an individual receives separation pay under section 1174 of title 10, United States Code, and

“(ii) such individual transfers any portion of such pay within 60 days after the receipt

of such pay to an eligible retirement plan described in paragraph (5)(E),

then the portion of the pay so transferred shall be treated as a distribution which is described in paragraph (5)(A) and which is not includible in gross income in the taxable year in which paid.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to pay received after December 31, 1990.●

By Mr. MCCONNELL:

S. 253. A bill to provide for the establishment of appropriate legal forums for the enforcement of the Geneva Conventions; to the Committee on Foreign Relations.

#### GENEVA CONVENTIONS ENFORCEMENT ACT

Mr. MCCONNELL. Mr. President, over 41 years ago, 61 countries signed what is commonly referred to now as the Geneva Conventions. Over the period of 41 years no country has been held accountable for violations of the Geneva accords which, as we all know, have to do with what is considered humane treatment of prisoners of war.

There are at least 15 Americans missing in action. We know that some of them are captured and behind enemy lines. Saddam Hussein has been launching Scud missiles against population centers, with clearly no justifiable military reason for doing that. It is pretty clear that Saddam Hussein is engaged in war crimes by any definition, which leads to a consideration of what action the community of nations might well take at the conclusion of this war with regard to this man personally.

I am introducing a bill today, Mr. President, which requires that, if we are able to produce Saddam Hussein within our country, much as we produced Noriega, he be tried under American law, if that is possible. It also, Mr. President, suggests that the President, in consultation with the United Nations, proceed to set up an international court with criminal jurisdiction to enforce for the first time in the 41-year history of the Geneva accords the law against those who would violate this commonly understood standard of behavior applicable to all the signatories, 61 of them, including Iraq, including the United States.

One of the reasons we are fighting this conflict is to define a new world order in the postcold war period. It seems to this Senator that an important part of this new world order, if we are able to achieve it, is proper sanctions against any country, and in particular, individuals in charge of the country who commit or order such violations of these internationally accepted norms of treatment of prisoners of war be brought to justice—be brought to justice.

So, it is the purpose of this bill, Mr. President, to make the Geneva accords really mean something, to have some method of prosecution and conviction

of those who in fact violate these norms.

For 41 years, no government has chosen to take another to task for violating the Geneva Conventions until now.

Beginning on August 2, eyewitness accounts of Iraqi military troops engaging in murder, mutilation, torture, rape, robbery, destruction of property and every other imaginable, senseless act of violence have choked international air waves and shocked the citizens and governments of the world. The systematic destruction of a small, defenseless nation has been reported in painful and considerable detail.

After seeking the approval of the United Nations and the U.S. Congress, the President did what needed to be done. As the Commander in Chief of American troops and the leader of an impressive international coalition of forces, President Bush launched Operation Desert Storm. While we are all worried about our soldiers and hopeful that we will expel Hussein from Kuwait in short order, we must also focus on events after the desert dust settles.

Even as we wage war, we must look for ways to preserve peace, security and the humanitarian code of conduct embodied in the Geneva Conventions. We have a unique opportunity to define the post-cold war world. We should do so by measuring nations and their leaders by their efforts to protect the invincible principles of human dignity and freedom.

Saddam Hussein and his forces have defiantly rejected these principles. The Iraqi leadership is directly responsible for holding hundreds of American and foreign nationals hostage for months. Iraqi forces have committed unspeakable acts of violence against Kuwait and its citizens. Now, in a last ditch effort to crack the coalition, Hussein has launched a barrage of Scud missiles against the neighborhoods, schools and hospitals of Tel Aviv and Jerusalem.

With the war underway, Saddam Hussein's gruesome record of crimes against mankind must be dealt with. His is a record of intimidation, aggression, invasion, occupation, and terrorism against innocent civilians—and now, mistreatment of allied prisoners of war. We have already seen some of our captured soldiers appearing physically abused reciting pro-Iraqi propaganda—all in violation of the Geneva Conventions.

Fifteen Americans are currently considered missing in action. If captured, that is 15 Americans who are entitled to the protection of their rights under the Geneva Conventions.

But, realistically, how do we do that? The legislation I am introducing today directs the President to lay the legal foundation for any war crimes case that can be made against Saddam Hussein and his henchmen. I do not think we should be scrambling to create a case after the fact. We should be build-

ing the case right now as the crimes are committed.

We should also have confidence that there is an appropriate legal forum to present that case. Although the Geneva Conventions have been in effect for four decades, no enforcement mechanism has ever been established. While there is reference to signatories agreeing to an umpire to address charges of convention violations, no nation has tried to enforce those provisions.

My legislation would direct the President to determine whether a U.S. court would be the appropriate legal forum for presenting charges of convention violations. If not, the President is urged to make the case to the U.N. Security Council to establish an international tribunal to adjudicate such cases.

I have given the President as much flexibility as possible on how he should proceed in the development and prosecution of a case against Hussein. Since the United Nation authorized the use of force which has served as the mandate for Operation Desert Storm, it seems reasonable once again to ask the international community to join together in legal judgment.

However, there may be circumstances which would warrant prosecution in the American court system instead. Congress should protect every legal option we have as the President advances the case against Saddam Hussein.

I have made this bill binding because I want Saddam Hussein to know when the war is over, and the evidence is in, he and his forces will be held accountable, will be judged and will pay a price for the atrocities they have committed.

We are a nation of laws. We embraced the principles of humane treatment of civilians and prisoners of war when we signed the Geneva Conventions. We signed it in hope—we must now enforce it in strength.

Mr. HEINZ. Mr. President, today Senator MCCONNELL, together with myself and perhaps other Senators, is introducing the War Crimes Act, which I will describe in a minute.

Mr. President, we have all been focused on the conflict we have had with Iraq, a conflict that has built over the last 5 months. And even before this conflict began, I was one of the Members of the Senate—I do not know if I was the only one—that insisted, first, that the Senate should go on record with a warning to Saddam Hussein that he and his high command would be held responsible for the safety of the innocent hostages he was then holding in Iraq.

I offered a resolution here on the floor of the Senate last fall, and by an overwhelming vote, the Senate told Saddam Hussein in clear terms that he would not escape prosecution as a war criminal for his actions and the mistreatment of the Americans and others

that he was holding as hostages and using at that time as human shields.

Although the hostages were eventually released, apparently, Saddam Hussein still does not understand the message he was sent by this body last fall. Because in the interim, Saddam Hussein has launched missile attacks against unarmed civilians in a non-combatant nation. He has committed repeated atrocities in occupied Kuwait, and he has captured and tortured, as we have seen, allied flyers, parading them on Iraqi television and vowing to use them as human shields.

The time, once again, has come to send an even more decisive measure, Mr. President, and to make our purpose clear and unmistakable. Senator MCCONNELL and I are introducing legislation today to provide for the prosecution of Iraqi war criminals, either in the U.S. Federal courts or—and I believe preferably—before an international tribunal. There is ample historical precedent for this action, as pointed out by Dr. James Robbins in an article in this morning's Wall Street Journal.

Mr. President, I ask unanimous consent that Dr. Robbins' article be printed in the RECORD.

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

[From the Wall Street Journal, Jan. 23, 1991]  
IRAQI WAR CRIMINALS FACE HANGING  
(By James S. Robbins)

The beatings and other abuse that Iraq has apparently inflicted on captured coalition fliers brought a stern reminder from the State Department Monday that Iraq will be held responsible for its war crimes after the cessation of hostilities. The U.S. has not conducted war crimes trials since those following the Second World War—not for lack of war criminals, but because the unsuccessful conclusion of the Korean and Vietnam wars did not permit the U.S. to bring the offenders to trial.

But there were many dozens of trials held after 1945 by the Allied powers, both in concert and individually. Of these, the trials of Japanese war criminals will supply the best precedent for trials of Iraqi war criminals, should the Iraqi leaders be available for indictment.

#### TOKYO TRIALS

The Tokyo war crimes trials were administered by the International Military Tribunal for the Far East, in which the U.S., by virtue of having shouldered most of the burden in the Pacific theater, had the dominant role. Between 1946 and 1948, the tribunal decided the fates of 25 top Japanese military and civilian leaders.

The charges that the tribunal considered can be broken down into two types: conspiring to wage and then actually waging aggressive war (Class "A" war crimes, which occupied most of the trial), and mistreating prisoners of war and civilians (Class "B," or conventional, war crimes). It is the Class "B" crimes that the State Department has served notice that it intends to punish at the end of the Gulf war.

Two particular Class "B" charges were brought in the Tokyo trials: Charge 54, "ordering, authorizing and permitting the com-

mission of conventional war crimes;" and Charge 55, "failure to take adequate steps to secure the observance and prevent breeches of conventions and laws of war in respect of prisoners of war and civilian internees." Thus, whether leaders gave specific orders for the maltreatment of prisoners, or merely failed to exercise sufficient oversight to prevent maltreatment by their underlings, they could be put on trial.

Allied jurisdiction to try Japanese leaders on these charges was based on Article 26 of the Geneva Prisoner of War Convention. This stated that "Commanders in Chief . . . in accordance with the instructions of their respective governments" bear responsibility for the treatment of POWs.

One problem with this Article 26 jurisdiction was that Japan, although a signatory to the 1929 convention, had not ratified the provisions applying to prisoners of war. However, in January 1942 the Inter-Allied Declaration on Punishment for War Crimes as published, to warn the Axis powers of what they ought to expect should they commit war crimes against Allied POWs. In response, on Feb. 4, 1942, Japanese Foreign Minister Shigenori Togo notified the Allies that Japan would "apply mutatis mutandis [with the necessary changes] provisions of that Convention to American prisoners of war in its power." This commitment became the legal basis for prosecution of the Japanese leadership.

Fortunately, no jurisdictional problem would prevent the trial of Iraqi leaders: Iraq is a full signatory to the 1949 Geneva Convention, and has accepted all its provisions—including the provisions on POWs.

At the Tokyo trials, the prosecution presented extensive evidence of Japanese war crimes against POWs and civilians. The number of these crimes is too great and their detail too gruesome to relate—even the trial judges refused to hear more after a certain point. So far, Iraq has done nothing to compare to the brutality of the slave labor on the Siam-Burma "Death Railway," or the outright massacre of 150 GIs at Palawan.

But some of the crimes for which Japanese officers were punished do correspond to the acts of which Iraq is boasting. The Japanese publicly paraded Allied prisoners in order to humiliate them and to raise Japanese civilian morale, and captured Allied troops were placed on unmarked, armed naval transports in active combat zones.

Like Iraq's parading of coalition fliers on television, its policy of using POWs as human shields at military installations is clearly illegal under the Geneva Convention. True, Iraq denies that what it is doing is criminal: Abdul Amir Al-Anbari, Iraq's ambassador to the United Nations, has said the prisoners are being put in "scientific institutions" that are "safer than any other place for them." But given coalition-targeting priorities and the probability that "scientific" is an Iraqi euphemism for "nuclear," this safety is questionable. In any case, Iraq is violating the Geneva Convention's requirement of separate, dedicated POW facilities.

Like the Iraqis, the Japanese singled out airmen for special maltreatment. Of the eight pilots in the April, 1942 "Doolittle Raid" on Tokyo who fell into Japanese hands, three were executed and five given life prison sentences. Several died in prison. It was later revealed that according to "Army Secret 2190," the Japanese command had issued orders to treat captured Allied fliers as war criminals. The author of this order, Vice Minister of War Gen. Heitaro Kimura, was hanged after the war.

Altogether, more than 900 Japanese, many of them of relatively low rank, were convicted of POW abuse: For example, Lt. Tanabe Koshiro of the Japanese Imperial Navy was charged under Article 31 of the Geneva Convention for "intentionally and unnecessarily exposing prisoners of war to acts of war." He had refused to remove POWs from combat areas.

The defense counsel at the Tokyo trials argued that there was insufficient evidence to convict any specific individual or war crimes, especially of abuse of prisoners. The defense did not deny that prisoners were abused, but, it argued the prosecution could not prove that any specific Japanese leader had ordered or condoned the atrocities, or even that he knew of them. A great deal of evidence, however, existed to the contrary, much of it collected by the United National War Crimes Commission established in 1942.

Final punishment of the Japanese war criminals was harsh. Of the five defendants found guilty of personally ordering conventional war crimes (Charge 54), all were hanged. Iwane Matsui, commander in chief of Japanese forces in central China in the late 1930s, was acquitted of every charge except Charge 55, failure to prevent maltreatment of prisoners, and he was hanged as well. His crime was over-seeing the Rape of Nanking. Who oversaw the Rape of Kuwait?

#### SEVERE PUNISHMENT

The Iraqis should be wary. There is a strong case for bringing war crimes charges—not just Class "B," but also Class "A" and Class "C," crimes against humanity—against them for what they have already done. And this is only from the perspective of the U.S. Kuwait, Saudi Arabia, Britain, Italy and Israel may also have cases—nor is the docket yet closed. If the probability of severe punishment for war crimes does not restrain Saddam Hussein, it may at least give pause to his commanders, who are legally responsible for their actions.

As the war progresses, further abuses may be committed by Iraq, and new evidence discovered concerning abuses past. The coalition should—and no doubt will—establish mechanisms for collecting and evaluating evidence of war crimes, so that the innocent may be vindicated and the guilty not escape justice.

Mr. HEINZ. Mr. President, the Iraqi leaders must be made to understand that they will not escape this war unscathed. They may well be quite willing to sacrifice their people and their army for their dreams of glory. They may well believe that if the pressure gets too severe, they can sue for peace and retain their position. They may even entertain the absurd hope that they will prevail, and that allied troops will not achieve the goal of expelling them from Kuwait.

None of these hopes should or will be realized, and the Iraqi leaders will recognize this reality soon. It is certain that Saddam's cronies will realize the futility of their efforts before Saddam himself. It is our hope that they will receive the message embodied in this legislation, the War Crimes Act, and stop Saddam before it is too late for any of them.

Mr. President, we are not advocating changing the aims of Operation Desert Storm for the liberation of Kuwait to

the total destruction of Iraq. But let no one—not our allies, not our enemies—doubt that we will not rest until Saddam and his torturers are brought to justice.

The American people are slow to anger, but here our anger is just, and it is tempered by patience. Eventually, those responsible for torturing our young men, and for terrorizing innocent civilians, will fall into our hands; and when they do, they will understand what it means to stand trial and face punishment before the entire civilized world as war criminals.

The Iraqi leaders can still forestall this chilling prospect. They can begin to live up to their commitments as members of the United Nations and signatories to the Geneva Conventions. They can stop Saddam Hussein, the man bringing this country to ruin, and who will be responsible for placing them in a docket last occupied by the late unlamented leaders of the Third Reich, the Nazi Party, and the Japanese Imperial High Command.

I urge my colleagues to support our legislation and join us in warning Saddam Hussein and his followers that the arm of international justice is indeed very long, very patient, very determined, and if we pass this legislation, inescapable.

By Mr. MCCONNELL:

S. 254. A bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor; to the Committee on Finance.

#### WITHHOLDING FROM AGRICULTURAL WAGES

Mr. MCCONNELL. Mr. President, 2 years ago, in our rush to complete the Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, a provision hampering America's farmers was included in the passed version of the legislation. Unfortunately, this provision places an added burden on our Nation's farmers by requiring farmers to withhold Federal taxes from workers' income.

All farmers with a payroll of \$2,500 or more per year must keep W-4 forms on all workers and then file quarterly reports on wages paid. Farmers who pay less than \$2,500 in wages each year must still withhold Federal income taxes on every employee who receives more than \$150 in wages from the farmer. This legislation is clearly an attempt to use the employer to enforce the Tax Code.

The bill I introduced last year, which I reintroduce today, will repeal this unjustified addition of paperwork to the American farmer. The injustice of this legislation not only stems from increased red tape, but from the fact that agricultural businesses and farmers were given no notice of the proposed change and did not have the opportunity to express their views on this

legislation. Last year, I received widespread support in correcting this error. We must return farming to the control of the hard-working men and women who produce the food for this Nation and stop the Federal bureaucrats who have made agriculture the most regulated business in this country.

The new economic pressures facing our Nation and the nature of the farming business require more hiring of workers on a seasonal, part-time basis. There are fewer full-time farmers in this day and age as other sources of income are required to simply provide for upkeep and payments on their farms. This, coupled with the fact that farmers are unable to provide work year round, prevents them from hiring workers on a full-time basis. For example, during the busiest time of the year a farmer must hire two or three extra people to get the necessary work completed in a timely manner. This could be getting the crop planted early enough to ensure adequate growing time or getting the crop harvested before the winter weather sets in.

Consider the case of a small specialized crop farmer that may have 10 acres of strawberries, but only has 2 weeks to get the crop picked before they rot in the field. Or what about the Kentucky farmer who grows bell peppers as an alternative crop to tobacco? Both farmers must harvest their crops according to the processor's stringent requirements or bear an extensive loss at the marketplace.

In both of these instances time is critical and farmers must often hire 10, 20 or even 30 people, for just a couple of days. The farmer may only pay \$200 to each employee, but the employer still has to withhold income taxes for every person hired. Anyone familiar with farming realizes how critical time can be during the peak periods of harvest. Adding unnecessary bureaucratic red tape to the farmers' lives will only make an already difficult situation more difficult.

My colleagues may say the solution is simple, just hire fewer people. Most likely this will happen. However, that also means fewer jobs for those people that desperately need work no matter how small the paycheck. Most farm laborers do not even earn enough to incur a tax liability. Consequently, the money, earned by those who are least able to afford an income loss, is spent by the Federal Government until the farm workers can file for a refund.

It has been estimated that over a 5-year period \$404 million in new revenue will be generated from this legislation. While this may appear to be a significant amount, of the \$270 million generated in the first 2 years, \$240 million of this could be from unclaimed tax refunds. In years 3 through 5, tax revenues would average only \$22 million. I suggest that the added cost to employ-

ers and employees far outweighs the Government benefits.

A Utica, KY, farmer and a friend of mine, John Burns, puts it in perspective by saying, "Most of us aren't set up for this. We don't have offices. We're our own office help." That is exactly my point. This legislation penalizes those least in a position to handle the extra burden. This is hardly beneficial to the Government. Instead, it adds another layer of unneeded and unwanted paperwork for America's hard-working men and women.

Mr. President, I believe a mistake has been made in enacting this provision of Public Law 101-239. Farmers, laborers and the entire farm community will bear the undue burden of this legislation. American consumers will pick up the tab for the expense of complying with the withholding tax and farm workers will have their income reduced. My bill will stop these unfair events and enable us to do something good for the small family farmer—the backbone of our Nation.

By Mr. BINGAMAN:

S. 255. A bill to require Congress to purchase recycled paper and paper products to the greatest extent practicable; to the Committee on Rules and Administration.

PURCHASE OF RECYCLED PAPER BY CONGRESS

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation which would require the Senate and House of Representatives to use recycled paper and paper products in their operations.

We are all aware of the importance of conserving natural resources. Recycling of those resources is one of the most important ways to support conservation. The most obvious and easiest ways to encourage recycling is through the use of recycled paper.

For recycling to be successful, there must be a supply of paper to recycle and there must be a demand for the product. At this point, we have become efficient at supplying paper for recycling; however, we have not supported the demand side of the equation through the use of recycled products. We must show a commitment to use recycled paper.

A number of us in the Senate have initiated program in our offices to recycle all of the paper used in the office. This program shows that it is not difficult to separate paper products and begin the recycling process.

Last Congress, the Senate passed legislation to increase and improve the forested areas of the Nation through tree planting and forestry conservation measures. In addition to directly supporting forestry conservation measures, we need to start using recycled products.

Mr. President, I believe we must set the example on the use of recycled products. I hope my legislation and the reporting requirements contained

therein will ensure that Congress does its fair share in the recycling effort.

To further strengthen the Government's position on the use of recycled paper products, I also am introducing legislation in the next few days which will require the General Services Administration to make recycled paper available to the Secretary of Agriculture for use by the Forest Service, an appropriate agency to take the lead in forestry conservation.

I am pleased that Congressman ANDERSON has introduced similar legislation in the House. I urge my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be placed in the RECORD at the end of my statement.

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

S. 255

*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 "Congressional Recycling Act of 1991".

**SEC. 2. REQUIREMENT FOR CONGRESS TO PURCHASE RECYCLED PAPER AND PAPER PRODUCTS.**

(a) PAPER PURCHASED BY CONGRESS.—(1) The Clerk of the House of Representatives and the Secretary of the Senate shall take such action as may be necessary to assure that recycled paper and paper products are used to the greatest extent practicable in the operations of the House of Representatives and the Senate, respectively. Any decision not to use recycled paper or paper products shall be based on a determination that such items are (A) not available, or (B) available only at an unreasonable price.

(2) In carrying out the requirement of paragraph (1), the Clerk of the House and the Secretary of the Senate shall, at a minimum, take such action as may be necessary to assure that recycled paper or paper products are purchased under each contract, or sub-contract under a contract, for the procurement of 10,000 pounds or more of paper or paper products.

(b) PAPER PURCHASED FOR CONGRESSIONAL PURPOSES.—The Public Printer shall take such action as may be necessary to assure that, in providing printing and other services to the House of Representatives, the Government Printing Office uses recycled paper and paper products to the greatest extent practicable. Any decision not to use recycled paper or paper products shall be based on a determination that such items are (A) not available, or (B) available only at an unreasonable price.

(c) UNREASONABLE PRICE.—For purposes of this Act, an unreasonable price is one which exceeds by more than 10 percent the price of nonrecycled paper or paper products.

(d) DEFINITIONS.—For purposes of this Act:

(1) The term "paper and paper products" includes printing and writing paper, corrugated boxes, napkins, tissue paper, and such other paper and paper products as maybe considered necessary or appropriate to be included in such term by the Clerk of the House of Representatives, the Secretary of the Senate, or the Public Printer in implementing this Act.

(2) The term "recycled paper and paper products" means paper and paper products

that contain the level of recovered material recommended by the Administrator of the Environmental Protection Agency in guidelines for Federal procurement of paper and paper products containing recovered materials, prepared pursuant to section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

#### SEC. 2. ANNUAL REPORTS.

The Clerk of the House of Representatives and the Secretary of the Senate, in consultation with the Public Printer, shall each publish a report on the implementation of this Act in the House of Representatives and the Senate, respectively. Each report shall include information on the progress and problems associated with such implementation, and findings and recommendations with respect to such implementation. •

By Mr. DASCHLE:

S. 256. A bill to clarify eligibility under chapter 106 of title 10, United States Code, for educational assistance for members of the Selected Reserve; to the Committee on Armed Services.

#### NATIONAL GUARD AND SELECTED RESERVE EDUCATIONAL FAIRNESS ACT

• Mr. DASCHLE. Mr. President, I rise today to introduce the National Guard and Selected Reserve Educational Fairness Act. The purpose of this measure is to ensure that new vocational and technical educational benefits authorized in the National Defense Authorization Act of 1990 and 1991 are provided to any reservist who has signed a 6-year contract after July 1, 1985, and is otherwise eligible for benefit provided under the Montgomery GI bill.

When Congress approved the National Defense Authorization Act for fiscal years 1990 and 1991, it wisely expanded eligibility for Government-funded assistance under the Montgomery GI bill for Selected Reserve and National Guard members, by including vocational and technical training programs. As a result, members of the Selected Reserve and National Guard will for the first time have access to vocational and technical training under the Montgomery GI bill, giving them a variety of educational options from which to choose.

VA State approving agency officials and military educational counselors in my State told me enthusiasm for the new benefits approved by Congress was widespread among members of the Selected Reserve and National Guard. Because of their service commitment, these dedicated individuals will be able to obtain Government assistance to help finance the vocational and technical training necessary to pursue their career goals.

This initial enthusiasm was immediately dampened, however, when members of the Selected Reserve and National Guard were told by VA and DOD officials that they did not qualify for the new educational benefits approved by Congress. In order to qualify, selected reservists and National Guard members must pledge to a new 6-year service commitment after October 1, 1990. This new interpretation of the

Montgomery GI bill establishes more stringent eligibility requirements for reservists seeking vocational and technical training than for those pursuing a 4-year college degree. While reservists seeking vocational-technical training must make an additional 6-year commitment after October 1, 1990, reservists pursuing a 4-year college degree need only to have made a 6-year commitment anytime after October 1, 1985. In effect, the Government was telling these young men and women who have served our country—many of whom are participating right now in Operation Desert Storm—that their existing military service commitment isn't good enough to justify the extension of new vocational-technical training benefits to them.

Take the case Anessa Mola, an enlisted member of the South Dakota National Guard, 730th Medical Company, located in Vermillion, SD. Anessa served in the 730th Medical Company for 4½ years and desired to use her GI bill benefits to pursue a radiology technology degree. Obtaining this degree would not only help her pursue her career goals, but also benefit her military service in the 730th Medical Company. However, the doors of educational opportunity were abruptly slammed shut for Anessa, and others like her, who have served our country in the Selected Reserve force.

Just this past week, Anessa Mola packed her bags and said good-bye to her family as she left with the members of the 730th Medical Company for deployment to Saudi Arabia. She left willingly to serve our country with the full knowledge of the dangers that face her.

Anessa Mola's family is angry. They, and other families like them, have been told in effect, that their children's pledge to serve this Nation isn't enough for our Government to extend the new vocational and technical training benefits to them under the Montgomery GI bill.

Mr. President, we have a chance with the legislation I am introducing today to reaffirm our commitment to the young men and women in the Selected Reserve and National Guard, many of whom are serving in Saudi Arabia, by extending vocational and technical training benefits to any reservist who has signed a 6-year contract after July 1, 1985, and is otherwise eligible for program benefits under the Montgomery GI bill.

I hope my colleagues will join me in sending a strong message to the men and women of the Selected Reserve and National Guard that we take seriously their pledge to serve our country, and that we will do our part in ensuring that they have access to Montgomery GI bill vocational and technical training benefits when they return home.

I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 256

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

#### SECTION 1. CLARIFICATION OF ELIGIBILITY FOR EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

Section 642(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1458) is amended by striking out "September 30, 1990" and all that follows through the end of the subsection and inserting in lieu thereof "June 30, 1985, meets the requirement set forth in subparagraph (A) or (B) of section 2132(1a)(1) of title 10, United States Code, but no benefit shall be paid to any person by virtue of the amendments made by this section for pursuit before October 1, 1990, of any program of apprenticeship or other on-the-job training or any cooperative program." •

By Mr. METZENBAUM (for himself, Mrs. KASSEBAUM, Mr. CHAFEE, Mr. KENNEDY, Mr. SIMON, Mr. PELL, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. KERRY, Mr. AKAKA, and Mr. LEVIN):

S. 257. A bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun; to the Committee on the Judiciary.

#### BRADY HANDGUN VIOLENCE PREVENTION ACT

• Mr. METZENBAUM. Mr. President, today we are pleased to introduce legislation to require a national 7-day waiting period before the sale of a handgun. We have entitled this bill the Brady Handgun Violence Protection Act in honor of two courageous people: Jim Brady, who was shot and seriously wounded 10 years ago in the assassination attempt on President Reagan, and Sarah Brady, who has spoken out for sensible and effective firearms legislation.

I am pleased to be joined in this effort by Senators KASSEBAUM, CHAFEE, KENNEDY, SIMON, PELL, LAUTENBERG, MIKULSKI, MOYNIHAN, KERRY, AKAKA, and LEVIN.

The Brady bill provides for a simple step which will allow local law enforcement to undertake a background check to make sure that a purchaser is legally entitled to possess a firearm. This waiting period also works as a cooling-off period for persons in a violent or suicidal rage, before they take possession of a handgun.

There is already a law that prohibits convicted felons from purchasing firearms. I don't know of anyone who would argue with that law. But that law by itself is ineffective. Today a felon can walk into a gun store, lie about his criminal record on a Federal firearms form, put down his money, and walk out with a handgun. A wait-

ing period would give the police the tool they need to enforce the law, by giving them the time to run an accurate background check on potential purchasers.

It has been said that this bill will not reduce crime because only law-abiding citizens, not criminals, obtain guns from retail outlets. I am sure that many felons do get firearms on the black market, but the 22 States that now have waiting periods have found them highly successful in preventing handguns from falling into the hands of criminals. In a single year, California prevented 1,800 handguns from being purchased by convicted felons. New Jersey stops an average of 500 convicted felons a year from illegally buying handguns.

While State and local laws are extremely useful, it is unfortunately too easy for lax laws in one State to undercut the effectiveness of a waiting period in a neighboring State. Criminals will continue to evade State laws unless Congress acts to ensure that law enforcement officials throughout the Nation have an opportunity to perform background checks.

Let me stress that all we are talking about in this bill is a simple waiting period. You want to buy a handgun. Fine. Go to your gun dealer. Fill out a simple form. Come back 7 days later, and if you do not have a felony record, walk out with your handgun. What is so burdensome about that?

This bill does not call for handgun registration. The police must destroy the firearms form within 30 days. We are not talking about banning or confiscating handguns. I know that some opponents of the Brady bill, particularly the National Rifle Association, have claimed that it would be the first step toward a handgun ban. That is simply not true. Let me say again, as I have said before, I do not advocate and would not support legislation to ban handguns.

But the proliferation of gun violence in this country demands that we take some action. The American people demand that we take action. Opinion polls show that a large majority support a waiting period. In fact, last year a Time Magazine/CNN poll showed that 87 percent of gun owners support a national 7-day waiting period and background check for anyone who wants to buy a handgun. These are the very gun owners that the National Rifle Association purports to represent in their campaign of lies and distortion against this bill.

Law enforcement organizations across the country are urging Congress to act. Every major law enforcement organization in the country supports this bill. These include the Fraternal Order of Police, the International Association of Chiefs of Police, the Police Executive Research Forum, the National Sheriffs' Association, and the

National Association of Police Organizations, to name just a few.

In 1988, when the House of Representatives failed to pass the Brady bill by a narrow margin, Congress voted to require the Attorney General to "develop a system for the immediate and accurate identification of felons who attempt to purchase firearms." In accordance with that law, the Attorney General reported to Congress in November 1989 that the Justice Department would study how to implement a point-of-sale verification system for handgun purchases, but that it would take years before such a system is operational.

If we are years away from a system that can immediately identify felons at the sales counter of the gun store, then the clear, logical alternative is a 7-day waiting period that would provide enough time for police to identify felons who attempt to purchase handguns.

This coming March 30 will mark the 10th anniversary of John Hinckley's attempted assassination of President Reagan. On that day, armed with a handgun, Hinckley wounded the President, a Secret Service agent, a Washington police officer, and of course Press Secretary Jim Brady. That event is just the most infamous instance of handgun violence that takes place far too often in America. Last year alone, 22,000 people were killed with handguns. No Senator can introduce legislation that will stop all of the gun violence on our Nation's streets. But many of those 22,000 deaths could have been prevented if the gunman were required to wait 7 days before getting that handgun. Police would have time to identify felons who are prohibited by law from possessing guns, and persons buying a handgun in a suicidal or homicidal rage would have time to cool off before getting their gun. In short the Brady bill will save lives.

In this, the 10th anniversary year of the shooting of President Reagan and Jim Brady, I ask my colleagues to join with us in standing up to the likes of the National Rifle Association, and standing with the police of this country to support this sensible and effective firearms legislation. Congress should take prompt action in passing the Brady bill.

Mr. President, I ask unanimous consent that the entire text of my bill be included in the RECORD.

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

#### S. 257

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Brady Handgun Violence Prevention Act."

#### SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—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 licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) the transferor has received written verification that the chief law enforcement officer has received the statement, seven days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, state, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the ten day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than five years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least seven days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not

indicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) Paragraph (1) shall not be interpreted to require any action by a chief law enforcement officer which is not otherwise required.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from such statement.

"(7) For purposes of this subsection, the term, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public."

(b) **HANDGUN DEFINED.**—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled."

(c) **PENALTY.**—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(2) by adding at the end the following:

"(4) Whoever knowingly violates section 922(s) shall be fined not more than \$1,000, imprisoned for not more than one year, or both."

(d) **EFFECTIVE DATE.**—The amendments made by this Act shall apply to conduct engaged in ninety or more days after the date of the enactment of this Act.●

By Mr. JOHNSTON:

S. 258. A bill to correct an error in the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990; to the Committee on Energy and Natural Resources.

**PURPA CORRECTIONS BILL**

● Mr. JOHNSTON. Mr. President, during the last session Congress removed size limitations on Solar, Wind, Waste and Geothermal Small Power Production Facilities under Public Utility Regulatory Policies Act of 1978 for a 5-year period. Unfortunately, there was an error in the legislation. The effect of the error was to remove all size limitations for those facilities that are larger than 80 MW, but—contrary to Congress' intent—not to remove them for facilities between 30 and 80 MW. This paradoxical result has caused significant difficulty for a number of developers who are pursuing projects that are smaller than 80 MW. The purpose of the bill I have introduced today is to remedy this unfortunate oversight.●

By Mr. GARN (for himself and Mr. WALLOP) (by request):

S. 259. A bill to amend the Defense Production Act of 1950; to the Committee on Banking, Housing, and Urban Affairs.

**DEFENSE PRODUCTION ACT EXTENSION**

● Mr. GARN. Mr. President, I rise today to introduce legislation requested by the administration that would reinstate the authorities of the Defense Production Act that lapsed at the end of the last Congress. DPA authorities are critical to U.S. defense preparedness at any time but have never been more necessary than now, with U.S. troops under fire in the gulf.

The DPA should never have been allowed to lapse at the end of the 101st Congress. When Congress adjourned last October, a conference report had passed the House and was pending in the Senate. It represented a reasonable compromise between House and Senate positions and included no provisions that the administration had indicated were veto candidates during the legislative process. However, at the 11th hour, the Defense Department raised a number of objections to the bill and an-

nounced that it did not need DPA authorities to support military preparedness. These judgements, which I believed were mistaken at the time, led to the demise of the bill. The administration has now decided that it does in fact need DPA authorities as a matter of urgency to address the crisis in the gulf. I agree that this must be done.

The bill the administration is proposing is straightforward. It extends the DPA for 1 year from the date on which it lapsed and makes its authorities retroactive to that date. It authorizes funding for the DPA and makes technical changes needed by the Department of Energy to permit planning for energy disruptions that may arise from the war. I ask unanimous consent that the text of the bill and supporting information be printed in the RECORD at this time.

I believe we have to enact the more comprehensive legislation that died at the end of the last session and I intend to support efforts to do that as soon as possible. In the meantime, it is my hope that the Congress will implement a short-term extension of the DPA for a month or two to ensure that critical war material remains available to our troops in sufficient quantity while the legislative process is pursued.

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

S. 259

*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 "Defense Production Act Extension and Amendments of 1991".

**EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.**

**SEC. 2. EXTENSION OF PROGRAMS.**

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "October 20, 1990" and inserting "October 20, 1991".

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for fiscal year 1991, not to exceed \$50,000,000 to carry out the provisions of sections 301, 302, and 303.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal year 1991 may not exceed \$50,000,000."

**SEC. 4. VOLUNTARY AGREEMENTS.**

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

**SEC. 5. TECHNICAL AMENDMENTS RESTORING ANTITRUST IMMUNITY FOR EMERGENCY ACTIONS.**

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (a), by striking "and subsection (j) of section 708A";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) For purposes of this Act the term—

"(1) 'Antitrust laws' has the meaning given to such term in subsection (a) of the

first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(2) 'Plan of action' means any of 1 or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement."

(3) in subsection (c)(1)—

(A) by striking "Except as otherwise provided in section 708A(o), upon" and inserting "Upon"; and

(B) by inserting "and plans of action" after "voluntary agreements";

(4) in subsection (c)(2), by striking the last sentence;

(5) in the 2nd sentence of subsection (d)(1)—

(A) by inserting "and except as provided in subsection (n)" after "specified in this section";

(B) by striking ", and the meetings of such committees shall be open to the public";

(6) in subsection (d)(2), by striking out "section 552(b)(1) and (b)(3)" and inserting "paragraphs (1), (3), and (4) of section 552(b)";

(7) in subsection (e)(1), by inserting "and plans of action" after "voluntary agreements";

(8) in subsection (e)(3)(D), by striking "subsection (b)(1) or (b)(3) of section 552" and inserting "section 552(b)(c)";

(9) in subsection (e)(3)(F)—

(A) by striking "General and to" and inserting, "General,"; and

(B) by inserting ", and the Congress" before the semicolon;

(10) in subsection (e)(3)(G), by striking "subsections (b)(1) and (b)(3) of section 552" and inserting "paragraphs (1), (3), and (4) of section 552(b)";

(11) in subsections (f) and (g)—

(A) by inserting "or plan of action" after "voluntary agreement" each place such term appears; and

(B) by inserting "or plan" after "the agreement" each place such term appears;

(12) in subsection (f)(1)(A) (as amended by paragraph (11) of this subsection) by inserting "and submits a copy of such agreement or plan to the Congress" before the semicolon;

(13) in subsection (f)(1)(B) (as amended by paragraph (11) of this subsection) by inserting "and publishes such finding in the Federal Register" before the period;

(14) in subsection (f)(2) (as amended by paragraph (11) of this subsection) by inserting "and publish such certification and finding in the Federal Register" before ", in which case";

(15) in subsection (h)—

(A) by inserting "and plans of action" after "voluntary agreements";

(B) by inserting "or plan of action" after "voluntary agreement" each place such term appears;

(C) by striking "and" at the end of paragraph (9);

(D) by striking the period at the end of paragraph (10) and inserting "; and"; and

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

"(11) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action shall provide prior written notification of the time, place, and nature of any meeting to carry out a voluntary agreement or plan of action to the Attorney General, the Chairman of the Federal Trade Commission and the Congress."

(16) in subsection (h)(3), by striking "subsections (b)(1) and (b)(3) of section 552" and

inserting "paragraph (1), (3), or (4) of section 552(b)"; and

(17) in paragraphs (7) and (8) of subsection (h), by striking "subsection (b)(1) or (b)(3) of section 552" and inserting "section 552(b)(c)";

(18) by striking subsection (j) and inserting the following new subsection:

"(j) Defense for violation of Federal or State antitrust laws—

"(1) Subject to paragraph (4), there shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section that—

"(A) such action was taken—

"(i) in the course of developing a voluntary agreement initiated by the President or a plan of action adopted under any such agreement; or

"(ii) to carry out a voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement; and

"(B) such person—

"(i) complied with the requirements of this section and any regulation prescribed under this section; and

"(ii) acted in accordance with the terms of the voluntary agreement or plan of action.

"(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense established in paragraphs (1) shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in, or was within the scope of, an approved voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement and approved in accordance with this section. The defense established in paragraphs (1) shall not be available unless the President or the President's designee has authorized and actively supervised the voluntary agreement or plan of action.

"(3) Any person raising the defense established in paragraph (1) shall have the burden of proof to establish the elements of the defense.

"(4) The defense established in paragraph (1) shall not be available if the person against whom the defense is asserted shows that the action was taken for the purpose of violating the antitrust laws."

(19) in subsection (k), by inserting "and plans of action" after "voluntary agreements" each place such term appears;

(20) in subsection (l), by inserting "or plan of action" after "voluntary agreement";

(21) by adding at the end the following new subsections:

"(n) Notwithstanding any other provision of law, any activity conducted under a voluntary agreement or plan of action approved pursuant to this section, when conducted in compliance with the requirements of this section, any regulation prescribed under this subsection, and the provisions of the voluntary agreement or plan of action, shall be exempt from the Federal Advisory Committee Act and any other Federal law and any Federal regulation relating to advisory committees.

"(o) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section. Such defense shall

not release the party asserting it from any obligation under applicable law to mitigate damages to the greatest extent possible."

#### SEC. 6. TECHNICAL AMENDMENTS TO PRIORITIES IN CONTRACTS AND ORDERS.

Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended—

(1) in subsection (a)(2) by striking "materials and facilities" and inserting "materials, services, and facilities";

(2) in subsection (c)(1) by striking "supplies of materials and equipment" and inserting "materials, equipment, and services";

(3) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, services, and facilities in the marketplace, unless the President finds that—

"(A) such materials, services, and facilities are scarce, critical, and essential—

"(i) to maintain or expand exploration, production, refining, transportation,

"(ii) to conserve energy supplies; or

"(iii) to construct or maintain energy facilities; and

"(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection."; and

(4) by redesignating paragraph (4) as paragraph (3).

#### SEC. 7. EFFECTIVE DATE.

(1) This Act shall take effect on October 20, 1990; and

(2) No action taken by the President or the President's designee between October 20, 1990, and the enactment of this Act shall prejudice the ability of the President or the President's designee to take action under section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170).

#### SECTIONAL ANALYSIS

*Purpose:* To amend the Defense Production Act of 1950 to support mobilization of the defense industrial base of the United States.

##### SECTION 1. "SHORT TITLE"

This section cites the Act as the "Defense Production Act Extension and Amendments of 1991".

##### SECTION 2. "EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950"

This section extends the non-permanent provisions of Titles I, III, and VII of the Act to October 20, 1991. Currently, the Act contains an expiration date of October 20, 1990 for these non-permanent provisions of the Act. The proposed amendment avoids costly impacts on national defense and preparedness programs that would result from termination of the Act and supports defense requirements for Operation Desert Shield.

##### SECTION 3. "AUTHORIZATION OF APPROPRIATIONS"

This section authorizes appropriations for programs under sections 301, 302 and 303 of the Act.

##### SECTION 4. "VOLUNTARY AGREEMENTS"

This section repeals section 708A of the Defense Production Act. In all respects but one, section 708A is obsolete.

When enacted in 1975, section 708A prescribed procedures for developing and carrying out any voluntary agreement or plan of action to implement the Agreement on an

International Energy Program dated November 18, 1974. Subsequently, the Energy Policy and Conservation Act (EPCA) was enacted, with section 252 therein (42 U.S.C. 6272) now serving as the exclusive statute governing the United States' participation in the International Energy Program, and rendering section 708A obsolete for purposes of the International Energy Program.

The only remaining effective provision in section 708A is subsection (o), which prohibits the use of voluntary agreements under section 708 to implement any international agreement relating to petroleum products to which the United States is a party. Consequently, subsection 708A(o) causes an anti-trust defense to be unavailable for voluntary actions by United States oil companies to fulfill the United States' oil supply obligations under the North Atlantic Treaty and other international agreements, such as the United States-Israel Oil Supply Agreement. Repeal of section 708A would rectify this situation and would not affect the status of 42 U.S.C. 6272 as the exclusive statute governing voluntary agreements and plans of action pursuant to the International Energy Program.

#### SECTION 5. "RESTORING ANTITRUST IMMUNITY"

Section 5(1) is a conforming amendment to the repeal of Section 708A.

Section 5(2) defines the term "plan of action". Section 708 presently omits any provision for plans of action, such as were employed during the Korean War and as authorized under section 252 of the EPCA, with regard to the Agreement on an International Energy Program. Thus, at present under section 708, it appears that any actions decided by voluntary agreement participants would have to be reflected in a new "voluntary agreement," as distinguished from an implementing document adopted by the participants in an existing voluntary agreement. A plan of action may propose taking steps, the particulars of which are quite significant in their effects and which cannot be anticipated when the voluntary agreement is approved.

Thus, there is a need to recognize that a plan of action is a separate document which needs to be approved separately, but which is not subject to the elaborate procedures for approval of voluntary agreements, since such procedures could impede the ability of a voluntary agreement group to accomplish the objectives of the agreement expeditiously.

Section 5(3) is a conforming amendment to the repeal of Section 708A.

Section 5(4) permits more than one individual to be delegated the authority to make voluntary agreements under Title I of the Act.

Section 5(5) modifies section 708(d)(1) to delete the requirement that meetings of advisory committees established in connection with section 708 voluntary agreements be open to the public. This requirement is duplicative of section 10 of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, section 10, which would apply to such voluntary agreement advisory committees and which requires open meetings.

Section 5(6) modifies section 708(d)(2) to expand the existing Freedom of Information Act (FOIA) grounds for withholding from the public transcripts of meetings of voluntary agreement advisory committees to include the FOIA (b)(4) exemption pertaining to industry confidential or proprietary information or data. This change is necessary to make section 708(d)(2) consistent with the provisions of section 10 of FACA and 5 U.S.C. 552b(c), which would permit the closing to the public of a voluntary agreement advisory

committee meeting to consider industry confidential or proprietary data or information.

Sections 5(7), 5(11), 5(15), 5(19), and 5(20) insert the term "plan of action" wherever the term "voluntary agreement" is set out in section 708 of the Act.

Sections 5(9), 5(12), 5(13), 5(14), and 5(15) add new procedural requirements to the procedural requirements already contained in sections 708(e)(3)(F), 708(f)(1)-(2) and 708(h) governing meetings to develop or to carry out voluntary agreements, to provide "sunshine" on the activities or voluntary agreement and plan of action participants. The additional requirements, which parallel procedural requirements contained in the Federal Advisory Committee Act applicable to advisory committees include a requirement to submit copies of voluntary agreements and plans of action to the Congress, a requirement that the Attorney General publish in the Federal Register his finding approving a voluntary agreement or plan of action, and a requirement that the certification or finding required to renew an expiring voluntary agreement be published in the Federal Register.

Sections 5(8) and 5(17) modify the procedural requirements contained in sections 708(e)(3)(D) and 708(h)(7)-(8) applicable to meetings to develop or to carry out voluntary agreements and plans of action, to delete the reference to the Freedom of Information Act (FOIA) grounds for closing such meetings to the public and to substitute in lieu thereof the appropriate reference to the Government in the Sunshine Act for closing the meetings.

Sections 5(10) and 5(16) modify sections 708(e)(3)(G) and 708(h)(3) to expand the existing FOIA grounds for withholding from the public transcripts of meetings to develop or to carry out voluntary agreements or plans of action to include the FOIA (b)(4) exemption pertaining to industry confidential or proprietary information or data.

Section 5(18) modifies the existing anti-trust defense to make it more nearly like the antitrust defense in section 252 of EPCA available to participants in the voluntary agreement established to carry out the International Energy Program. The amendment eliminates the unique, vague and unreasonably difficult requirement that in order for actions to qualify for the antitrust defense, the person taking them must prove that he has done so "in good faith," and substitutes a new test applicable to the antitrust defense in section 252 of EPCA. In contrast with the DPA's good faith requirement, section 252 of EPCA provides that the actions complained of must not have been taken "for the purpose of injuring competition," and, except in the case of actions taken to develop a voluntary agreement or plan of action, the person asserting the defense must demonstrate that the actions were "specified in, or within the reasonable contemplation of, an approved plan of action."

Section 5(21) exempts voluntary agreement participants from the provisions of laws, rules and regulations pertaining to advisory committees while they are carrying out the provisions of a voluntary agreement and/or plan of action under this Act. Although voluntary agreement groups historically provided advice to the Government, as a result of the enactment of the Federal Advisory Committee Act, they now could be precluded from doing so unless they were chartered as advisory committees. That prohibition may defeat the purposes for which a voluntary agreement was established for firms in a particular industry and, consequently, there is a

need to exempt section 708 voluntary agreements from advisory committee requirements. The need for this exemption is to be distinguished from the treatment of true advisory committees, formed as such under section 708(d)(1), which of course would be subject to the Federal advisory committee laws—and such true advisory consisting of diverse representation, could perform a useful oversight role of functioning voluntary agreements.

In addition, Section 5(21) adds a new subsection (o), making available to firms fulfilling a Presidential request pursuant to a voluntary agreement or plan of action, a breach of contract defense comparable to that now afforded by EPCA section 252(j) for firms participating in actions to satisfy U.S. obligations under the International Energy Program. It is expected that voluntary agreement and plan of action participants would demand breach of contract protection as a condition of their assisting in carrying out Government policies with respect to the reallocation of resources.

#### SECTION 6. "TECHNICAL AMENDMENTS TO PRIORITIES IN CONTRACTS AND ORDERS"

This section makes it clear that the DPA's contract priority and allocation provisions in both sections 101(a) and 101(c) apply to "service" contracts, for example, airlift of troops and equipment to the mideast, repair of strategic Petroleum Reserve pipelines, shipping and port services, and repairs and servicing of aircraft under the CRAF program. It also eliminates obsolete reporting requirements while maintaining essential elements of the Presidential findings that must accompany the use of section 101(c) authority.

#### SECTION 7. "EFFECTIVE DATE"

Section 7 of the bill provides for retroactive effect of the extension to October 20, 1990, with the exception that the retraction will not prejudice the President's authority under section 721 of the Defense Production Act.

#### By Mr. MITCHELL:

S.J. Res. 44. Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on the Budget.

#### SUSPENSION OF CERTAIN PROVISIONS OF BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

Mr. MITCHELL. Mr. President, we have been formally notified by the Congressional Budget Office and the Office of Management and Budget that the economy is in recession.

What American workers, families, and individual businesses have known for months is now official: Our economy is not growing; it is shrinking.

I am compelled by law to introduce the joint resolution I now send to the desk. If affirmed by the Senate, the House of Representatives and signed by President Bush, this joint resolution would suspend the enforcement sections of the Gramm-Rudman-Hollings law; it would let us exceed overall deficit targets; and it would allow committees to spend more money than the recently adopted budget provides.

In short, if passed, this joint Resolution could undo much of the difficult work we did last fall.

That is why, although I am compelled by law to introduce this joint resolution at this time, I do not favor its enactment at this time.

The crisis in the Persian Gulf makes the near-term economic outlook uncertain in the extreme. While both executive and legislative branch agencies now agree that we are in a recession which began late last year, both agencies are also forecasting a recovery beginning this spring.

They are joined in that tentative optimism by private forecasters.

But if those predictions are wrong, if this recession deepens and spread, I will be among those urging the Congress to consider measures designed to lessen its impact on families and on the businesses that provide jobs for American workers.

I have appointed a task force of Democratic Senators to monitor the economy and keep me apprised of its status. If it becomes necessary to counteract the effects of a continued economic downturn, I will propose such measures.

In fact, procedures exist under the Budget Act that allow us to craft and adopt an economic recovery package in just such a contingency. I will use those procedures if necessary.

But I am not persuaded that now is the time to abandon our hard-won budget enforcement provisions. To do so could send precisely the wrong signal to domestic and international financial markets.

A wrong interpreted, premature signal of that sort could exacerbate our current economic condition and further complicate our ability to improve the country's fiscal standing and, thereby, the living standards of American families.

Mr. President, I ask unanimous consent that the text of the joint resolution, a letter from the Director of the Congressional Budget Office and a letter from the Director of the Office of Management and Budget be printed in the RECORD.

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

S.J. RES. 44

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress declares that the conditions specified in section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, January 23, 1991.

Hon. DAN QUAYLE,  
President of the Senate, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: Under section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(j)), the Congressional Budget Office must notify the Congress in the event of an economic downturn. The section reads in part:

(j) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period \* \* \*.

This letter serves to notify the Congress that the Congressional Budget Office (CBO) and the Office of Management and Budget (OMB) project real economic growth to be less than zero with respect to the last quarter of calendar year 1990 and the first quarter of calendar year 1991. A letter from the Director of OMB informing CBO of the OMB forecast is enclosed.

Sincerely,

ROBERT D. REISCHAUER,  
Director.

OFFICE OF MANAGEMENT AND BUDGET,  
Washington, DC, January 15, 1991.

ROBERT D. REISCHAUER,  
Director, Congressional Budget Office, Washington, DC.

DEAR BOB: The Balanced Budget and Emergency Deficit Control Act (Section 254(j)) requires the Congressional Budget Office (CBO) to notify Congress if "CBO or OMB has determined" that real economic growth is estimated to be less than zero for two consecutive quarters within a specified period.

Our staffs have, as is our custom, exchanged economic forecasts, including forecasts of real economic growth. In our case, we have provided you with the latest draft of the "Troika's" forecast—for it is that which we are using in developing our FY '92 budget estimates. It is clear from our staff exchange that both CBO and the Administration are about to forecast real growth of less than zero for the fourth quarter of 1990 and the first quarter of 1991. (The Troika estimate assumes a decline in real economic growth of 3.4 percent for the fourth quarter of 1990 and 1.3 percent for the first quarter of 1991.)

When either the CBO or the OMB forecasts are officially made public, the issue of CBO notification to Congress under Section 254(j) will arise. It is my understanding that you now plan to release your forecast on or about January 17th. Rather than create the possibility of separate CBO notifications from the CBO and OMB determinations, we recommend that when CBO notifies Congress of its forecast, it simultaneously notify Congress of the OMB determination.

To that end, when you decide to release the CBO forecast, please allow this letter to serve to advise you officially that "OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any two consecutive quarters within" the period designated in section 254(j). We propose that CBO include

this letter in its notification to Congress pursuant to Section 254(j).

With best regards,

RICHARD G. DARMAN,  
Director.

By Mr. REID (for himself and Mr. KERREY):

S.J. Res. 45. Joint resolution to require display of the POW/MIA flag at Federal buildings; to the Committee on Governmental Affairs.

DISPLAY OF POW/MIA FLAG AT FEDERAL BUILDINGS

Mr. REID. Mr. President, 2,302 Americans are still prisoner, missing or unaccounted for in Southeast Asia, including 42 civilians, 2 of whom are women. There are 596 in North Vietnam, 1,081 in South Vietnam, 537 in Laos, 82 in Cambodia, and 6 in China.

In recent days, this sad saga has begun anew. Now, in addition to the 2,302 POW/MIA's in Southeast Asia, at least 14 American airmen have been reported missing since the beginning of allied bombing of Iraq.

The Iraqis, like the Vietnamese, are using prisoners of war for political purposes. This weekend, we saw their battered and swollen faces paraded before the world by Saddam Hussein in yet one more act of barbarism.

Americans throughout the country have friends and colleagues, parents and grandparents, brothers and sisters, husbands and wives whose fate is still unknown, not only from these two most recent wars but from the Korean War and the two world wars. Together, they strive to promote public awareness of those who are prisoners of war or missing-in-action.

Congress, also, has a responsibility to acknowledge and honor those Americans who have not returned home.

Almost 2 years ago, I introduced a joint resolution to require that the POW/MIA flag be flown over all Federal buildings. I am reintroducing that resolution today. It shall be a symbol to the Nation, and to the world, that we have not forgotten and will not forget our missing service men and women.

There are a number of members of this body who served in Southeast Asia. Senator JOHN MCCAIN of Arizona, a Navy pilot, was shot down over Vietnam and spent 6 heroic years as a POW; Senator BOB KERREY of Nebraska served and earned a Congressional Medal of Honor—he is the only Medal of Honor winner to serve in the Senate in this century. In addition, Senators JOHN KERRY, AL GORE, LARRY PRESSLER, and CHUCK ROBB all served in Vietnam. And there are others in this body who served in the previous wars, not the least of which is JOHN GLENN, a Marine pilot—an ace in World War II and Korea.

Many of their comrades in arms did not make it home with them. They understand the pain and loss of not knowing.

Mr. President, in 1971, Mrs. Michael Hoff, an MIA wife and member of the National League of Families, recognizing the need for a symbol to represent the POW/MIA's, contacted a flag maker named Norman Rivkees to design a flag to represent our missing men and women. With league approval, the flags were produced and distributed.

Concerned groups and individuals have altered the original POW/MIA flag many times. The logo has changed and the colors switched: from black and white to red, white and blue, to white with black. POW/MIA has at times been revised to MIA/POW. Such changes, however, are insignificant. What is important is that there continues to be a symbol in the public eye as a constant reminder of the plight of these American heroes.

Flying the POW/MIA flag is the very least we can do to show our support for allied prisoners who are being brutalized by their Iraqi captors.

After the war, the United Nations should try Saddam Hussein and his hired thugs as war criminals. I spoke about that at length yesterday. In the meantime, the United States should stand behind the brave Americans who are being tortured by Saddam Hussein and used for propaganda purposes and as human shields.

This resolution, Mr. President, also sends a message to the world that we will not have forgotten the 2,300 men and women who remain missing from Vietnam, and we certainly will not forget the picture that flashed before our eyes this past weekend, the pictures of those American aviators beaten and battered being used now as we speak as human shields in Iraq.

The presence of the flags over Federal buildings will indicate that the POW/MIA issue is unresolved.

The flags should remain flying until we can account for every last American who has served this country in war and not come home. It has been almost two decades since the last troops left Vietnam. As I indicated, it was just yesterday we saw the battered aviators on television being used as propaganda tools for the Iraqi Government.

Let us not be wondering, Mr. President, what happened to another generation of lost soldiers two decades after the war in the Persian Gulf is over.

#### ADDITIONAL COSPONSORS

S. 1

At the request of Mr. MITCHELL, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Kentucky [Mr. FORD], the Senator from New York [Mr. MOYNIHAN], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 1, a bill to amend title 38, United States Code, to increase the rates of disability compensation for veterans with service-

connected disabilities and the rates of dependency and indemnity compensation for survivors of those who died from service-connected disabilities; to provide for independent scientific review of the available scientific evidence regarding the health effects of exposure to certain herbicide agents, and for other purposes.

S. 3

At the request of Mr. BOREN, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 3, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes.

S. 5

At the request of Mr. DODD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 5, a bill to grant employees family and temporary medical leave under certain circumstances, and for other purposes.

S. 8

At the request of Mr. DOLE, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Arkansas [Mr. BUMPERS] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 8, a bill to extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield Operation.

At the request of Mr. COATS, his name was added as a cosponsor of S. 8, supra.

S. 10

At the request of Mr. DOLE, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 10, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 23

At the request of Mr. SIMPSON, the names of the Senator from Wyoming [Mr. WALLOP], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 23, a bill to amend title 38, United States Code, to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living.

S. 24

At the request of Mr. MOYNIHAN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 24, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from gross income of educational assistance provided to employees.

S. 26

At the request of Mr. MOYNIHAN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 41

At the request of Mr. ROTH, his name was added as a cosponsor of S. 41, a bill to provide for a 5.4 percent increase in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; and for other purposes.

At the request of Mr. SPECTER, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Kentucky [Mr. FORD], the Senator from Missouri [Mr. DANFORTH], the Senator from Wyoming [Mr. WALLOP], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Delaware [Mr. BIDEN], the Senator from Washington [Mr. GORTON], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 41, supra.

S. 67

At the request of Mr. THURMOND, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Indiana [Mr. COATS], were added as cosponsors of S. 67, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 78

At the request of Mr. DOMENICI, the names of the Senator from Florida [Mr. MACK], the Senator from Kansas [Mr. DOLE], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 78, a bill to provide a 5.4 percent increase in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; and for other purposes.

S. 88

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals.

S. 99

At the request of Mr. PRESSLER, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 99, a bill to reduce the pay of Members of Congress and certain Executive Officers corresponding to the percentage reduction of the pay of Federal employees who are furloughed or otherwise have a reduction of pay resulting from a sequestration order.

S. 107

At the request of Mr. GRAHAM, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 107, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; and for other purposes.

S. 141

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credit through 1996.

S. 143

At the request of Mr. MCCONNELL, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 143, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

S. 164

At the request of Mr. INOUE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 164, a bill to require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya.

S. 167

At the request of Mr. RIEGLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 167, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 181

At the request of Mr. INOUE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 181, a bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II.

S. 203

At the request of Mr. SASSER, his name was added as a cosponsor of S. 203, a bill to provide for periods of military, naval, or air service in the Persian Gulf region in connection with Operation Desert Shield to be disregarded in determining the time for performing certain acts required by the Internal Revenue Code of 1986.

S. 204

At the request of Mr. SASSER, his name was added as a cosponsor of S. 204, a bill to amend title 10, United States Code, to provide for certain recalled retired members of the Armed Forces to serve in the highest grade previously held while on active duty.

S. 217

At the request of Mr. HOLLINGS, the name of the Senator from Illinois [Mr.

SIMON] was added as a cosponsor of S. 217, a bill to clarify the congressional intent concerning, and to codify, certain requirements of the Communications Act of 1934 that ensures that broadcasters afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

S. 224

At the request of Mr. MCCONNELL, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 224, a bill to amend the National School Lunch Act to modify the criteria for determining whether a private organization providing nonresidential day care services is considered an institution under the child care food program, and for other purposes.

S. 238

At the request of Mr. DASCHLE, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 238, a bill to provide for the Secretary of Veterans Affairs to obtain independent scientific review of the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides, and for other purposes.

S. 239

At the request of Mr. SARBANES, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Rhode Island [Mr. CHAFEE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. INOUE], the Senator from Illinois [Mr. SIMON], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

## SENATE JOINT RESOLUTION 21

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Joint Resolution 21, a joint resolution expressing the sense of the Congress that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 census.

## SENATE JOINT RESOLUTION 35

At the request of Mr. HOLLINGS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 35, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

## SENATE JOINT RESOLUTION 36

At the request of Mr. PRESSLER, the names of the Senator from Kansas [Mr. DOLE], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and Novem-

ber 1992, as "National Alzheimer's Disease Month."

## SENATE JOINT RESOLUTION 42

At the request of Mr. RIEGLE, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 42, a joint resolution expressing the support of the United States for the independence of Lithuania, Latvia, and Estonia.

## SENATE CONCURRENT RESOLUTION 4—CONDEMNING IRAQ'S UNPROVOKED ATTACK ON ISRAEL

Mr. MITCHELL (for himself, Mr. DOLE, Mr. METZENBAUM, Mr. MACK, Mr. JOHNSTON, Mr. NICKLES, Mr. GRAHAM, Mr. DASCHLE, Mr. COATS, Mr. PELL, Mr. GORTON, Mr. DURENBERGER, Mr. LAUTENBERG, Mr. GRAMM, Mr. BURNS, Mr. SIMON, Mr. CONRAD, Mr. LEVIN, Mr. KERRY, Mr. BOREN, Mr. DECONCINI, Ms. MIKULSKI, Mr. WIRTH, Mr. BREAUX, Mr. EXON, Mr. FORD, Mr. DIXON, Mr. MCCAIN, Mr. GRASSLEY, Mr. WARNER, Mr. RIEGLE, Mr. COHEN, Mr. SMITH, Mr. MURKOWSKI, Mr. MCCONNELL, Mr. SPECTER, Mr. D'AMATO, and Mr. STEVENS) submitted the following concurrent resolution; which was ordered to be held at the desk by unanimous consent:

## S. CON. RES. 4

Whereas Israel is a major ally and close friend of the United States.

Whereas Iraq, without provocation, has launched several Scud surface-to-surface missile attacks on civilian targets in Israel.

Whereas some experts believe that Iraq may have the capability to arm its Scud missiles with chemical warheads, dramatically increasing the potential that such missiles could do serious damage to Israel.

Whereas Iraq has threatened to "burn half of Israel" with chemical weapons.

Whereas every nation has the right to defend itself.

Whereas Israel has exhibited exceptional restraint in the face of Iraq's repeated threats and Scud attacks, has absorbed all Iraqi Scud attacks to date without military retaliation against Iraq, and continues to support implementation of United Nations Security Council Resolution 678 through the unprecedented international coalition of forces in the Persian Gulf.

Whereas the United States has provided Patriot anti-missile missiles to Israel, to help that nation defend itself against further Iraqi attacks utilizing Scud missiles.

Resolved by the Senate (the House of Representatives concurring), That the Congress:

1. Condemns the unprovoked attacks by Iraq on Israel, and declares that the purposeful use of Scud missiles to conduct indiscriminate attacks against civilian targets is a form of terrorism;

2. Expresses profound sympathy for the loss of life, casualties and destruction caused by the Iraqi attacks;

3. Recognizes Israel's right to defend itself;

4. Commends the Government of Israel for its restraint;

5. Commends the people of Israel for their brave and composed perseverance in the face of the Iraqi attacks;

6. Commends the administration for its decision to provide Patriot missiles to Israel; and

7. Reaffirms America's continued commitment to providing Israel with the means to maintain its security and freedom.

**SENATE CONCURRENT RESOLUTION 5—RELATIVE TO TREATMENT OF PRISONERS OF WAR BY IRAQ**

Mr. MITCHELL (for himself, Mr. DOLE, Mr. NUNN, Ms. MIKULSKI, Mr. DECONCINI, Mr. BREAUX, Mr. LEVIN, Mr. PELL, Mr. GRAHAM, Mr. BENTSEN, Mr. FORD, Mr. MOYNIHAN, Mr. EXON, Mr. MCCAIN, Mr. BURNS, Mr. WARNER, Mr. COATS, Mr. RIEGLE, Mr. COHEN, Mr. SMITH, Mr. MURKOWSKI, Mr. GRAMM, Mr. MACK, Mr. SPECTER, and Mr. STEVENS) submitted the following concurrent resolution; which was ordered to be held at the desk by unanimous consent:

**S. CON. RES. 5**

Whereas the United Nations Security Council, in a series of resolutions, has demanded that Iraq withdraw its armed forces from Kuwait; and

Whereas the United Nations has authorized member states to use all necessary means to achieve the objectives set out in the relevant Security Council resolutions; and

Whereas the Armed Forces of the United States and other member states are involved in hostilities in order to achieve the objectives stated in the United Nations resolutions; and

Whereas members of the Armed Forces of the United States, other coalition armed forces, and Iraq have been taken prisoner and are entitled to prisoner of war status until their final release and repatriation; and

Whereas article 13 of the Geneva Convention relative to the treatment of prisoners of war, hereinafter referred to as the Third Geneva Convention, to which Iraq and the United States are parties, requires the humane treatment of prisoners of war, that they be protected against acts of violence or intimidation, and against insults and public curiosity; and

Whereas article 17 of the Third Geneva Convention explicitly prohibits the infliction of physical or mental torture and other forms of coercion on prisoners of war to secure from them information of any kind whatever and provides that prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind; and

Whereas article 23 of the Third Geneva Convention provides that a prisoner of war may not at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations; and

Whereas the Government of the United States has informed the Government of Iraq that it intends to treat captured members of the Iraqi Armed Forces fully in accordance with the Third Geneva Convention; and

Whereas Iraqi television has broadcast what purport to be interviews with captured American and coalition military personnel and the Government of Iraq appears to have

subjected these men to physical and mental torture; and

Whereas it has been reported that the Government of Iraq intends to locate American and other prisoners of war in Iraq at likely military targets of the coalition forces: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress commends the bravery and professionalism of the men and women of the Armed Forces of the United States, and extends its heartfelt sympathy to the families and loved ones of those who are killed, missing in action, or taken prisoner by the Government of Iraq.

The Congress demands that the Government of Iraq abide by the principles and the obligations of the Third Geneva Convention concerning the treatment of prisoners of war.

The Congress condemns the failure of the Government of Iraq to treat prisoners of war in strict conformity with the Third Geneva Convention.

**SENATE CONCURRENT RESOLUTION 6—RELATIVE TO THE CRISIS IN THE BALTIC STATES**

Mr. DOLE (for himself, Mr. MITCHELL, Mr. BYRD, Mr. PELL, Mr. LEVIN, Mr. MCCAIN, Mr. HEINZ, Mr. WARNER, Mr. COATS, Mr. MOYNIHAN, Mr. GRAHAM, Mr. SMITH, Mr. MURKOWSKI, Mr. GRAMM, Mr. MACK, Mr. SPECTER, and Mr. STEVENS) submitted the following concurrent resolution; which was ordered to be held at the desk by unanimous consent:

**S. CON. RES. 6**

Whereas the United States has never recognized the forcible annexation of Lithuania, Latvia, and Estonia into the Soviet Union.

Whereas Soviet troops have been engaged in brutal attacks against the people, government, and communications facilities of Lithuania and Latvia, resulting in the deaths of at least 20 civilians and injury to over 200 civilians.

Whereas Soviet troops appear to be preparing for similar military action against the people and Government of Estonia.

Whereas the United States Government has repeatedly communicated to President Gorbachev that the use of force in the Baltic States could seriously jeopardize United States-Soviet relations and President Bush has publicly appealed to the leaders of the Soviet Union to "resist using force" in Lithuania, Latvia, and Estonia: Now, therefore, be it

*Resolved, That—*

SECTION 1. The United States Congress condemns Soviet violence against the people and democratic governments of Lithuania, Latvia, and Estonia.

SEC. 2. The United States Congress urges the President to (i) immediately review all economic benefits provided by the United States Government to the Soviet Union, and report to the Congress on whether those benefits should be suspended in light of Soviet actions in the Baltic States, (ii) immediately suspend all ongoing technical exchanges, (iii) consider withdrawing United States support for Soviet membership in the IMF, World Bank, or GATT, and (iv) not proceed with the provision of MFN trade treatment until the following events have occurred:

(a) Soviet troops refrain from obstructing the functioning of the democratic governments of Lithuania, Latvia, and Estonia;

(b) Soviet Black Beret internal security forces are withdrawn from the Baltic States;

(c) Soviet authorities cease their interference with the telecommunications, print, and other media in these states;

(d) Good-faith negotiations between the democratically elected governments of the Baltic States and the Soviet Union on the restoration of the sovereignty of those states have begun;

(e) Concrete assurances are received from President Gorbachev that grain purchased with United States credits will not be used to coerce the Baltic States, or any Republic of the Soviet Union, to sign the Union Treaty.

SEC. 3. The United States should consult with and encourage our allies to follow a policy similar to that outlined in section 2.

SEC. 4. The United States Congress urges the President to explore means of increasing direct diplomatic ties with the Baltic States.

SEC. 5. The United States Senate will take the status of events in the Baltic States into account when considering any and all agreements with the Soviet Union in the future.

**SENATE RESOLUTION 17—SUPPORTING "OPERATION HOMEFRONT"**

Mr. SYMMS (for himself, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. THURMOND, Mr. SMITH, Mr. CRAIG, Mr. NICKLES, Mr. GARN, Mr. BURNS, Mr. GRAMM, Mr. SEYMOUR, Mr. LOTT, Mr. WALLOP, Mr. KASTEN, Mr. DOLE, and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

**S. RES. 17**

Whereas over 400,000 American service men and women are risking their lives in defending the interests and principles of the United States of America;

Whereas these American troops are performing with remarkable success against Saddam Hussein and his military-industrial complex.

Whereas all citizens of the United States, including Congress, should take great pride in the manner in which our brave servicemen and women are representing our Nation in the Middle East;

Whereas all Americans eagerly await a successful and expedient conclusion to the Persian Gulf war and the safe return of our courageous sons and daughters serving in that region: Now, therefore, be it

*Resolved, That it is the sense of the Senate that—*

(1) The Senate strongly supports and endorses "Operation Homefront"; as a national grassroots effort to support our servicemen and women participating in "Operation Desert Storm" and their families here at home; and

(2) The Senate encourages federal, state and local governments and private businesses and industry to organize "Operation Homefront" task forces intended to provide support for the families of the troops while they are deployed and to plan and organize welcome home celebrations for the servicemen and women upon their arrival home.

Mr. SYMMS. Mr. President, America is watching closely the events in the Persian Gulf. Through the eyes of the camera lens, we witness "live" the war being waged against Saddam Hussein's

military by the U.S. and coalition forces.

We have all seen the pictures of the intense strategic bombing of the Iraq capital of Baghdad, the bombing of Tel Aviv and Jerusalem, and the unsuccessful attempts of Iraq to use the Scud tactical ballistic missile against Saudi Arabia—the latter defeated most of the time by our Patriot antitactical ballistic missile system.

But most important, what I see and what many Senators have seen when they visited the gulf region, which I had the opportunity to do, is a highly trained, well-equipped, very motivated U.S. military force, Mr. President. I cannot be more proud of our men and women in the military than I am now. It is for this reason that I rise today.

Mr. President, I wish to introduce today a resolution aimed at showing our strong support for the men and women serving in the Operation Desert Storm. While we previously passed unanimously a resolution of this nature, the legislation I will introduce will urge the private sector—mayors, school principals, parent-teacher organizations, local business leaders, local church leaders, Rotarian service clubs, and others to begin organizing nationwide, what I call "Operation Homefront" task forces.

On Friday, January 19, during a rally on the capitol steps in Boise, sponsored by the American Legion, the VFW, the Veterans of Foreign Wars, and the Disabled American Veterans, we kicked off Idaho's Operation Homefront. This, as we perceive it to be in my State, will be a nonpartisan, nonpolitical volunteer effort to encourage everyone to support the troops by assisting their families here at home in numerous ways and to plan for the arrival home of our military men and women.

Nothing hurt more than, during the Vietnam war, to see the reception that our brave veterans received upon returning home. While I recognize it is the right of every American to disagree, it is my hope that any disagreement is limited to our policy, not to the men and women who are serving there, the same people who have accepted the responsibility to defend American ideals.

I happen to strongly support the President for his actions and I realize that others may not, but I believe every American should support the American men and women who we have asked to risk their lives fighting for the country.

Mr. President, as we begin Operation Homefront, we can extend this to each State and county and each city and town across America. Some may think it is premature to do this, but I think it is time to get started, to get ready, because I know it is true the war is not over. We pray for a speedy ending of the war, but we have to start becoming prepared if we are going to have those

things lined up and ready so that those people, when they come home, will be given ample opportunity. We envision such things as: People getting discounts in some stores, ski tickets or movie theaters for a short period of time if they participated in Desert Storm.

I now send the resolution to the desk for its appropriate assignment to the proper committee, for myself along with Senator CRAIG, my colleague from Idaho, Senator BURNS, Senator GRASSLEY, Senator HATCH, Senator HELMS, Senator THURMOND, Senator SMITH, Senator NICKLES, Senator GARN, Senator GRAMM of Texas, Senator SEYMOUR, Senator LOTT, Senator WALLOP, and Senator KASTEN. I invite any other Senators to cosponsor this resolution. I ask that the clerk read the resolution. It is very brief.

The PRESIDING OFFICER (Mr. KERREY). The resolution will be received, appropriately referred and the clerk will read the resolution.

The assistant legislative clerk read as follows:

S. RES. 17

Whereas over 400,000 American service men and women are risking their lives in defending the interests and principles of the United States of America;

Whereas these American troops are performing with remarkable success against Saddam Hussein and his military-industrial complex.

Whereas all citizens of the United States, including Congress, should take great pride in the manner in which our brave service men and women are representing our Nation in the Middle East;

Whereas all Americans eagerly await a successful and expedient conclusion to the Persian Gulf war and the safe return of our courageous sons and daughters serving in that region: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Senate strongly supports and endorses "Operation Homefront" as a national grassroots effort to support our service men and women participating in "Operation Desert Storm" and their families here at home; and

(2) the Senate encourages Federal, State, and local governments and private businesses and industry to organize "Operation Homefront" task forces intended to provide support for the families of the troops while they are deployed and to plan and organize welcome home celebrations for the service men and women upon their arrival home.

Mr. SYMMS. Mr. President, it will be my hope that the majority and minority leaders will be able to support this resolution and agree to a time when we might adopt it. But I will let the time take its place.

Mr. President, I ask unanimous consent to add Senator DOLE's name as one of the cosponsors.

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

Mr. SYMMS. Mr. President, I invite all Senators from both parties to support this, and I hope they will.

I would like to say while the troops are still in the field, Operation Homefront in Lewiston, ID, last week hosted a dinner for some of the families who have members participating in the gulf. Eighty people turned out on very short notice. I thank the president of the chamber of commerce, Sandra Church in Lewiston, who sponsored that Operation Homefront operation. So this does have great opportunities for all citizens to participate, and I hope that they all will.

Mr. DOLE. Mr. President, I rise to speak for myself and I am sure for the State of Kansas to join my colleague from Idaho in supporting Operation Homefront.

Our fighting forces are proving they are second to none. Their performance, their spirit, has been remarkable. All Americans can take great pride in the fine way they are representing us in the Persian Gulf.

Mr. President, I would also take this opportunity to express my sadness—and my outrage—in the way courageous American prisoners of war are being used as pawns of Saddam Hussein's propaganda war. America should not forget what Saddam is doing to captured Americans, and I for one will not.

Our mission in the gulf is clear. We must continue until Saddam's military forces are ousted from Kuwait. We must continue until freedom, peace, and stability are restored in the region.

The great confidence I have in our success lies in my confidence in our brave servicemen and women. The senior Senator from Idaho [Mr. SYMMS] is right: They do deserve a hero's welcome when they return home.

Operation Homefront is a tremendous effort by Senator SYMMS and all Idahoans. And, very soon, this will not only be an Idaho project. It is my hope this will also be a Kansas project. We will make sure our brave men and women from Kansas who are fighting for our cause in the gulf are, indeed, welcomed back as the heroes they are.

I offer my strongest support for the resolution offered by our colleague, Senator SYMMS. Let us make Operation Homefront more than just an Idaho or a Kansas program. Let us make it our national effort to honor and welcome home our deserving troops back from the Middle East.

• Mr. CRAIG. Mr. President, I am proud to join Senator STEVE SYMMS as a cosponsor of the resolution supporting Operation Homefront. This measure helps assure real recognition and a well-deserved hero's welcome for our troops when they return from the gulf conflict.

I am also pleased that this resolution addresses another obligation we have: Recognizing that the fighting man or woman is a part of a family. While their loved one is defending the country, they deserve our support and our

encouragement—and our respect, as well. This resolution will help form a structure in our society to make sure those obligations are honored.

This country, I think, did a grave injustice to troops returning from the Vietnam conflict. Many in our society determined that America's participation in that war was wrong. They had the right to make that decision and to act on it. But no one had the justification to turn his back on those who answered our original call and went to fight for us.

I want to help ensure that all the Americans returning from the current conflict get the thanks and support they deserve from their country. It is imperative that the young men and women currently defending our interests so bravely in the gulf receive the treatment they have earned when they return. This resolution will help make sure that they receive that treatment, together with all the honor and gratitude that should accompany it.

I am fully behind the spirit and intent of this resolution, and I will do all I can to help make its goals a reality.●

#### NOTICES OF HEARINGS

##### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a business meeting on January 30, 1991, at 10 a.m. in SR332.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, January 23, 1991, at 10 a.m. to conduct a hearing on funding for the Resolution Trust Corporation and the semiannual review.

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

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO MIKE WELCH, NATIVE OF SWEETWATER, TX

● Mr. BENTSEN. Mr. President, on February 4, 1991, the town of Sweetwater, TX, will honor Sweetwater native Mike Welch for his athletic and academic achievements at Baylor University. Mike will graduate from Baylor this year. Mike's achievements include the following: a 3-year starter at free safety on Baylor's varsity football team; coholder of Baylor's career interception record; consensus All Southwest Conference free safety; winner of American Airlines' American

Spirit Award; this year's Most Valuable Player for Baylor; an invitee to play in this year's East-West Shrine game in San Francisco; and for the second year in a row, first team Academic All-American, the only football player from the Southwest Conference.

I would like to take this chance to publicly congratulate Mike and tell him how proud I am that he is a son of Texas. I am most proud of Mike's academic feats: Academic All-American with a 3.78 GPA in computer science. That is a lot of brain power, inspiration, and perspiration.

His academic accomplishments are even more impressive when you consider how time-consuming division I football can be for ballplayers. Division I programs have become demanding year-round operations. With those demands, undisciplined players can lose sight of their academic priorities. In fact, too many athletes lose sight. An NCAA study revealed that only 38 percent of all division I scholarship athletes graduate in 5 years.

This graduation rate can give the term "student athlete" a hollow ring. But Mike Welch gives the term meaning. Mike is proof that ballplayers can hit the books as hard as they hit the guys across from them.

Mike also sends younger people the right message about their priorities. He shows them that they must keep their eyes on the ball, if they want to have careers when they put the ball down for good. From him they will learn that drugs, apathy, or dropping out are obstacles to any kind of life that is worth living.

Mike deserves all the credit in the world. But I cannot forget to give credit to his family: his mother Judy, his dad David, and his sister Jana. Mr. and Mrs. Welch are also role models. They restore the faith of many younger parents who pray that their love, discipline, and encouragement will pay off in the end run.

I urge my Senate colleagues to join me in congratulating Mike Welch and his family for all he has achieved and will go on to achieve in the future.●

#### SHAWN BRADLEY

● Mr. HATCH. Mr. President, a lot is said in today's media about the youth of this country, the problem of gangs, the dropout rate, the lack of respect for values, and myriad other problems that face our young people. All too often, the young men and women who go through life trying to achieve their goals are unnoticed. Sports are able to accomplish things that others only dream of trying. The true test of any success, whether it be in the athletic arena, in the classroom, or in the business world, is whether that person who has achieved that success can hold on to the values that he or she has been taught.

My alma mater, Brigham Young University, currently has a young man attending school and playing basketball. He is unique because he is extraordinarily tall. I think of my colleague from Wyoming, Senator ALAN SIMPSON, as tall. But Mr. Bradley is 7 feet 6 inches. This is truly a tall young man.

I have had the opportunity to meet this young man, and I can tell you that he leaves an impression. I am not just talking about his height. He leaves an impression because of his actions. He leaves an impression because of his words. He is a young man who exemplifies all that we hope our young men and women to be. He is a credit to his mother and father; and they deserve to be as proud as I am sure they are.

At the end of this basketball season, Shawn Bradley will undoubtedly receive a call to go on a 2-year mission for the Mormon Church. He will leave behind basketball and school to fulfill a religious obligation that he willingly looks forward to doing. I understand this desire because I served my 2-year mission when I was 19, as have my two older sons. I currently have both a son and a daughter serving missions for my church.

In a recent USA Today, there is an article about Shawn Bradley I would call to my colleagues' attention. I do this because I think we should recognize those young people who are doing the right things in their life. A quote in the article sums up this young man. Eastern Kentucky basketball coach Mike Pollio has just witnessed Bradley tie an NCAA record by blocking 14 shots against his team. After the game, Coach Pollio said, "Bradley blocked all those shots and never changed expression, never did any taunting. They could build a national championship team around him." He never did any taunting. A far cry from some of the exhibitions we see on television by far lesser athletes. Shawn Bradley says being 7 feet 6 inches is no big deal. I think this is an understatement, but I am glad he feels that way.

Mr. President, I ask that the article be reprinted in the RECORD.

The article follows:

TALL ORDER: BYU'S BRADLEY GETS LOOKS FOR SIZE, SKILL

(By Harry Blauvelt)

He is only a freshman, but Shawn Bradley has been the center of attention since he arrived at Brigham Young. He is the biggest man on a campus that includes Heisman Trophy winner Ty Detmer.

Bradley wears size 16 shoes. His pants have to be special ordered. And he sleeps on an 8-foot bed.

"I love being 7-6," says the 210-pound Bradley, who leads the Cougars basketball team in scoring (16.7), rebounding (8.1) and blocked shots (6.0).

"All my life, I've had to adjust because I'm 7-6 in a world built for 6-footers," he adds. "But if I have to duck through a few doorways, I think it's worth it."

Says teammate Nathan Call, a 5-11 guard: "His height doesn't really register until you

see him in person. The first time I saw Shawn, I thought, "There goes the tallest basketball player in the world."

Bradley came to BYU from Castle Dale, Utah, (population 1,962) where he led Emery County High to consecutive state championships his junior and senior seasons.

Last season, Bradley averaged 24.3 points, 16.8 rebounds and 8.9 blocked shots, earning first-team All-USA honors from USA TODAY.

"He has a chance to be the best big man who ever played," says Jerry Tarkanian, coach of defending NCAA champion Nevada-Las Vegas.

Bradley also played baseball and golf in high school. And he enjoys water skiing.

"It's not like he's just a big goon," Tarkanian adds. "I've never seen a 7-6 guy that well-coordinated."

Bradley is remarkably poised for an 18-year-old. He has been in the spotlight since ninth grade, when he did his first television interview.

"He's a pleasure to work with—he's not a prima donna," says BYU coach Roger Reid, whose Cougars (9-8) play Thursday at Colorado State (8-6).

Bradley has a delightful sense of humor about his height.

He acquired his first car, a Volkswagen bug when he was 7-2. "I drove with the steering wheel between my knees," he says, laughing.

On a road trip to Philadelphia, where the Cougars played La Salle, Bradley met Manute Bol of the NBA's 76ers.

"I don't look up to very many people, says Bradley, believed to be the USA's tallest college player, "but he was about a quarter of an inch taller than me."

And there are anecdotes. Said Eastern Kentucky coach Mike Pollio: "I went to a BYU banquet and everyone was sitting down, but Shawn looked like he was standing up."

On the court, Bradley is all business.

In a 90-86 victory against Eastern Kentucky, Bradley blocked 14 shots, tying the NCAA record set by Navy's David Robinson, now with the San Antonio Spurs.

"Bradley blocked all those shots and never changed expression, never did any taunting," Pollio says. "They could build a national championship team around him."

Bradley is tenacious, a characteristic he attributes to growing up on a farm, where he learned to herd stubborn cattle.

"Shawn fights you like a guy 5-10," says St. John's coach Lou Carnesecca. "Usually, big guys of that stage are very bland. He's not, he's a warrior."

Lefty Driesell of James Madison says, "I thought because he's a freshman, we could push him around, but he kind of intimidated our guys defensively. He'll be a great player."

Bradley acknowledges that he needs to bulk up, noting he lifts weights and eats as much as he can. Regardless of his weight, he is a man with a mission. Or soon will be. In June, he expects to begin a two-year Mormon mission.

"I don't deny myself that experience just because I have a basketball career," he says. "It's a part of my life that's very important to me."

He would return as a sophomore for the 1993-94 season. This is what NBC-TV's Al McGuire calls "a religious redshirt."

But before the mission, there is the remainder of this season's Western Athletic Conference schedule to be played.

And with each game, Bradley's reputation grows. But he insists, "Being 7-6 is no big deal."●

## UKRAINIAN INDEPENDENCE

● Mr. SARBANES. Mr. President, this week marks the 73d anniversary of the passage of the Ukrainian Act of Union by the Ukrainian Rada in January 1918, a period of hope and inspiration for the Ukrainian people and for all those who cherish freedom.

This year's commemoration of Ukrainian independence comes at a time of great uncertainty and hope. On July 16, 1990, the Ukrainian Parliament passed a declaration of sovereignty and legislation designed to further that goal. This action demonstrated the strong support within Ukraine for creating a government that reflected the ancient Ukrainian history, language, and culture. These have been maintained for decades despite the concerted efforts to repress this dynamic society and eradicate its distinguished history.

Recent actions taken by the Soviet Government against the Baltic nations indicate the grave nature of the threat to these democratically elected parliaments. The desire to establish republican forms of government has been expressed in the three Baltic nations and in Ukraine. The dispatching of Soviet troops to enforce conscription in those republics as well as Moldova, Georgia, and Armenia raises serious questions about future Soviet intentions.

Other activities by the Soviet Union including the detention of Oles Doniy and suppression of Deputy Stepan Khmara raise even more questions at a time when Soviet forces have brutally attacked government authorities and institutions in Lithuania and Latvia and stationed additional military forces in Ukraine.

We have a duty and responsibility to ensure that the historically strong desire of Ukrainians to seek democracy, to end human rights abuses, and to establish an elected government are not thwarted. This anniversary is an appropriate moment for us to rededicate our efforts to those ends.●

## MODIFICATION OF HONORARIA BAN FOR FEDERAL EMPLOYEES

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of S. 242, legislation that will correct an inadvertent penalty that has been imposed upon this Nation's civil servants. This bill will amend the Ethics Reform Act of 1989 to reinstate the ability for low- and mid-level Federal employees to receive compensation for work that is unrelated to their Government duties.

This bill would not change present law as it relates to Members of Congress, Federal judges, or top-level executive branch personnel. Instead, it will allow those Federal employees at the GS-15 level and under to receive fees for work performed outside the parameters of the Government. Of course,

there are some restrictions—nonrelation of activity to official duties, offer may not come from party with direct interest in activity, and a maximum of \$2,000 for the activity—however, I believe few Federal employees will have problems complying.

Mr. President, I do not believe that it was the intent of Congress to impact negatively upon the vast majority of Federal employees. I do not see the harm in allowing a clerk for the Customs Service to write fishing articles for his local newspaper. I am pleased to cosponsor this bill, and I urge my colleagues to lend their support to this legislation as well.●

## THE 73D ANNIVERSARY OF UKRAINIAN INDEPENDENCE DAY

● Mr. RIEGLE. Mr. President, this week marks the 73d anniversary of Ukrainian Independence Day. As a cosponsor of the congressional reception celebrating Ukrainian independence, I am proud to stand with the millions of Ukrainians around the world marking the creation of a sovereign and independent Ukraine. I would also like to express my strongest support for the people of the Ukraine, while taking a look back at the remarkable events of 1990.

Seventy-three years ago, the proclamation of the Ukrainian National Republic ended centuries of oppression and external subjugation. After living under czarist Russian domination, the Bolshevik Revolution of 1917 and the collapse of the Austrian-Hungarian Empire set the stage for the profound step by the Ukrainian people.

On January 22, 1918, in the Ukrainian capital of Kiev, the issuance of the Fourth Universal proclaimed the creation of a free and independent Ukrainian National Republic. The renowned Ukrainian historian, Mykhailo Hrushevsky, was chosen as the new nation's first President.

By 1922, however, the young republic was destroyed by the reconstructed military forces of the more powerful Russian Bolsheviks. While much of the history of the Ukrainian people has been filled with sorrow, we must celebrate even the short life of the Ukrainian National Republic. It stood as a beacon of democracy and a manifestation of the Ukrainian people's dignity and their right to determine their own future.

More than seven decades after the establishment of Ukrainian independence, the world has finally seen a ray of hope for the Ukrainian people—1990 has been a year of profound change for the Ukrainian Republic. It will, hopefully, be a turning point in the years of struggle of the Ukrainian people.

On January 21, 1990, hundreds of thousands of Ukrainian citizens welcomed the new year by joining hands in a human chain, spanning over 300 miles

linking Kiev and Lviv. Symbolizing the commitment of the Ukrainian people to regain control of their future, this event was only a sign of what was yet to come.

The Ukrainian parliamentary elections in March were both a great stride forward and a tragedy at the same time. In several cities, the democratic process carried patriotic Ukrainian nationalists into office. After 70 years of Soviet domination, Ukrainian people finally had a voice in the running of their own lands. But, in other areas, Communist control of the political process prevented Ukrainians from demonstrating their yearning for peaceful political expression.

On July 16, the Ukrainian Supreme Soviet declared the restoration of the Republic's sovereignty. For years, Moscow has terrorized countless Ukrainians and has caused the deaths of countless others. From the Terror Famine of 1932-33 to the Chernobyl tragedy, the Soviet Union has brutally repressed Ukraine. But with the declaration of sovereignty, the people of the Ukraine have shown the world their desire to be free of Soviet domination.

It has, nevertheless, been impossible to break the overall Communist hammerlock on the Ukrainian Supreme Soviet. In September and October, in the first major anti-Communist and pro-independence rallies since 1917, 100,000 peaceful demonstrators took to the streets in support of freedom in Ukraine. On October 11, I sent a letter to Mikhail Gorbachev urging that Moscow "begin a direct dialog with the protestors in an effort to reduce tensions in Kiev and to lead to an ultimate realization of the Ukrainian people's legitimate desire for national self-determination."

The Soviet President has heeded neither these words nor the demands of the Ukrainian people. In fact, President Gorbachev has begun to clamp down on many independence-minded republics, including Ukraine. The announcement that Soviet paratroopers would be sent to Western Ukraine, the Baltics, and other republics to enforce the draft is a dangerous and shortsighted return to old patterns of coercion and intimidation. Moreover, it signals the first signs of the end of glasnost and perestroika and a return to dictatorship, as Eduard Shevardnaze recently warned.

I am alarmed at the possibility of a return to oppression in the Soviet Union. The Soviet Union must be aware that a crack down on nonviolent dissent will have a negative impact on United States-Soviet relations. On Wednesday, January 16, I introduced legislation which would revoke United States economic assistance to the Soviet Union unless it halts its military takeover in the Baltic States and be-

gins peaceful negotiations on their independence.

I hope the Soviet officials will understand that if they take advantage of our distraction in the Persian Gulf to crackdown on captive nations they are going to have to pay a price.

Each year, as we celebrate the establishment of the Ukrainian National Republic, it is important that we reaffirm our commitment to the cause of freedom in Ukraine. On this 73d anniversary of Ukrainian independence, I would like to pledge my full support for the Ukrainian people and their quest for self-determination.●

#### UNANIMOUS-CONSENT AGREEMENT—H.R. 4

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives H.R. 4, a bill to provide tax relief for Desert Storm troops, it be placed on the calendar and that the majority leader, after consultation with the Republican leader, may proceed to its consideration at any time.

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

#### UNANIMOUS-CONSENT AGREEMENT—H.R. 3

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 3, a bill to increase the comprehensive cost-of-living adjustment for veterans, be placed on the Senate calendar upon receipt from the House; and that the majority leader, after consultation with the Republican leader, may proceed at any time to the consideration of H.R. 3.

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

#### UNANIMOUS-CONSENT AGREEMENT—S. 238

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of S. 238, a bill to provide for the Secretary of Veterans Affairs to obtain independent scientific review of the available scientific evidence involving associations between diseases and exposure to dioxin and other chemical compounds in herbicides; that the bill be placed on the calendar; that the majority leader, after consultation with the Republican leader, may proceed at any time to the consideration of this bill; that no amendments or motions to recommit be in order with respect to the consideration of this bill; and that the time for debate on the bill be limited to 1 hour equally divided and controlled in the usual form between the two leaders or their designees; and that of the minority time there be 10 minutes under the control of Senator SIMPSON.

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

Mr. MITCHELL. Mr. President, I now state for the record my intention to proceed to S. 238 next week. I will not seek to proceed to that bill this week. I hope we can complete action on it in a timely fashion next week.

#### ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I now ask unanimous consent that, when the Senate completes its business today, it stand in recess until 9 a.m. on Thursday, January 24; that following the prayer the Journal of the proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that at 9 a.m. the Senate proceed to the following three resolutions in the order listed under the following time limitations:

Twenty minutes equally divided on the Mitchell-Dole resolution regarding Israel, that is a Senate Concurrent Resolution 4; 20 minutes equally divided on the Mitchell-Dole resolution regarding prisoners of war, that is Senate Concurrent Resolution 5; 20 minutes equally divided on the Dole-Mitchell resolution regarding the Baltic States, that is Senate Concurrent Resolution 6; that the time on each of the resolutions be controlled in the usual form; that at 10 a.m. the resolution be laid aside and the Senate then proceed to the consideration of H.R. 3, regarding the veterans compensation COLA bill; that there be 45 minutes for debate equally divided and controlled in the usual form; that of the minority time, 10 minutes each be under the control of Senators SIMPSON and SPECTER; that when all time is used or yielded back on H.R. 3, the bill be laid aside and the Senate then proceed to the consideration of H.R. 4, regarding tax benefits for troops serving in the Persian Gulf; that there be 45 minutes for debate on H.R. 4, equally divided and controlled in the usual form, with 10 minutes of the minority time being under the control of Senator KASTEN.

I further ask unanimous consent that when all time is used or yielded back on H.R. 4, there then be 30 minutes for debate equally divided and controlled between the majority leader and the Republican leader.

And I further ask unanimous consent that no amendments or motions be in order to H.R. 3 or H.R. 4.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators I will repeat now the schedule with respect to the measures under consideration. There will be debate this evening on the three resolutions relating to Israel, the treatment of prisoners of war, and Baltic States. I expect that Senators will be addressing those subjects this evening.

Tomorrow morning at 9 o'clock we will come in and there will be 20 minutes equally divided on each of the three resolutions that will be between 9 and 10 a.m. At 10 a.m. we will proceed to the veterans compensation COLA bill with 45 minutes equally divided on that bill; and then at 10:45 we will proceed to consideration of the measure involving tax benefits for troops in the Persian Gulf, 45 minutes equally divided. I expect that votes on all of these matters, and that means now a total of 5 votes, will occur between the hours on noon and 3 p.m. as I stated earlier today and over a period of, I believe throughout the day yesterday so Senators will have had some 45 hours' notice of our attention in this regard.

Finally, I will not proceed this week to the bill dealing with agent orange. Under the agreement I have authority to proceed to it at any time after consultation with the Republican leader, and I just stated my intention which I now repeat to proceed to it next week when the Senate convenes at that time. So Senators should be aware that there in all likelihood will be five votes tomorrow between the hours of noon and 3 p.m., the precise time to be fixed in the morning in an effort to accommodate the interests of all Senators, and I will announce it as soon as we are able to fix that time.

Mr. President, I thank my colleagues, and the distinguished Republican leader especially for cooperation to enable us to reach this agreement, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

RECESS UNTIL 9 A.M. TOMORROW

Mr. LAUTENBERG. Mr. President, if there is no further business to come before the Senate today, on behalf of the majority leader I now ask unanimous consent that the Senate stand in recess under the previous order until 9 a.m., Thursday, January 24, 1991.

There being no objection, the Senate, at 6:29 p.m., recessed until Thursday, January 24, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate January 23, 1991:

DEPARTMENT OF STATE

MELISSA FOELSCH WELLS, OF CONNECTICUT, 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 REPUBLIC OF ZAIRE.

DEPARTMENT OF THE TREASURY

ROBERT LOGAN CLARKE, OF TEXAS, TO BE COMPTROLLER OF THE CURRENCY FOR A TERM OF 5 YEARS. (RE-APPOINTMENT)

U.S. INTERNATIONAL TRADE COMMISSION

CAROL T. CRAWFORD, OF VIRGINIA, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 1999, VICE ALFRED E. ECKES, JR., TERM EXPIRED.

PEACE CORPS NATIONAL ADVISORY COUNCIL

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR THE TERMS INDICATED:

JOHN J. MCCARTHY, OF CALIFORNIA, FOR A TERM EXPIRING OCTOBER 6, 1992, VICE JOHN BIGELOW. CRAIG R. STAPLETON, OF CONNECTICUT, FOR A TERM EXPIRING OCTOBER 6, 1991, VICE CREIGHTON E. MERSHON, SR.

INTER-AMERICAN FOUNDATION

PAUL EDWARD SUSSMAN, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 1992, VICE JOHN C. DUNCAN.

BOARD FOR INTERNATIONAL BROADCASTING

KENNETH Y. TOMLINSON, OF NEW YORK, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1993.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

LEWIS W. DOUGLAS, JR., OF CALIFORNIA, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1993, VICE HER-SHEY GOLD, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

MARYE ANNE FOX, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1996, VICE KEREN J. LINDSTEDT-SIVA, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CAROL IANNONE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1996, VICE MARY JOSEPHINE CONRAD CRESIMORE, TERM EXPIRED.

NATIONAL RAILROAD PASSENGER CORPORATION

CARL W. VOGT, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL RAILROAD PASSENGER CORPORATION FOR A TERM OF 4 YEARS, VICE DARRELL M. TRENT, TERM EXPIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JAMES V. PARKER, OF VIRGINIA DAVID M. SCHOONOVER, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

KENNETH E. HOWLAND, OF MARYLAND FRANK J. PIASON, OF NEW JERSEY RICHARD T. MCDONNELL, OF VIRGINIA

IN THE AIR FORCE

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NEIL T ALLEN xxx-xx-x... PETER A AMES xxx-xx-x... PAUL E BOLEY, III xxx-xx-x... SCOTT L CHAPMAN xxx-xx-x... MICHAEL J EGAN xxx-xx-x... ROBERT V GRIFFITH, JR xxx-xx-x... BRIAN T HILL xxx-xx-x... LINCOLN J KEHL xxx-xx-x... CHRISTOPHER MAHOFF xxx-xx-x... DAVID A MCMILLAN xxx-xx-x... ERIC L MEYERS xxx-xx-x... COLIN R MILLER xxx-xx-x... JULIANNE C NELSON xxx-xx-x... WILLIAM C NOLAN, III xxx-xx-x... CHARLES B RAWSON xxx-xx-x...

DENNIS S SCHELL xxx-xx-x... LEVAL W SNEED xxx-xx-x... KONSTANTINOS L STYLIANOPOULOS xxx-xx-x... NICHOLAS A SULLY xxx-xx-x... MICHAEL F HARLTON xxx-xx-x... JOHN L TRAEITINO xxx-xx-x... JAMES R VOGEL xxx-xx-x... JAMES T WASHINGTON xxx-xx-x... STUART W WEINBERGER xxx-xx-x...

IN THE NAVY

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

MICHAEL W. ABRAHAM CHADWICK M. LICHT TIMOTHY J. BARTLEY KEVIN A. MAGIERA CHRISTOPHER C. BONE MICHAEL S. MAHANEY KENNETH M. COLEMAN TIMOTHY A. REXRODE CHARLES K. DOWNS MICHAEL SHAKLIK RICHARD M. A. GRAZADEI KIRK E. SMITH EDWARD G. GRODEN ROBERT E. STEPHENSON STEVEN M. HARRISON THOMAS W. TEBSSO JAMES A. HOSTAK MICHAEL W. TEMME JEROME L. JOLIET MICHAEL S. WHERRY JAMES M. LATSKO

THE FOLLOWING NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 583:

MARION E. WILSON

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 583:

NEIL C. BOURGEOIS

THE FOLLOWING NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ENRIQUE N. PANLILLO

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

T.H. AIKEN B.T. MEEKIN J.E. BANITT BILLY B. OSBORNE, JR. M.S. BILLINGSLEY JAMES P. PARISIEN J.T. CARPENTER M.B. PEDERSON J.W. COOPER A.D. REEVES M.J. CORCORAN JOSEPH R. ROBSON, JR. B.R. DUPIN WILLIAM W. TGENNEY J.K. GOODALL ROBERT C. TIBER CHRISTIAAN H. KELLY STEVEN W. WARNER J.H. KEY C.T. WILSON ERIC L. LONBORG STEVEN C. WURGLER J.J. MARKOVICH C.M. ZIEMBA

THE FOLLOWING NAMED U.S. NAVY OFFICER TO BE REAPPOINTED PERMANENT ENSIGN IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B).

JEFFREY M. PLUMMER

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE REAPPOINTED PERMANENT ENSIGN IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

CHARLES R. BAILEY SCOTT B. LYSAUGHT JOSEPH S. BEGLY MICHAEL D. MURRAY JOHN R. BOSTON MICHAEL D. RICHARD ANDREW I. GARCIA KEVIN D. WEBSTER MARTIN R. KACZMAREK DANIEL H. ZACZKOWSKI

THE FOLLOWING NAMED U.S. NAVY OFFICERS, TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

CHRISTOPHER S. CARDON DAVID L. GILBERT DAVID B. SHEPHERD

THE FOLLOWING NAMED EX-US. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 583:

PHILLIP DL HUNT WILLIAM W. MILLER

THE FOLLOWING NAMED MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 583:

RICHARD L. COSBY LORENZO M. GALINDO ROBERT R. TOMPKINS

THE FOLLOWING U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 583:

STEPHEN B. FREEMAN

