SENATE—*Friday, February 22, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we reverence our God and the God of our father, the Senate will be led in prayer by the Senate Chaplain, the Reverend Richard C. Halverson.

PRAYER

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

Let us pray:

The Lord is my rock, and my fortress, and my deliverer; my God, my strength, in whom I will trust * * *.—Psalm 18:2.

Almighty God, perfect in truth and justice, help us never forget the faith of our fathers, the holy faith which is the strength of our Nation. Renew in us that faith which motivated and guided the father of our country, who so often acknowledged his dependence upon Thee. In his first inaugural address, George Washington said:

"* * * It would be peculiarly improper to omit in this first official act my fervent supplications to that Almighty Being who rules over the universe, who presides in the councils of nations, and whose providential aids can supply every human defect, that His benediction may consecrate to the liberties and happiness of the people of the United States a Government instituted by themselves for these essential purposes * * *."

Remind us that we forget Thee, O God, to our own peril.

We pray in Jesus' name, the Lord of history. Amen.

READING OF WASHINGTON'S FAREWELL ADDRESS

The PRESIDENT pro tempore. Under the order of January 24, 1901, the Senator from Montana [Mr. BURNS] will now read George Washington's Farewell Address.

Senator BURNS.

Mr. BURNS, at the rostrum, read the Farewell Address, as follows:

To the people of the United States.

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious in the outset, of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead amidst appearances sometimes dubious, vicissitudes of fortune often discouraging—in situations in which not unfrequently, want of success has countenanced the spirit of criticism—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans, by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows that heaven may continue to you the choicest tokens of its beneficence—that your union and brotherly affection may be perpetual—that the free constitution, which is the work of your hands, may be sacredly maintained—that its administration in every department may be stamped with wisdom and virtue—that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments

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

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which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence; the support of your tranquility at home; your peace abroad; of your safety; of your prosperity; of that very liberty which you so highly prize. But, as it is easy to foresee that, from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed; it is of infinite movement, that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth, or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess, are the work of joint counsels, and joint efforts, of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest.—Here, every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The *north*, in an unrestrained intercourse with the *south*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry.—The *south*, in the same intercourse, benefiting by the same agency of the *north*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *north*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The *east*, in a like intercourse with the *west*, already finds, and in the progressive improvement of interior communications by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The *west* derives from the *east* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the *secure* enjoyment of indispensable *outlets* for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *west* can hold this essential advantage, whether derived from its own separate strength; or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union, an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries not tied together by the same government; which their own rivalship alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter.—Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its hands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations,—*northern* and *southern—Atlantic* and *western;* whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head; they have seen, in the negotiations by the executive, and in the unanimous ratification by the senate of the treaty with Spain, and in the universal satisfaction at the event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the

whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government, better calculated than your former, for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political system is the right of the people to make and to alter their constitutions of government.—But the constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power, and the right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberations and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency.—They serve to organize faction, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation the will of party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of factions, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men, will be enabled to subvert the power of the people, and to usurp for themselves the reigns of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the constitution, alterations which will impair the energy of the system; and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions:—that experience is the surest standard by which to test the real tendency of the existing constitution of a country:—that facility in changes, upon the credit of mere hypothesis and opinion exposes to perpetual change from the endless variety of hypothesis and opinion: and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of fraction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular references to the founding them on geographical discrimination. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind.—It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism.—But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms; kindles the animosity of one party against another; foments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true; and in governments of a monarchial cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern: some of them in our country and under our own eyes.—To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates.—But let there be no change by unsurpation; for through

this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? and let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect, that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions, in time of peace, to discharge the debts which unavoidable wars may have occasioned, but ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper object (which is always a choice of difficulties,) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice toward all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it; can it be that Providence has not connected the permanent felicity of a nation within its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachment for others, should be excluded; and that, in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence, frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation, of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained, and by exciting jealousy, ill will, and disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted or deluded citizens who devote themselves to the favorite nation, facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils!—Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens,) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little *political* connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith:—Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the

ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves by suitable establishments, on a respectable defense posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our Nation from running the course which has hitherto marked the destiny of nations, but if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far, in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound, in duty and interest, to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength, and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration, I am unconscious of intentional error, I am nevertheless too sensible to my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence; and that, after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man who views in it the native soil of himself and his progenitors for several generations; I anticipate with pleasing expectation that retreat in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow citizens, the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

UNITED STATES,
17th September, 1796.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 62. An original resolution authorizing biennial expenditures by committees of the Senate (Rept. No. 102-15).

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. DECONCINI (for himself, Mr. HATCH, and Mr. BRADLEY):

S. 473. A bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional and amateur sports organizations from misappropriation by State lotteries; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. BRADLEY, and Mr. SPECTER):

S. 474. A bill to prohibit gambling under State law; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 475. A bill to promote nondiscrimination medical licensure and medical reciprocity

standards, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BRYAN:

S. 476. A bill to authorize the Secretary of Agriculture to acquire lands in the Toiyabe National Forest through exchange or otherwise, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 477. A bill to afford congressional recognition of the National Atomic Museum at Kirtland Air Force Base, Albuquerque, NM, as the official atomic museum of the U.S. Government under the aegis of the Department of Energy, and to provide a statutory basis for its betterment, operation, maintenance, and preservation; to the Committee on Energy and Natural Resources.

By Mr. SIMPSON:

S. 478. A bill to strengthen and improve the Civil Rights Act of 1964, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. THURMOND, Mr. BIDEN, Mr. DECONCINI, Mr. GRASSLEY, Mr. KOHL, Mr. SIMON, Mr. SPECTER, and Mr. JEFFORDS):

S. 479. A bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. GRASSLEY:

S. Res. 61. Resolution relating to the role of the Corps of Engineers in the management of the Missouri River system; to the Committee on Environment and Public Works.

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 62. An original resolution authorizing biennial expenditures by committees of the Senate; placed on the calendar.

By Mr. LEVIN (for himself and Mr. SIMON):

S. Con. Res. 12. Concurrent resolution to express the sense of the Congress that the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict of war, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI (for himself, Mr. HATCH, and Mr. BRADLEY):

S. 473. A bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional and amateur sports organizations from misappropriations by State lotteries; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. BRADLEY, and Mr. SPECTER):

S. 474. A bill to prohibit sports gambling under State law; to the Committee on the Judiciary.

SPORTS SERVICE MARK PROTECTION ACT AND THE PROFESSIONAL AND AMATEUR SPORTS PROTECTION ACT

Mr. DECONCINI. Mr. President, my distinguished colleague from Utah, Mr. HATCH, and I today are introducing legislation that will prohibit State-sanctioned sports gambling. Gambling in general, and sports gambling in particular, continues to appear attractive to States as a means of raising revenue in these times of serious budgetary problems. However, Senator HATCH and I feel strongly it is inappropriate for the States to trade on the good will of professional and amateur sports and in the process risk causing serious harm to the integrity of sports.

The first bill, the Sports Service Mark Protection Act, is similar to legislation we introduced last Congress. It amends the trademark statute, known as the Lanham Act of 1946, to prohibit the use of professional or amateur sports organization's service marks in connection with State sports lotteries. The second bill, the Professional and Amateur Sports Protection Act, is the Senate companion to legislation introduced in the House of Representatives by Mr. BRYANT (H.R. 74). It prohibits all sports gambling conducted pursuant to State law, except legalized sports betting and sports lotteries already in existence prior to August 31, 1990.

Both of these approaches merit serious consideration by the Senate, and I urge my colleagues to act quickly to halt the spread of State-sponsored sports gambling.

BACKGROUND

In September 1989, the State of Oregon initiated a lottery based on the results of National Football League games. The State soon initiated additional lotteries based on the results of National Basketball Association games. Proposals for similar sports lotteries were debated in other States last year, and such proposals are certain to be renewed this year, despite the opposition of professional and amateur sports, law enforcement authorities, and church groups.

In October 1989, Senator HATCH and I introduced legislation (S. 1772) to declare State-sponsored sports lotteries unlawful under the Lanham Act. On June 26, 1990, a hearing was held before the Subcommittee on Patents, Copyrights and Trademarks. Among those testifying in support of the bill were Reggie Williams, former linebacker for the Cincinnati Bengals, and Jeff Ballard, pitcher for the Baltimore Orioles; Paul Tagliabue, commissioner of the National Football League, Stephen D. Greenberg, deputy commissioner of major league baseball; Gary Bettman, senior vice president and general counsel of the National Basketball Association, and Richard R. Hilliard, director of enforcement of the National Collegiate Athletic Association. State lottery officials testified against the bill. In addition, a distinguished panel of intellectual property experts debated the merits of addressing the sports-gambling problem through an amendment to the Lanham Act.

On July 23, the House Judiciary Committee, without dissent, adopted an amendment by Representative BRYANT to the Comprehensive Crime Control Act prohibiting sports gambling pursuant to State law. This bill was passed overwhelmingly by the House on October 5. On October 19, the Senate adopted a similar sports lottery ban as a Senate amendment to the Copyrights Amendments Act of 1990 (S. 198). Thus, both the Senate and House passed a lottery ban last Congress. Unfortunately, S. 198 was not approved by the House, for reasons unrelated to the sports lottery issue, and in the last hours of Congress, the crime bill conferees were only able to pass a very limited version of the crime bill. Consequently, the ban on sports lotteries was not enacted during the 101st Congress.

Mr. President, let me now analyze in more detail the two bills we are introducing today.

THE SPORTS SERVICE MARK PROTECTION ACT

Professional and amateur sports organizations work hard to make their games a wholesome form of entertainment. They have a right to protect the image and character of their games and prevent States from turning team sports into a gambling vehicle. State lotteries effectively misappropriate the service marks of the sports organizations of whose games the lotteries are based. A service mark identifies the source of the services provided by the owner of the mark. For example, the Phoenix Cardinals or the Washington Redskins are service marks. The services rendered are the games played by these teams. Were it not for the enormous popularity of these teams, States would have no interest in exploiting their service marks by conducting lotteries based on the outcome of these games.

Prof. Arthur Miller of Harvard Law School, an authority on intellectual property law, put the matter well when he told my subcommittee last year:

> The National Football League, baseball, basketball, and hockey have created values. They have created values in the homes of all of us around the country. It is that value that has been misappropriated by the Oregon lottery and will be misappropriated by other lotteries if this pattern continues.
>
> What the leagues would like is to control their product. They would like to protect their reputation. They would like the games themselves, not the prospect of making money, to be the main attraction in the stadium. They want the games, not betting on the games, to be the national pastime.

Presently, there is no satisfactory legal remedy available to sports organizations for such misappropriation of their service marks. Federal law does not allow private parties to sue viola-

tors of the Federal lottery and gambling statutes, and Federal prosecutors are understandably reluctant to prosecute State lottery officials under those laws. While the Lanham Act prohibits a State from suggesting that a sports organization endorses its lottery that protection is limited.

The Sports Service Mark Protection Act would protect the service marks and integrity of professional and amateur sports organizations by prohibiting States from sponsoring or operating any lottery or other gambling scheme based directly or indirectly—through the use of geographical references or otherwise—on professional or amateur sporting events. The legislation would not apply to Oregon or Delaware, which instituted sports lotteries prior to the introduction of this legislation in the last Congress, or to parimutuel racing. It also would not prohibit any State from using a sports-related theme in a scratch-card game that does not involve or depend on real games between real teams.

THE PROFESSIONAL AND AMATEUR SPORTS PROTECTION ACT

The Professional and Amateur Sports Protection Act represents a different, and broader, approach to the problem of sports gambling and is the by-product of information put forth during the subcommittee hearing on the Sports Service Mark Protection Act. It would prohibit not only State sponsored sports lotteries but also any sports gambling conducted pursuant to State law. Under the legislation, civil actions for declaratory and injunctive relief, to enjoin violations of the law by any State, could be brought by the Department of Justice or any affected sports organizations. Whether sponsored or authorized by the State, sports gambling threatens the integrity and character of, and public confidence in, professional and amateur sports, and instills inappropriate values in our Nation's youth.

Like the Service Mark Protection Act, the new bill would not apply to the Oregon or Delaware sports lotteries or to parimutuel racing, and it would not apply to private sports gambling in Nevada. Neither would it prohibit any State from using a sports theme in a scratch-card game. Existing Federal prohibitions, of course, would remain fully applicable to all of these activities, as they would under the service mark bill.

Although I firmly believe that all sports gambling is harmful, I feel it is unfair to apply this new prohibition retroactively to Oregon or Delaware, which instituted sports lotteries prior to the introduction of this legislation. In addition, I have no intention of threatening the economy of Nevada, which over many decades has come to depend on legalized private gambling, including sports gambling, as an essential industry.

In the best of all worlds, Congress would not permit any sports gambling to be conducted pursuant to State law. But we cannot let the best be the enemy of the good. As Sports Illustrated stated, "Nothing has done more to despoil the games Americans play and watch than widespread gambling on them." What is critical for us is to ensure that State-sponsored sports gambling will not be permitted to expand further.

Mr. President, proposals to institute sports lotteries and to legalize private sports gambling are being pressed with increasing insistence in the States by gambling interests. Congress has a choice to work to stop sports gambling now or to see it corrupt one of our most cherished American traditions. I hope my fellow Members will join Senator HATCH and myself and act swiftly to meet this issue.

Mr. President, I ask unanimous consent that the text of both bills be included in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 473

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 "Sports Service Mark Protection Act".

SEC. 2. MISAPPROPRIATION OF SERVICE MARKS OF PROFESSIONAL OR AMATEUR SPORTS ORGANIZATIONS BY STATE LOTTERIES PROHIBITED.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 and following) (commonly referred to as the "Lanham Trademark Act of 1946") is amended by adding after section 39 the following new section:

"SEC. 40. MISAPPROPRIATION OF SERVICE MARKS OF PROFESSIONAL SPORTS ORGANIZATIONS BY STATE LOTTERIES; PROHIBITION.

"(a) No State or other jurisdiction of the United States or any political subdivision or any agency thereof may sponsor, operate, advertise, or promote any lottery, sweepstakes, or other betting or gambling scheme that uses or exploits in any fashion, directly or indirectly (through the use of geographical references or otherwise), a service mark owned by a professional or amateur sports organization.

"(b) For purposes of this section, a lottery, sweepstakes, or other betting or gambling scheme that is based, directly or indirectly, on any game or games engaged in or conducted or scheduled by any professional or amateur sports organization, or on any performance or performances therein, shall be deemed to use or exploit the service mark owned by the professional or amateur sports organization.

"(c) This section shall not apply to—

"(1) any lottery, sweepstakes, or other betting, gambling or wagering activity in a State to the extent that the activity actually was conducted in that State pursuant to the laws of that State prior to August 31, 1990, or

"(2) parimutuel racing.".

SEC. 3. DEFINITIONS.

Section 45 of such Act (15 U.S.C. 1127) is amended by adding after the item defining the term "counterfeit" the following:

"The term 'amateur sports organization' means a person who sponsors, organizes, or conducts any competitive games in which amateur athletes participate, and any league or association of such persons.

"The term 'professional sports organization' means a person who owns and operates a professional sports team engaged in providing entertainment by playing competitive games, and any league or other association of such persons.

"The term 'State' means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and any agency or other political subdivision thereof.".

S. 474

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 referred to as the "Professional and Amateur Sports Protection Act".

SEC. 2. FINDING.

The Congress finds that sports gambling conducted pursuant to State law threatens the integrity and character of, and public confidence in, professional and amateur sports, instills inappropriate values in the Nation's youth, misappropriates the goodwill and popularity of professional and amateur sports organizations, and dilutes and tarnishes the service marks of such organizations.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "amateur sports organization" means a person which sponsors, organizes, or conducts any competitive games in which amateur athletes participate and any league or association of such persons,

(2) the term "professional sports organization" means a person which owns and operates a professional sports team engaged in providing entertainment by providing competitive games and any league or association of such persons, and

(3) the term "State" means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and any agency or other political subdivision thereof.

SEC. 4. SPORTS GAMBLING PURSUANT TO STATE LAW PROHIBITED.

No State or other jurisdiction of the United States, or any political subdivision or any agency thereof, may sponsor, operate, advertise, authorize, license, or promote any lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (though the use of geographical references or otherwise), on any game or games engaged in or conducted or scheduled by any professional sports organization or amateur sports organization, or on any performance or performances therein.

SEC. 5. INJUNCTIONS.

Actions to restrain violations of section 4 may be brought in the district courts of the United States by the Attorney General of the United States, acting through the several United States Attorneys, or by any professional sports organization or amateur sports organization whose games or performances are the subject of a prohibited lottery, sweepstakes, or other betting, gambling, or wagering scheme. Such a civil action may be

brought in the United States district court for any judicial district in which the defendant resides.

SEC. 6. APPLICABILITY.

The prohibition of section 4 shall not apply to—

(1) any lottery, sweepstakes, or other betting, gambling, or wagering activity in a State to the extent that such activity actually was conducted by that State prior to August 31, 1990, or was conducted in the State between September 1, 1989, and August 31, 1990, or

(2) parimutuel racing.

By Mr. BRYAN:

S. 476. A bill to authorize the Secretary of Agriculture to acquire lands in the Toiyabe National Forest through exchange or otherwise, and for other purposes; to the Committee on Energy and Natural Resources.

GALENA REGIONAL RECREATIONAL DEVELOPMENT ACT OF 1991

• Mr. BRYAN. Mr. President, I rise today to introduce the Galena Regional Recreational Development Act of 1991, an act designed to facilitate the acquisition for public recreational use a very special section of the Sierra Nevada Mountain Range. This land lies just outside of Reno, NV, along the Mount Rose Highway.

This is a unique area for several reasons. It lies along a narrow mountain road which connects the urban Reno area to Lake Tahoe, and quickly climbs to a summit of nearly 9,000 feet elevation. It comprises stands of Alpine timber, pristine wetlands, and lush wildlife. Yet for the majority of northern Nevada residents, it is only a short, scenic drive away from the congestion of daily life.

For a number of years, this area has been under consideration as a destination resort, including a large ski area, homes, condominiums, and a hotel-casino. Since the time the project was first contemplated, the Reno area has grown considerably, traffic has increased, a drought has persisted for 5 years, and the air quality in Reno has diminished despite careful planning efforts conducted by the local governments. It is thus no longer clear that a new large resort in this pristine mountain area represents the best use of this property for all Nevadans, now and in the future.

The measure I have introduced is designed to facilitate discussion and negotiations to determine if it is feasible, through land exchanges or otherwise, to maintain this area for low intensity recreational use for all Nevadans and our visitors from other States. I believe the prospects for a negotiated acquisition should be fully explored before the character of the Galena area is lost forever. As Edmund Burke noted: "We are not so poor that we have to spend our wilderness, nor so rich we can afford to."

Furthermore, a public acquisition of this property makes long term sense for the taxpayers of northern Nevada. The Mount Rose Highway which is the only means to access this area, is a twisting, two-lane mountain road, which is already carrying nearly its full capacity of traffic. In order to improve or widen this road has been estimated to cost up to $100 million. If a major development is added, the taxpayer's burdens for additional services will certainly be costly. And if left undeveloped, the recreational value of this asset to the residents can only grow over time as more people choose to live in the Reno area and the open spaces become fewer.

The Federal Government still owns nearly 87 percent of Nevada's land. I believe there are many areas, still federally owned, that can and should be developed for private sector uses. By selling a small part of that land—or by direct exchange—I believe adequate funds will be generated to acquire the rights to the Galena development without burdening the taxpayers. The legislation also allows for the possible contribution to this effort of a portion of local, State, or Federal Government appropriations if necessary and desirable.

I will look forward to working with the rest of the Nevada delegation, the Governor, other elected officials, and interested citizens to see that this area will be available for the enjoyment of generations of Nevadan's to come.

I am also entering into the RECORD a Reno Gazette Journal editorial "opinion" on this subject, and ask unanimous consent that it be printed.

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

[From the Reno Gazzette, Jan. 13, 1991]

IF THERE'S A CHANCE TO BUY GALENA LAND, WE'VE GOT TO TRY

Can the Mount Rose area be preserved from large-scale development? Maybe. Partners in the proposed Galena Resort say they might be willing to sell their land. If such a deal could be arranged, this area would be taking one of the most important environmental steps it has ever taken. If there is any chance, public and private agencies both must make every effort to buy this magnificent property and keep it as it is, in all its wild splendor.

Readers of this newspaper consistently vote the Mount Rose Road their favorite drive. But if the 3,700-acre Galena Resort is built, that drive will never be the same. The area will never be the same for hikers, either. And while the developers will have to meet stringent environmental guidelines, the area will never be the same for wildlife.

This is one of the largest projects ever planned in this area. Certainly it is a huge project for the mountains that surround our valley. While it has been scaled down considerably since the original proposal, it still includes a large ski area, three separate villages, a hotel-casino with 720 rooms, 100 single-family homes, 1,400 condominiums and 125 employee apartments. The impact of the project will be massive and permanent.

Lake Tahoe might also be affected. The developers sincerely believe that the Galena Resort will not generate much traffic toward Tahoe, because it would be a destination resort complete in itself. But Tahoe is a major scenic attraction, and if you were visiting from a distant place, wouldn't you want to see it? And even though Galena provided gaming, wouldn't you want to see the Tahoe casinos as well? Sure you would. And that would place even greater stress on this fragile basin.

MONEY MUST BE RAISED QUICKLY

So if the developers are really willing to sell, it behooves us to try to raise the money. The price could be close to $30 million, which would include the developers' costs as well as the value of the land itself. That is a considerable amount of money, but later generations might think it a real bargain.

In the long run, a purchase might not be as costly as it sounds anyway. That is because the state and local governments would save large amounts of money by not having to provide services for the development. A clear example is the Mount Rose Road. The developers will have to make improvements to the road in order to handle the increased traffic flow. But in the years to come further road expansions will probably be needed, and these expansions would cost the taxpayers millions of dollars.

The main problem at this point is finding the funds. But the funds could be raised if a variety of sources are used. Washoe County could put a bond issue before the voters to acquire part of the land. The state Legislature could appropriate some funds and acquire another part. The federal government could become involved, adding land to the Toiyabe National Forest. And, of course, there are private trusts that specialize in buying sensitive land to preserve it from development. If all of these forces can be rallied, this precious heritage could be preserved for us and our children.

But the window of opportunity may be short. Local officials, our state legislators and our congressional delegation must investigate the possibility immediately, and the general public must become deeply involved. If there is an opportunity, we can't let it slip through our hands.•

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 477. A bill to afford congessional recognition of the National Atomic Museum at Kirtland Air Force Base, Albuquerque, NM, as the official atomic museum of the U.S. Government under the aegis of the Department of Energy, and to provide a statutory basis for its betterment, operation, maintenance, and preservation; to the Committee on Energy and Natural Resources.

NATIONAL ATOMIC MUSEUM ACT

• Mr. DOMENICI. Mr. President, today I stand before the Congress for two purposes: to introduce the National Atomic Museum Charter Act, and to recognize a man, Mr. Herman Roser, who was dedicated to protecting the National Atomic Museum with a congressional charter. Regrettably, Mr. Roser is no longer able to see his dream come to fruition—he passed away last December.

Herman Roser left behind a legacy of hard work and commitment to the National Atomic Museum, and to this Na-

tion's laboratories. He will be sorely missed by his family and friends, who are now actively supporting this legislation.

One of Herman's last commitments was to the National Atomic Museum Act, an act that would grant a congressional charter to the National Atomic Museum at Kirtland Air Force Base in Albuquerque, NM. The congressional charter would provide a basic for improvement—without funding from the Government—in operation, maintenance, and preservation of the existing museum. The charter will ensure the longevity of this important museum.

In 1969, what is now the Atomic Museum opened in a building used as a missile repair facility. The museum houses the most comprehensive repository of unclassified nuclear technology, a well stocked public document room—used by historians and students—and full-scale cases of the bombs Little Boy and Fat Man—reminders that these weapons helped bring World War II to an end.

The National Atomic Museum attracts a growing number of tourists—some 210,000 visitors this year alone—from all around the world. The museum provides free education about the atomic age through a collection of unclassified material, artifacts, models, and replicas of items pertaining to nuclear science. Frankly, I believe the museum places a special emphasis on the history of nuclear weapons, research, and development, with information on the Manhattan Project being one of its main attractions. The museum performs a valuable service, of educating the public on this fascinating and important aspect of our history.

It is my hope, and I believe my esteemed colleague Senator BINGAMAN feels the same way, that through this charter we can ensure a continued interest in atomic energy. In its historic setting, this unique facility provides the people of the world with an informative and important resource. It provides a tangible view of the past, as well as a thought-provoking look into the future.

In closing, Mr. President, I urge swift passage of this bill. The National Atomic Museum is a symbol of our dedication to pursuing new sources of energy while remembering past accomplishments and breakthroughs. A museum reminds us not of what was, but of what we can and will be.●

● Mr. BINGAMAN. Mr. President, today I am pleased to join my colleague from New Mexico in introducing the National Atomic Museum Charter Act.

This congressional charter would place the Atomic Museum at Kirtland Air Force Base in Albuquerque, NM on a firm footing and would honor a fine man, Mr. Herman Roser, whose diligence and dedication to the National Atomic Museum and the Department of Energy's weapons laboratories were amply displayed throughout a long career in Government during which he rose to the position of Assistant Secretary of Energy for Defense Programs. This legislation would preserve his dream and the museum's historical and educational significance. Herm passed away last December and is sorely missed by all who knew him.

Since 1969, the Atomic Museum has provided visitors with a comprehensive historical survey of the development of nuclear weapons and the peaceful application of nuclear energy. The museum's free educational program provides hundred of thousands of visitors each year with riveting information on the atomic age. Its collection of original documentation, artifacts, models, and replicas in the field of nuclear technology makes this museum internationally significant. The museum also furnished an outstanding collection of unclassified material on nuclear technologies for students and scholars from all parts of the world. From the Manhattan project to the present, nuclear power has changed the way we think about the world. It is entirely appropriate that we charter a museum to preserve the history of this pivotal historical period.

The National Atomic Museum Charter Act would grant a congressional charter to the National Atomic Museum. The charter would provide a basis for improvement in operation, maintenance, and preservation of the existing museum at no cost to the Government. The museum performs a valuable service to the public and through this act of Congress it will be better able to accomplish its goals and fulfill Herm's dream.

I urge my colleagues to support this important legislation.●

Mr. SIMPSON:

S. 478. A bill to strengthen and improve the Civil Rights Act of 1964, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS AMENDMENTS OF 1991

● Mr. SIMPSON. Mr. President, today I rise to introduce legislation to amend our Nation's civil rights laws.

Fairness in the workplace is one of the most important protections possessed by every American. Civil rights laws ensure that everyone in the workplace is operating on a level playing field, and that no one is subject to special rules which would create unfair advantage or disadvantage in our system of free and fair economic competition.

Americans do not believe that everyone should have the same job, nor that every job should command the same salary. However, Americans firmly believe that every person should have an equal opportunity to achieve that which he or she is capable of and willing to work for. Our civil rights laws are an essential mechanism to insure that no person's potential is frustrated by discrimination based on race, color, religion, sex, or national origin.

Yet, despite the important role of our civil rights laws, last year's debate on the civil rights bill was extremely disappointing to me it was fraught with distortions, misunderstandings, half-truths, mind-numbing legal jargon, and crass politics. Foremost in my mind was the claim by some in the civil rights community that last year's Kennedy-Hawkins bill merely restored the law to where it was before a number of Supreme Court decisions in 1989. Then, after President Bush's veto of that bill was sustained by the Senate, the New York Times ran the following story:

> * * * The bill's proponents argued at first that their bill did not go beyond Griggs, and that because there had not been a pervasive use of quotas since Griggs, the measure would not foster quotas.
>
> "We thought that, given the current Supreme Court and its demonstrated hostility toward civil rights, that the language had to be stronger to get the result we think *Griggs*, mandated," Morton Halperin, director of the Washington office of American Civil Liberties Union, conceded today in an interview (New York Times, October 26, 1990, p. A25).

This form of distortion—claiming a mere restoration, but in fact proposing a major expansion, of civil rights laws—is truly distressing and even manipulative. I sincerely hope we will not witness such tactics in this Congress.

I am introducing legislation this year to put myself on record as to those reforms which are needed, and as to those changes in the law which must be avoided.

My bill has three main goals: First, I wish to expand existing civil rights protections for certain employees and potential employees who have faced unfair treatment. Second, I wish to avoid enacting civil rights laws which will encourage employers to play it safe by hiring by quota. Third, I wish to avoid enacting civil rights laws which fulfill the dreams of trial attorneys, and create a nightmare for American employers and consumers.

Let me outline the major components of the bill.

DISPARATE IMPACT

The bill adopts the following rules for a suit which charges that specific employment practices are causing a statistical disparity in an employer's hirings, discharges, or promotions even though the employer is not intentionally discriminating:

First, to establish a prima facie disparate impact case, the plaintiff must identify a specific employer practice or practices—each separately identified—which is causing a statistically significant disparity between the employer's workforce and the relevant labor force. My bill's rule follows what has always been the law in this area, since the Griggs versus Duke Power Co. decision created the "disparate impact" suit in

1971, through the Wards Cove versus Atonio decision of 1989.

Second, after the plaintiff has established a prima facie case, the employer may avoid liability if he demonstrates that the employment practice challenged by the plaintiff is justified by business necessity. The definition of business necessity in the bill is taken directly from the 1971 Griggs decision and from Justice Stevens' opinion in the 1979 decision New York Transit Authority versus Beazer.

Third, if an employer justifies its employment practice on business necessity grounds, a plaintiff still has the opportunity to demonstrate that there are alternative employment practices, comparable in cost and equally effective in measuring job performance, which will reduce the statistical disparity. If the employer refuses to adopt such an alternative, the plaintiff will then win his title VII case. This rule comes from the 1975 case *Albemarle Paper Co.* v. *Moody*.

And rules on disparate impact cases that are more favorable to the plaintiff are much more likely to encourage employers to simply resort to hiring by quota. Quotas are such a likely result because, as is obvious, these suits are based on statistical disparities existing in the workplace. If all a plaintiff has to do is assert a statistical disparity, and if the employer is then left with difficult or impossible defenses—which was the case with the Kennedy-Hawkins bill—employers may feel they have no choice but to hire by quota and avoid expensive litigation. This is the result that my legislation will avoid.

REMEDIES FOR HARASSMENT IN THE WORKPLACE

I strongly believe that all Americans have the right to work in an environment which is free of abuse, intimidation, coercion, or other forms of harassment. No one should have to tolerate unacceptable behavior in order to keep his or her job. Therefore, I believe an expansion of current civil rights laws is warranted in order to provide relief to persons who have been harassed on the job.

However, we must not expand these harassment remedies to such an extent that the only persons getting relief are the legions of lawyers who file suits on a contingency fee basis. This, in fact, is what the Kennedy-Hawkins bill would have done. Kennedy-Hawkins allowed, for the first time, a plaintiff to receive compensatory and punitive damages for harassment. Thus, an exact duplicate of today's tort system—which also allows compensatory and punitive damages—would have been created in the employment discrimination context.

I don't have to tell anyone about the problems that current tort law is causing in our country. The cry for tort reform is but one indication that unrestrained juries, egged on by avaricious lawyers, are threatening the financial stability of many industries. One need only look at the rapid growth in automobile insurance rates to know that a system of unlimited damages hits all U.S. consumers right in the place they can least afford it, the pocketbook. The last thing our economy needs is to become even less efficient and competitive by adopting the tort-law system when fashioning remedies for employment discrimination.

My bill creates a remedy which provides meaningful relief to harassed employees while avoiding the disastrously expensive damages which are available under our tort system—and which the Kennedy-Hawkins bill would have imposed on our Nation's consumers. Here is how the remedy would work:

First, a person subject to harassment must attempt to resolve the situation through an employer's internal dispute resolution mechanism. If the dispute cannot be resolved—or if the employer does not have such a mechanism—then the employee should contact the Equal Employment Opportunity Commission [EEOC] to register a complaint.

Second, if the EEOC cannot bring about a meaningful resolution within 60 days, then the employee has the right to file suite in the U.S. district court.

Third, the district court may immediately issue an injuction to stop the harassment, and it may take other actions which are permitted under title VII to end the discrimination.

Fourth, if the district court believes additional restitutory relief is necessary to make whole the employee who was harassed, the court may award that employee up to $100,000. This amount is double the average amount previously awarded to harassment plaintiffs under 42 U.S.C. 1981, according to a study by a reputable law firm. However, the court must consider the size and gross annual income of the responsible employer when setting the amount of the remedy, in order to balance the equities. It is not the intention of this section to put small employers out of business.

Fifth, if an award of double back pay is higher than the maximum of $100,000 that a judge may award, then the double back pay may be awarded instead double back pay is provided for in the Equal Pay Act and in the Fair Labor Standards Act, and my bill thus provides for the largest damage amount that Congress has ever expressly allowed for a labor law or employment discrimination law claim by an employee against his or her employer.

"MIXED MOTIVE" DISCRIMINATION

In the Price Waterhouse versus Hopkins case, former, Justice Brennan created a reasonable method for handling cases where discrimination was a partial motive for an employment decision, but where it was also demonstrated that the employer would have made the same decision even without the discriminatory motive. My bill codifies Justice Brennan's decision. This is the resulting rule: An employer is liable under the civil rights laws if an employee demonstrates that discrimination was a motivating factor for any particular employment practice, and if the employer fails to demonstrate that it would have taken the same action, absent any discrimination.

Under Kennedy-Hawkins, an employer would have been liable for damages or attorney's fees even if it proved that it would have taken the same action absent any discrimination. This is a classic example of how overreaching lawyers would have been the chief beneficiaries of the Kennedy-Hawkins bill.

CHALLENGES TO PREVIOUS ORDERS AND CONSENT DECREES

In Martin versus Wilkes, the Supreme Court held that the Federal Rules of Civil Procedure applied to challenges to consent decrees and orders regarding previous discrimination in the same manner and those rules applied to normal civil litigation. My bill adopts the basic philosophy of that decision: The same litigation rules should apply to everyone, no matter what type of case is before the court. While civil rights plaintiffs might be deserving of special relief from the courts, they should not be granted special advantages under our rules of litigation. I firmly believe that, unless everyone plays by the same litigation rules, we risk failing to do justice to a particular party in the suit.

NON-CONTROVERSIAL ISSUES

In agreement with the administration, Senator KENNEDY, and the civil rights groups, my bill would also overturn two recent Supreme Court Cases: First, Lorance versus AT&T technologies (narrowing the rights of plaintiffs to challenge discriminatory seniority systems); and second, Patterson versus McLean Credit Union (disallowing suits on the terms and conditions of employment under 42 U.S.C.

Issues not considered in the 101st Congress.

Finally, my bill addresses two problems in the discrimination law area which were not addressed last year: The adjustment of tests scores in a discriminatory fashion, and the use of discrimination testers to determine whether an employer is violating civil rights laws.

My bill would not allow an employer to use a neutral, nondiscriminatory ability test if the employer where to adjust the results of the test based on the employee's race, color, religion, sex, or national origin. My bill would also prohibit a civil rights plaintiff from attempting to require an employer to adjust the scores from ability tests based on the employee's race, color, religion, sex, or national origin. If a test is neutral and nondiscrim-

inatory, then it is clearly discriminatory to subsequently adjust the scores of someone merely because that person was a racial or religious minority, or a woman. The EEOC is reportedly considering a proposal to require test-score adjustment, and my bill would prohibit such a discriminatory policy from being implemented.

Finally, the EEOC has also been considering using discrimination testers to enter an employer's workplace, apply for employment, and observe the employer's hiring practices without ever intending to take the job. While the Department of Housing and Urban Development [HUD] has conducted similar tests of discrimination in public housing, the employer-employee relationship is far more complex than that of landlord-tenant. There are so many more variables present in deciding whether to hire someone, that I believe it is necessary for Congress to establish some reasonable ground rules with respect to this sort of "testing."

My bill does not prohibit in any way any testing programs in the employment context. Rather, it only prohibits the testers from misrepresenting their education, experience, or other qualifications for the job being offered. As long as the testers use their own, accurate resumes, and do not invent their qualifications, then the testing program may go forward. I believe this is only fair for employers who might be subject to liability under title VII because of a testing program.

CONCLUSION

Mr. President, our Nation's rights laws have been effective because they have represented a near consensus of the executive branch and Congress. Every other civil rights bill since 1964 has been enacted with broad support from both parties. However, last year's civil rights bill was an intensely partisan exercise which met with strong resistance by Republicans in the Congress and the executive branch. There was clearly no consensus on last year's bill, and that is exactly why that bill failed.

My bill attempts to regain that lost consensus. I offer this legislation in all good faith as a vehicle for civil rights improvements with a broad base of support. I encourage my colleagues on both sides of the aisle, and on both sides of the rotunda, to join with me in this effort to enact mutually acceptable legislation to strengthen our civil rights laws.

Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF THE CIVIL RIGHTS AMENDMENTS OF 1991

Section 1. Short Title.

Short title—"Civil Rights Amendments of 1991."

Section 2. Definitions.

Description: defines the key term "business necessity" in a manner consistent with the 1971 case *Griggs* v. *Duke Power Co.* ("manifest relationship to the employment in question") and one of its key progeny, the 1979 decision *New York Transit Authority* v. *Beazer* ("the respondent's legitimate employment goals are significantly served by (even if they do not require) the challenged practice").

Policy: this section does exactly what last year's Kennedy-Hawkins bill claimed to do in its "purposes" section: ". . . respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions" (S. 2104, 101st Cong., 2d Session, §2(b)(1)).

Proponents of last year's civil rights bill claim that *Wards Cove* v. *Atonio* overturned a long line of cases, beginning with *Griggs*. This section restores the language from *Griggs* and one of the key cases that later interpreted it (Justice Stevens wrote the majority opinion in *Beazer*).

The Kennedy-Hawkins bill contained a definition which not only overturned the *Wards Cove* decision, but overturned the *Griggs* decision as well and imposed a test on employers that was nearly impossible for them to satisfy.

Section 3. Disparate Impact Cases.

Description: requires a plaintiff, when alleging unintentional discrimination by an employer (through use of statistics comparing the workplace in question to the relevant labor market) to identify the particular employment practice which is claimed to cause the statistical imbalance in the employer's workplace. If a plaintiff identifies a statistical imbalance and an employment practice which is causing the imbalance, then the employer must demonstrate that the challenged practices are justified by "business necessity" in order to avoid Title VII liability. If an employer justifies its practice on business necessity grounds, the plaintiff then has a further opportunity to demonstrate that the practice was a pretext for unlawful discrimination, and may show (as evidence of such a pretext) that there are alternative practices available that would also serve the employer's legitimate employment goals.

Policy: this section does what last year's Kennedy/Hawkins bill claimed to do in its "purposes" section: ". . . respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions." The section overturns the requirement in *Wards Cove* v. *Atonio* that the employer need only *introduce* evidence that its practice was justified by business necessity. It adopts the burden of proof scheme proposed by the dissent in *Wards Cove:* once a prima facie disparate impact case has been established, the *employer* has the burden of demonstrating that a challenged practice is justified by business necessity.

In addition, the section retains the requirement, derived from the *Griggs* opinion and the rule in the majority of the circuit court (before the *Wards Cove* decision) that a plaintiff must identify which specific employment practices have caused the statistical imbalance in the defendant-employer's workforce. In fact, the *Griggs* case itself centered on two specifically identified and challenged employment practices: 1) a requirement that job applicants have a high school diploma, and 2) a requirement that job applicants receive a minimum score on general intelligence tests. The plaintiffs prevailed in *Griggs* and eliminated these specific practices, and this section would preserve such a result.

Finally, the section follows the policy set forth in *Albemarle Paper Co.* v. *Moody* (a 1975 opinion by former Justice Stewart) by allowing a plaintiff—after the employer has demonstrated "business necessity"—to nonetheless prevail if he or she can demonstrate that the employment practice in question was a pretext for unlawful discrimination. *Albemarle* specifically noted that, if a plaintiff could identify an alternative practice which would also serve the respondent's legitimate employment goals but which would avoid the statistical disparity, then this would be evidence that the employment practice was pretextual. The bill codifies this portion of *Albemarle*.

The Kennedy-Hawkins bill allowed a plaintiff to challenge a "group of employment practices" without specifically identifying which practice caused a disparate impact. Under such a rule, a plaintiff could sue an employer with evidence only that a statistical difference existed, claim that *all* of the employer's practices resulted in the disparate impact, and force the employer to defend itself against such a baseless suit.

Kennedy-Hawkins would have resulted in quotas because: (1) plaintiffs could drag employers into court without identifying which specific practices they claimed were causing a statistical disparity, (2) employers would have the unfair and costly requirement that they defend *all* of their employment practices, (3) employers would have been unable to defend their practices on the ground of "business necessity" because that definition was made so difficult to prove, and (4) instead of facing this costly prospect, employers would simply resort to "hiring by the numbers"—i.e., put quotas in place—in order to avoid giving plaintiffs any basis at all for a lawsuit.

Section 4: "Mixed Motive" Discrimination.

Description: this section plurality opinion in the *Price Waterhouse* decision, which held that an employment discrimination charge may be sustained when: 1) a plaintiff demonstrates that race, color, religion, sex or national origin was a "motivating factor" in an employer's practice, and 2) the employer fails to demonstrate that it would have taken the same action if the discriminatory factor had not existed.

Policy: this provision adopts the rule created by former Justice Brennan's opinion in *Price Waterhouse*. If a plaintiff can show that an employer relied on race, color, religion, sex or national origin in making an employment decision, an employer will be liable under Title VII unless it can prove that it would have made the same decision even if it had not taken the plaintiff's race, color, religion, sex or national origin into account.

The provision rejects the Kennedy-Hawkins language which would allow a valid employer defense to alleviate only an award of back pay, but would still allow a plaintiff to be granted compensatory and punitive damages, declaratory or injunctive relief, and attorney's fees. This portion of the Kennedy-Hawkins bill is an excellent example of why that bill was a lawyer's relief act: it would grant a plaintiff reimbursement of his or her attorney's fees—and a chance for the lawyer to receive a contingency fee based on any compensatory or punitive damages—even though the employer proved that the same employment decision would have been made if it had not taken the plaintiff's race, color, religion, sex or national origin into account.

Section 5. Employment Performance Tests.

Description: would prohibit the adjustment of ability-test scores of employment appli-

cants if the adjustments were based on the applicant's race, color, religion, sex, or national origin. Also prohibited would be a plaintiff's attack on an employment practice proven to be justified by business necessity if the complainant argues that the disparate impact of the test could be reduced by the adjustment of the test scores based on the applicant's race, color, religion, sex or national origin.

Policy: Employment ability tests are a useful method of determining the ability, knowledge or potential job performance of job applicants. Plaintiffs have at times sued over such tests, claiming that they have a disparate impact on minority job applicants. As with all such suits, an employer will not be found liabile (and may retain the use of these tests) if, after the plaintiff establishes a prima facie case, the employer demonstrates that the test is justified by "business necessity." However, some Title VII plaintiffs have argued that innocent employers nonetheless should be required or permitted to adjust the results of such tests on the basis of race, color, religion, sex or national origin of the test takers. A staff recommendation on this point has been under consideration by the EEOC.

Under the EEOC staff approach, even if the test accurately predicted job performance or efficiency, the employer still would have to adjust the test scores of minorities or women who did less well on the test. These adjustments clearly would discriminate against other employment applicants who scored higher on the test, but were of the wrong race, color, religion, sex or national origin. This result would be antithetical to the national policy against discrimination, and this section would bar such test adjustment.

Section 6: Discriminatory Seniority Systems.

Description: this section expands the amount of time that a plaintiff has to file a charge against a seniority system alleged to be discriminatory.

Policy: this section overturns the decision in *Lorance* v. *AT&T Technologies* and broadens the opportunities for employees to challenge seniority systems alleged to have been adopted with an intent to discriminate.

Section 7: Awarding of Expert Fees.

Description: allows the award of expert-witness fees as part of the costs assessed against the losing party (i.e., in addition to attorney's fees being assessed against the losing party), but limits the expert fees to no more than $250 per day. Under current law, the limit on expert witness fees is $30 per day.

Policy: the basic purpose of civil rights statutes is to remedy the improper employer behavior and to encourage mediation and conciliation between employer and employee. It is contrary to the public interest of fostering settlement of employer-employee disputes to encourage mammoth-scale litigation with handfuls of expert witnesses on each side of the suit.

Therefore, this section allows expert fees to be awarded, but limits the amount of the award to a level aimed at avoiding the encouragement of expensive litigation.

The Kennedy-Hawkins bill would have allowed for unlimited "expert fees and other litigation expenses." This is another example of how that legislation encourages expensive attorneys to conduct expensive litigation.

Section 8: Equitable Relief for Victims of Harassment.

Description: Significantly expands the remedies available under current law to persons facing intentional employment discrimination which rises to the level of "harassment." The section provides a remedy for harassment based on race, color, religion, sex or national origin.

Possible penalties are the greater of: (1) up to $100,000, or (2) an award equal to any back pay liability (in addition to any earlier awards of back pay). The section thus provides at least the maximum relief authorized in any congressionally-designed remedies scheme for labor law purposes (double back pay is provided in the Equal Pay Act and the Discrimination in Employment Act)—and in most cases will provide much more.

The remedy provided is equitable; there is no right to a jury trial or to damages other than the ones specified. In order to seek this new equitable relief, the plaintiff must first participate in any employer programs established to investigate and remedy harassment.

Policy: this section does what last year's Kennedy-Hawkins bill claimed as an objective in its "purposes" section: "* * * strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination" (S. 2104, 101st Cong., 2d Session, §2(b)(2)). In particular, this section provides to women a meaningful remedy against employment-based sexual harassment which the proponents of the Kennedy-Hawkins note does not exist in current law. Indeed, the relief allowed is twice the typical damage award level—$50,000, as found in last year's study by Shea & Gardner, "Analysis of Damage Awards under Section 1981"—and goes as high as the amount of any possible back-pay award under present employment laws (for example, the plaintiff in the *Price Waterhouse* case received a back pay award of $371,175, *Hopkins* v. *Price Waterhouse*, 737 F. Supp. 1202 (D.D.C. 1990)).

The Kennedy-Hawkins bill would have allowed compensatory and punitive damages to be awarded by juries. This would expose employers to the same liability that many now face under the tort law system. The tort system has increased overhead costs for some U.S. industries to such an extent that they have become much less competitive. The Kennedy-Hawkins bill would potentially extend that increased overhead cost to every single U.S. employer.

Section 9: Fair Resolution of Challenges to Employment Practices Implementing Litigated or Consent Judgments or Orders.

Description: would apply the Federal Rules of Civil Procedure to suits challenging existing consent decrees in the same manner that these Rules are applied to other civil litigation. This section establishes rules for "reverse discrimination" suits of the type addressed by the Supreme Court in *Martin* v. *Wilks* (where non-minority plaintiffs challenged an earlier consent decree imposed on the Birmingham, AL fire department).

Policy: this ensures that the basic ground rules of litigation are followed in all cases, including the specific type of challenge here to existing consent decrees. While special forms of relief might be reasonable once a civil rights plaintiff has proven that discrimination exists, special litigation rules should *not* be established in the plaintiff's favor before a defendant has been proven guilty of discrimination. Any other rule might result in unfair, unjust results.

Section 10: No Fraud or Misrepresentation by Persons Testing the Existence of Employment Discrimination.

Description: would prohibit the EEOC from designing or using the results from any program to test the existence of employment discrimination, if that program allowed purported employment applicants to misrepresent their education, experience, or other qualifications when applying for employment.

Policy: this section would establish rules for a recent proposal under consideration by the EEOC to allow individuals to make spurious applications for employment with certain employers in order to determine whether or not such employers are discriminating based on race, color, religion, sex or national origin. This section does not prohibit testing itself, but merely requires that testers actually possess the qualifications they claim to possess when they "apply" for employment. While discrimination testing has been used without serious incident in the public housing context, the employment situation is much more complicated. The decision to hire someone involves consideration of a much larger number of variables (such as education, job experience, special training, etc.) than the decision to rent an apartment to someone, and therefore additional guidelines should exist to ensure that the "test" of the employer is a fair one.

Section 11. Expansion of Protections Against All Racial Discrimination in the Performance of Contracts.—

Description: clarifies that not only is discrimination in hiring prohibited under 42 U.S.C. §1981, but so is discrimination in the terms and conditions of employment, and in discharge.

Policy: this section overturns the Supreme Court's decision in *Patterson* v. *McLean Credit Union*, which read §1981 in a narrow fashion.

Section 12. Severability.—

Description/Policy: this is standard language which ensures that, if any one section or portion of the bill is found unconstitutional, the remaining constitutional portions of the bill will still have effect. Identical language was included in the Kennedy-Hawkins bill.

Section 13. Effective Date.—

Description: all portions of the bill will take effect on the day the President signs it. No litigation or administrative action that was commenced before the date of enactment will be subject to the provisions of this bill.

Policy: it is standard policy to apply new laws either on the date of enactment, or on some date after the date of enactment. It would not be fair to current litigants or parties before an agency to change the rules in the middle of a suit or proceeding by providing retroactive application of these new laws.●

By Mr. LEAHY (for himself, Mr. THURMOND, Mr. BIDEN, Mr. DECONCINI, Mr. GRASSLEY, Mr. KOHL, Mr. SIMON, Mr. SPECTER, and Mr. JEFFORDS):

S. 479. A bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States; to the Committee on the Judiciary.

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION OF 1991

● Mr. LEAHY. Mr. President, today I am pleased to be joined by Senators BIDEN and THURMOND, the distinguished chairman and ranking member of the Judiciary Committee, in introducing the National Cooperative Research Act Extension of 1991. Similar

to S. 1006 of the 101st Congress, this legislation will strengthen the competitiveness, technological leadership, and economic growth of the United States by extending the National Cooperative Research Act of 1984 to allow joint production ventures, as well as joint research and development ventures. As American firms come under increased pressure from fast-paced technological innovation and development abroad, it is more important than ever to make sure that our companies do not function at a disadvantage. The National Cooperative Research Act Extension will begin to level the international playing field, without risking harm to the competitive marketplace or the integrity of our antitrust laws.

American scientists and engineers are the world's best innovators. We continue to make scientific breakthroughs and invent new and improved products. But good ideas and breakthrough inventions alone will not spell America's success in global markets. World technological leadership depends on our ability to convert research and development advances into commercial production at a rapid pace. This is often a costly and risky endeavor.

In 1984, Congress passed the National Cooperative Research Act which addressed the significant financial commitment involved in high technology innovation. That act encouraged American firms to join forces—to share the cost and risk of research and development projects—by clarifying antitrust law regarding combined research ventures. Specifically, the 1984 act applied the rule-of-reason standard to joint research and development ventures so that, if legal action were taken against a venture, a court could consider the competitive benefits of the venture. It also limited antitrust recoveries against joint R&D ventures to single damages and attorneys' fees, if the ventures follow the act's notification procedure.

The National Cooperative Research Act has been a success. Since its enactment, companies have established over 150 joint research ventures to develop everything from chipmaking and steelmaking processes to superconductors. Many argue that the 1984 act was critical to the formation of SEMATECH, the industry-Government research consortium whose mission is to restore the U.S. world leadership in semiconductor manufacturing technology.

With its success, however, the 1984 act has its limitations. The act does not address the need for joint production ventures and it is precisely in the area of manufacturing that the United States faces its most serious competitive challenges. We must recognize the significance of this country's manufacturing capability by giving joint production ventures the same treatment as joint research and development ventures under the National Cooperative Research Act.

While this legislation will benefit American businesses across the board, it will have perhaps the greatest impact on our electronics industry—an industry which employs 2.6 million Americans and which represents a $750 billion global market. Over the past decade, we have witnessed the erosion of America's leadership in high-technology electronics. As chairman of the Judiciary Committee's Subcommittee on Technology and the Law, I have been particularly concerned about the decline of the U.S. semiconductor industry.

Considered the crude oil of our electronics chain, semiconductor chips are at the heart of the technology revolution. These tiny silicon wafers are critical to this Nation's economic growth and national security. Nearly every domestic industry depends, directly or indirectly, on the products of the semiconductor industry. Semiconductor chips drive everything from wristwatches, to medical diagnostic equipment, to desk-top computers, to fighter jets. We should all be proud that this important tool is an American invention. But what was once an American product has become a product "made in Japan."

The statistics paint a gloomy picture. America's percentage of the global semiconductor market dropped from 57 percent in 1980, to 36 percent in 1989 and, according to a report of the National Advisory Committee on Semiconductors released this week, "the problems facing the U.S. semiconductor industry are very serious and are growing worse." What does this mean for the U.S. economy? Every percentage point drop in the U.S. share of the world semiconductor market results in nearly 3,000 semiconductor industry jobs lost, $130 million in lost wages, $59 million less spending for R&D, and $40 million less Federal tax revenue.

This same report details the remarkable come-from-behind success of our foreign competitors in Asia and Europe. It attributes the success of foreign firms to the strategic importance they place on high technology and their willingness to pool their resources in precompetitive efforts to advance technology.

Do American companies understand the significance of their declining share of the global semiconductor market and, in order to regain their competitive edge, are they willing to alter the way they do business? After many discussions with industry representatives—both inside and outside the hearing room—I can say, emphatically, yes. I think the late Bob Noyce, inventor of the integrated circuit and president of SEMATECH, said it best last March when he told my subcommittee that companies simply cannot afford to go it along anymore. "Cooperation," Bob said, "is not only important for survival today, it's essential."

Some critics of this legislation claim that cooperation means mergers and acquisitions—that it means a boost for the big guy at the expense of our smaller entrepreneurs. This is not the case at all. As a matter of fact, in testimony before the Antitrust Subcommittee in July, Prof. David Teece of the Berkeley University School of Business emphasized that this legislation would take away the incentives for mergers and acquisitions. It would allow small- to middle-sized firms to maintain their independence and yet join with other companies for R&D and production when a project is too big or too costly or too risky to pursue alone. This Nation's industrial strength depends on the inventive dynamism located in our small enterprises. The National Cooperative Research Act Extension of 1991 will guarantee diversity and economic prosperity for all American companies.

Mr. President, we must recognize that our foreign competitors do not labor under the same antitrust restrictions that confront American businesses. Their R&D and manufacturing muscle is unlimited, and their R&D and manufacturing ventures are formed on strictly pragmatic grounds: What is needed and what will work. As a result, they move ahead while the United States falls woefully behind.

I do not believe that joint production ventures are a panacea for this Nation's competitiveness ills. No one blames our decline in international high-technology markets solely on antitrust barriers to cooperation. But joint research, development, and production ventures are an important part of our long-term, comprehensive industrial strategy. By passing the National Cooperative Research Extension Act of 1991, Congress can remove a significant impediment to the creation of joint production ventures.

Let me emphasize that passage of this bill will not weaken our antitrust laws. By extending, rather than supplanting the 1984 R&D Act, this legislation retains the 1984 act's protections against antitrust violations. The Department of Justice and the Federal Trade Commission retain their authority to investigate the scope and structure of a joint R&D or production venture. The 1984 act's safeguards against price fixing and market allocation arrangements are maintained, as are its notice provisions.

Mr. President, it is time to level the playing field in the international marketplace. I urge my colleagues to support this proposal and ask unanimous consent that the text of the legislation as well as statements by Senators BIDEN and THURMOND be printed in the RECORD.●

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

S. 479

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 "National Cooperative Research Act Extension of 1991".

SEC. 2. JOINT VENTURES.

SEC. 2. The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended—

(1) by inserting after section 1 the following:

"SEC. 1A. FINDINGS AND PURPOSE.

"(a) The Congress find that—

"(1) technological innovation and its profitable commercialization are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

"(2) cooperative arrangements among nonaffiliated firms in the private sector are often essential for successful technological innovation and commercialization; and

"(3) the antitrust laws may inhibit cooperative innovation arrangements because of uncertain legal standards and the threat of private treble damage litigation.

"(b) It is the purpose of this Act to promote innovation, facilitate trade, and strengthen the competitiveness of the United States in world markets by establishing a procedure under which firms may notify the Department of Justice and Federal Trade Commission of their cooperative ventures and thereby qualify for the single-damage limitation on civil antitrust liability and judgment by a rule of reason standard.";

(2) in section 2(a)(6) by—

(A) striking "and development" and inserting ", development, or production";

(B) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(C) inserting after subparagraph (C) the following new subparagraph:

"(D) the production or testing of any product, or service,";

(D) inserting "and production" after "research" in subparagraph (E);

(E) striking "and (D)" and inserting "(D), and (E)" in subparagraph (F); and

(F) by amending the matter following subparagraph (F) to read as follows:

"and may include the integration of existing facilities or the establishment and operation of new facilities for the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture, but does not include an activity described in subsection (b).";

(3) in section 2(b)—

(A) in the matter before paragraph (1) by striking "or development" and inserting ", development, or production";

(B) in paragraph (1) by striking "conduct the" and inserting "carry out the"; and

(C) in paragraph (2) by striking "production or the" each place it appears;

(D) in paragraph (3)(B) by striking "and development" and inserting ", development, or production";

(4) in section 3 by—

(A) inserting "or production" after "development" the first place it appears; and

(B) striking "and development" the second place it appears and inserting "development product, process, or service";

(5) in section 4 by striking "and development" and inserting ", development, or production" each place it appears in subsections (a)(1), (b)(1), (c)(1), and (e);

(6) in section 5(a) by striking "and development" and inserting ", development, or production";

(7) in section 6 in the section heading by striking "AND DEVELOPMENT" and inserting ", DEVELOPMENT, OR PRODUCTION"; and

(8) in section 6—

(A) in subsection (a) by inserting "and any party to a joint production venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of enactment of the National Cooperative Research Act Extension of 1991, whichever is later," after "whichever is later"; and

(B) in subsections (d)(2) and (e) by striking "and development" and inserting ", development, or production" each place it appears.

• Mr. BIDEN. Mr. President, today I am pleased to join Senators LEAHY and THURMOND in introducing the National Cooperative Research Act Extension of 1991. The purpose of this act is to strengthen the competitiveness of American firms in world markets. The act would establish a procedure under which firms may notify their cooperative production ventures to the Department of Justice and Federal Trade Commission and thereby qualify for a single-damage limitation on civil antitrust liability and judgment by a rule of reason standard.

The need for action to increase our competitiveness is obvious. The United States has watched its trade deficit grow from $2.3 billion in 1971 to $128.1 billion in 1988. Imported products have flooded our domestic markets, while U.S. exports have failed to keep pace. As a result, America's position in the world economy has fallen dramatically. During the past two decades, an ever-increasing perception has taken hold that American firms are producing second-rate products, that American firms are less able than their foreign counterparts to commercialize products based on innovative breakthroughs, and that we are losing ground to the rest of the world.

In response, many Americans have begun to ask: "Who or what is to blame? How can we improve our products and our productivity so that the United States will never lose its position as the world's economic leader?"

Our future greatness as a nation rests on our finding the answers to these questions. The very notion of world power is changing, and becoming redefined as a measure of economic power. It is increasingly clear that the role we will play today, and the role our children will play tomorrow, in shaping the course of history depends greatly on the strength of the U.S. economy. We must do all that we can to reverse the present trends we find so troubling.

The solutions needed to cure our present international competitiveness ills are complex. The solutions include changes in our Government's fiscal policies and in our educational system; in the ways our workers work and in the ways our managers manage—and much more.

Included in this set of solutions is a need to review our antitrust laws, to determine if they hamper our international competitiveness.

In May 1987, I chaired 2 days of Judiciary Committee hearings on the subject of antitrust law and international competitiveness. In my opening statement, at those hearings nearly 4 years ago, I summarized my views as follows:

> We wish today to learn whether we have cleared away all antitrust obstacles [to U.S. competitiveness]. That, of course, does not mean we intend to clear away the applicable antitrust laws, which have been a linchpin of this country's growth and prosperity during the past 100 years. Rather, our concern is over any remaining impediments to legitimate research and development or commercialization activities that will enhance the international competitiveness of our economy into the next century.

At that time, the 1984 National Cooperative Research Act was fairly new. It authorized U.S. companies to work jointly to research and develop new products for world markets. Yet already—by the time of our 1987 hearings—a good deal of support had emerged for proposals to amend the 1984 act to go a step further: to permit collaboration in joint production ventures. That is precisely what the Leahy-Thurmond-Biden bill would accomplish.

While I do not feel that much of the blame for our competitiveness problem should be laid at the feet of our antitrust laws, I am convinced that we can, and should, eliminate antitrust uncertainty with respect to joint production ventures. I believe that the economic logic for productive cooperation is strong and real and that the offsetting risks of restraint of trade and cartelization can be minimized. The Leahy-Thurmond-Biden bill would ensure that the antitrust laws will be properly interpreted with regard to joint production ventures. Anticompetitive behavior would not be given any protection, but the antitrust laws would be amended so as to pose no significant obstacle to production-enhancing collaboration.

I want to praise the leadership of Senators LEAHY and THURMOND on this matter. As chairman of the Judiciary Committee, I intend to give this bill a priority. I urge my colleagues to join me in supporting this bill.•

• Mr. THURMOND. Mr. President, I am happy to again join Senator LEAHY, Senator BIDEN, and several other of my colleagues in reintroducing the National Cooperative Research Act Extension of 1991. This legislation amends the National Cooperative Research Act of 1984 [NCRA] by extending its provisions to include manufacturing as well as research and development. The 1984 act enjoyed broad bipartisan support and I am hopeful that the same will be true for this act.

Mr. President, competition in worldwide markets is strong and is getting stronger every year. It is my expectation that these amendments will enable American businesses to respond more effectively to the competitive challenges that face them in international markets. American firms cannot afford to settle for less than the most advanced means of manufacturing and production if they are to be successful in this challenge. Although costly, substantial investments must be made in state-of-the-art facilities. Joint manufacturing ventures will ease such investment burdens, and may provide just the answer for firms which cannot make the needed investments in new production technology, but do not want to merge their entire operations to achieve the benefits such ventures provide.

Mr. President, in 1984, Congress passed the National Cooperative Research Act in the hopes of addressing some of these very concerns. That act has two simple features: First, it guarantees that joint research and development ventures, if they are ever called into question under the antitrust laws, will be analyzed under the rule of reason standard so that the competitive benefits of such ventures can be considered; and, second, antitrust liability with respect to a joint venture disclosed to the Government, is limited to actual damages plus pre-judgment interest.

The NCRA, although limited to research and development, has proven to be very successful. It is my understanding that over 100 joint research and development ventures have been undertaken under the auspices of the NCRA protections. Mr. President, I hope that we will shortly enact these proposed amendments to the NCRA. It is time for us to extend the same benefits and the same encouragement to manufacturing joint ventures. I urge all my colleagues who are not now cosponsors of this legislation, to carefully consider its provisions and to support its passage.●

ADDITIONAL COSPONSORS

S. 173

At the request of Mr. HOLLINGS, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 173, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

S. 308

At the request of Mr. MITCHELL, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 308, a bill to amend the Internal Revenue Code of 1986 to permanently extend the low-income housing credit.

S. 311

At the request of Mr. ROTH, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 330

At the request of Mr. MITCHELL, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 330, a bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by that act; to amend title 38 United States Code, to clarify veterans' reemployment rights and to improve veterans' rights to reinstatment of health insurance, and for other purposes.

SENATE JOINT RESOLUTION 76

At the request of Mr. CHAFEE, his name was added as a cosponsor of Senate Joint Resolution 76, a joint resolution commending the Peace Corps and the current and former Peace Corps volunteers on the 30th anniversary of the establishment of the Peace Corps.

SENATE CONCURRENT RESOLUTIONS 12—RELATING TO THE PROTECTION OF THE CIVIL LIBERTIES OF ARAB-AMERICANS

Mr. LEVIN (for himself and Mr. SIMON) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary.

S. CON. RES. 12

Whereas reports of harassment and violence against Arab Americans increased after Iraq invaded Kuwait on August 2, 1990, and increased again after the war began on January 17, 1991;

Whereas, on September 24, 1990, President Bush declared that death threats, physical attacks, vandalism, religious violence and discrimination against Arab Americans must end and that a crisis abroad is no excuse for discrimination at home;

Whereas the Federal Bureau of Investigation has reportedly interviewed more than 200 Arab Americans regarding possible terrorist threats in the United States and abroad, and continues to interview other Arab Americans;

Whereas the selection of individuals to be questioned based solely on their ethnicity or national origin unfairly arouses suspicion of Arab Americans, reinforces offensive stereotypes, and encourages hate crimes and other discrimination against Arab Americans;

Whereas the Federal Bureau of Investigation is reported to have questioned some Arab Americans about their lawfully protected political beliefs, activities, and affiliations;

Whereas the Constitution of the United States protects the right to freedom of speech, political expression and association;

Whereas the Constitution and laws of the United States prohibit discrimination on the basis of race, religion, creed, and national origin; and

Whereas the Federal Bureau of Investigation is responsible for protecting civil rights and civil liberties: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the civil rights and civil liberties of all Americans, including Arab Americans, should be protected at all times, and particularly during times of international conflict of war;

(2) the Federal Bureau of Investigation should work with other Federal, State, and local government agencies and community leaders to prevent, investigate and report hate crimes and other discrimination against Arab Americans and other minorities; and

(3) Federal agencies should avoid activities that—

(A) threaten or encroach upon the civil rights and civil liberties of citizens or legal residents of the United States; or

(B) reinforce ethnic stereotypes.●

● Mr. LEVIN. Mr. President, I am introducing today, along with Senator SIMON, a resolution to express the sense of the Congress that protection of the rights of all Americans, including Americans of Arab descent, not be diminished while our Nation is at war.

Reports of incidents of discrimination and violence against Arab-Americans rose significantly after the invasion of Kuwait last August and again after the war began on January 17. In my home State of Michigan which has the largest community of Arab-Americans in North America, there has been an increase in threats, harassment and attacks against Arab-Americans and their property since the war began.

Arab-Americans have looked to the Government to defend and protect them and to condemn these crimes. I've received letters from constituents asking that the Congress make clear that Americans' patriotism should not be questioned because of their ethnicity, religion, national origin, or their position on a particular government policy. One such letter asked that we "help us put an end to the intimidation and harassment. Speak up on our behalf. * * * Tell the American people that we stand firm behind our country."

Instead of an unambiguous condemnation of acts against them, the Arab-American community has gotten a mixed message. The President has stated that these acts must stop and that a crisis abroad is no excuse for discrimination at home. But the Federal Bureau of Investigation [FBI] has interviewed at least 200 Arab-Americans about possible terrorist threats in the United States and abroad. Although the FBI has said that the individuals interviewed are not targets of an investigation, and that its intention was not to intimidate or harass the individuals, many have interpreted it that way.

While the Government ought to take appropriate steps to protect against terrorist attacks, it should not and need not do so at the expense of the lib-

erties guaranteed by the Constitution. In fact, I believe the Government has heightened obligation during times of war and increased threats of terrorism to condemn related attacks against innocent Americans and defend their rights and freedoms.

The resolution we're introducing today expresses the sense of the Congress that civil rights and civil liberties should be protected during the war and that Federal agencies should avoid activities that threaten or encroach civil rights or civil liberties and should instead help prevent, investigate, and report hate crimes and other discrimination against Arab-Americans and other minorities.

The National Association of Arab Americans, the American-Arab Anti-Discrimination Committee, and the American Jewish Committee have endorsed this resolution.

I urge my colleagues to support this resolution so that we send a strong message that the rights of all Americans, including those of Arab descent, must be protected.

I ask unanimous consent that the text of a recent Washington Post editorial be inserted in the RECORD.

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

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

SINGLING OUT ARAB AMERICANS

The Gulf crisis has raised the threat of terrorism—instigated by Saddam Hussein and directed against American targets both abroad and in this country. Hence, the increased security at federal buildings and airports, and the decision of the Immigration and Naturalization Service to photograph and fingerprint visitors holding Iraqi and Kuwaiti passports. These have been telling signs of a nation assuming a wartime footing. Given the pronouncements out of Baghdad, these countermeasures are inconvenient but necessary security precautions against possible terrorist attacks.

Yet it is exactly at times such as these that government must take care not to circumscribe the rights and freedoms of its citizens. Regrettably, that may have happened last week during the course of a special Federal Bureau of Investigation program focused on Arab Americans.

FBI agents contacted more than 200 Arab-American business and community leaders across the country, ostensibly to inform them of the bureau's intention to protect them against any backlash from the Persian Gulf crisis. Investigating and prosecuting hate crimes and ethnically motivated violence spawned by Middle East turbulence is a legitimate job of federal law enforcement officials, so that aspect of the bureau's initiative was welcomed by Arab Americans. But FBI agents also used the occasion to gather intelligence about possible terrorist threats. This is where the FBI quickly wore out its welcome.

Organizations representing Arab Americans contend that agents asked citizens about their political beliefs, their attitudes toward the Persian Gulf crisis, Saddam Hussein and their knowledge or suspicions about possible terrorism. Deputy Attorney General William P. Barr denies any FBI intention to intimidate Arab Americans, as some community leaders fear. "At the same time," he says, "in the light of the terrorist threats . . . it is only prudent to solicit information about potential terrorist activity and to request the future assistance of these individuals."

But why does the government presume that Americans of Arab descent should know about "potential terrorist activity" or that this group of Americans is any more knowledgeable about such activity than any other? FBI spokesman Thomas F. Jones says it's because the bureau is aware of a number of terrorist organizations in the United States that "consist of people of Middle East descent" and that the "possibility exists that [terrorist] are living in Arab-American communities." In that way, he said, Arab Americans "could come into possession of information on potential terrorist acts."

It is a perilously flimsy rationale. It leaves the U.S. government wide open to the accusation that is dividing Americans by ethnic background and singling out one group as a suspect class. If that were true, the government's conduct would clearly be constitutionally offensive and morally repugnant. To imply that Arab Americans—some of whom are members of families that have been in this country since the turn of the century—may have a special link to terrorists is both insidious and harmful. The government cannot go around making judgments and presumptions about citizens on the basis of their descent.

Like all Americans, Arab Americans have the right to be accepted and treated as individuals, and the government has a constitutional duty to observe and protect that right. Neither should the government invade the privacy or trample the dignity of one class of citizens. What is being seen now recalls the negative stereotyping that served as a basis for the shameful treatment of Americans of Japanese ancestry during World War II. Such stereotyping, with all its ugly and unfair implications, should not be allowed to take hold.•

SENATE RESOLUTION 61—RELATIVE TO MAINTENANCE OF THE MISSOURI RIVER

Mr. GRASSLEY submitted the following resolution; which was referred to the Committee on Environment and Public Works;

S. RES. 61

Whereas the Army Corps of Engineers is the Federal agency in charge of the operation of dams and reservoirs on the Missouri River;

Whereas this includes the planning and coordination of the timing and quantity of releases from the reservoir system to best satisfy system requirements;

Whereas there has been a severe drought in the upper region of the Midwest that affects upstream reservoir levels as well as the flow levels of the Missouri River; and

Whereas the proper method to review the current operation of the river system is through review and revision of the Corps of Engineers' master manual for system operation, which review is currently in process with the full participation of the States and other affected parties with an interest in the management of Missouri River flows: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Congress should not impede the role of the Corps of Engineers and the affected States and other interests by considering actions to alter the management of the Missouri River System until recommendations for a change have been received from the Corps upon completion of its review or from the States along the Missouri River mainstream as a consensus recommendation.

• Mr. GRASSLEY. Mr. President, there has been a dispute in the Midwest for many years about the maintenance of the Missouri River basin, specifically the issue of water flow levels. This dispute has been heated, with both sides adamant that their position be heard. The upstream States have their opinion, the downstream States have their opinion.

Recently the Governors from upstream States in the Missouri River basin have sued the Army Corps of Engineers in reference to the flow levels on the Missouri River. This comes on the heels of an unsuccessful lawsuit last year.

Needless to say, I was outraged when I heard of this most recent attempt to punish downstream States to the benefit of upstream States. I am hopeful that the courts will remain consistent and reiterate the ruling of last year.

A court of law is not the proper format to decide the issue of the care of the Missouri River. The proper method to review the current operation of the river system is through review and revision of the Army Corps of Engineers master manual for system operation, currently in progress. This involves the full and fair participation of all involved States and the affected parties in these States.

What does not need to happen at this point is for the Congress of the United States to involve itself in this dispute.

Unfortunately, Mr. President, there have been numerous attempts in the last Congress and in the current Congress on the part of my colleagues from upstream States to involve the U.S. Congress in this dispute. These attempts have occurred in both the Senate and the House of Representatives.

It is because of this that I stand today to introduce a Senate resolution that would urge the Congress to not impede the role of the Army Corps of Engineers and the affected States and other interested parties by considering actions to alter the management of the Missouri River system until recommendations for a change have been received from the corps upon completion of its review or from the States along the Missouri River mainstream, as a consensus recommendation.

Mr. President, I request that the text of this resolution be printed in the RECORD at this point.

Mr. President, the upstream States would like to frame this argument into an issue of upper basin recreation versus downstream navigation, as if these were the only issues.

This is not only an issue of upper basin recreation versus downstream navigation. There are numerous other

issues of concern: wetlands preservation, recreation, power production, water supply, water quality and fish and wildlife. This issue cannot be framed into a singular discussion of upstream recreation and downstream navigation. It is a very complicated discussion with numerous competing interests involved with numerous issues to relate. Politics should not be the determining factor in this question.

I urge all parties involved in this issue to work with the Army Corps of Engineers to develop a consensus on how to manage one of the greatest resources we have in the Midwest. If there is one thing I have learned in my many years of public service it is that a consensus can always be reached no matter how complicated or awesome the problem may seem. We must work in a cooperative manner in order to reach harmony that will balance all the interests concerned. This can and must be resolved at the negotiating table, not in a court of law or in the Halls of Congress.●

SENATE RESOLUTION 62—ORIGINAL RESOLUTION REPORTED AUTHORIZING BIENNIAL EXPENDITURES BY THE COMMITTEES OF THE SENATE

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 62

Resolved, That this resolution may be cited as the "Omnibus Committee Funding Resolution for 1991 and 1992."

AGGREGATE AUTHORIZATION

SEC. 2. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate, there is authorized for the period March 1, 1991, through February 29, 1992, in the aggregate of $55,873,148, and for the period March 1, 1992, through February 28, 1993, in the aggregate of $58,069,231 in accordance with the provisions of this resolution, for all Standing Committees of the Senate, the Special Committee on Aging, the Select Committee on Intelligence, and the Select Committee on Indian Affairs.

(b) Each committee referred to in subsection (a) shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1992, and February 28, 1993, respectively.

(c) Any expenses of a committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees of the committee who are paid at an annual rate, or (2) for the payment of telecommunications expenses provided by the Office of the Sergeant at Arms, United States Senate, Department of Telecommunications, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate.

(d) There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committees from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, to be paid from the appropriations account for "Expenses of Inquiries and Investigations.".

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 3. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition and Forestry is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $1,981,783, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $2,054,457, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON APPROPRIATIONS

SEC. 4. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $4,879,959, of which amount (1) not to exceed $160,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $5,058,867, of which amount (1) not to exceed $160,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ARMED SERVICES

SEC. 5. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $3,024,631, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $3,143,243, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 6. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs is authorized from March 1, 1991,

through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $3,253,043, of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $3,374,143, of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON THE BUDGET

SEC. 7. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $3,382,402, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $3,526,693, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

SEC. 8. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science and Transportation is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $3,769,571, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $12,400 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $3,930,949, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $12,400 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SEC. 9. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $2,727,832, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $2,844,527, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 10. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $2,701,485, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $2,804,715, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON FINANCE

SEC. 11. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Seante, the Committee on Finance is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its dicretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on reimbursable, or nonreinbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed

$3,461,745, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $3,559,803, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON FOREIGN RELATIONS

SEC. 12. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $2,774,561, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $2,891,437, of which amount not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 13. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $5,056,605, of which amount (1) not to exceed $49,326 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $5,267,105, of which amount (1) not to exceed $49,326 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(d)(1) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees of employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interest against the occurrence of such practices or activities;

(C) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the law of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs:

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(2) Nothing contained in this section shall effect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(3) For the purposes of this section the committee, or any duly authorized commit-

tee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, is authorized, in its, his, or their discretion (A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (B) to hold hearings, (C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (D) to administer oaths, and (E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 66 of the One Hundred First Congress, second session, are authorized to continue.

COMMITTEE ON THE JUDICIARY

SEC. 14. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1992, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department of agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $4,979,958, of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $5,171,893, of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(j) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 15. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department of agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $5,361,330, of which amount not to exceed $30,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $5,595,597, of which amount not to exceed $30,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON RULES AND ADMINISTRATION

SEC. 16. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $1,495,163, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March, 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $1,521,403, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON SMALL BUSINESS

SEC. 17. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $1,047,108, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $1,094,447, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON VETERANS' AFFAIRS

SEC. 18. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $1,202,351, of which amount not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of the Legislative Reorganization Act of 1946, as amended).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $1,252,528, of which amount not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of the Legislative Reorganization Act of 1946, as amended).

SPECIAL COMMITTEE ON AGING

SEC. 19. (a) In carrying out the duties and functions imposed by section 104 of S. Res. 4, Ninety-fifth Congress, agreed to February 4, 1977, as amended, and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28,

1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $1,213,792.

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $1,239,556.

SELECT COMMITTEE ON INTELLIGENCE

SEC. 20. (a) In carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976, in accordance with its jurisdiction under section 3(a) of such resolution, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of such resolution, the Select Committee on Intelligence is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $2,356,636, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $2,453,497, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SELECT COMMITTEE ON INDIAN AFFAIRS

SEC. 21. (a) In carrying out the duties and functions imposed by section 105 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, as amended, and in exercising the authority conferred on it by such section, the Select Committee on Indian Affairs is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this section shall not exceed $1,239,193, of which amount not to exceed $4,846 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this section shall not exceed $1,284,371, of which amount not to exceed $4,846 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SPECIAL RESERVE

SEC. 22. Of the funds authorized for the Senate committee by Senate Resolution 66, agreed to February 28, 1989, as amended, for the funding period ending on the last day of February 1991, any unexpected balance remaining after such last day shall be transferred to a special reserve for such committee, which shall not be less than the following amounts for the following committees:

Agriculture, Nutrition, and Forestry ($29,632);
Appropriations ($300,000);
Armed Services ($179,000);
Banking, Housing, and Urban Affairs ($500);
Budget ($278,606);
Commerce, Science, and Transportation ($307,138);
Energy and Natural Resources ($221,948);
Environment and Public Works ($140,000);
Finance ($48,130);
Foreign Relations ($817,853);
Governmental Affairs ($405,435);
Judiciary ($146,790);
Labor and Human Resources ($94,136);
Rules and Administration ($120,791);
Small Business ($87,683);
Veterans' Affairs ($1,000);
Aging (Special) ($39,587);
Intelligence (Select) ($189,745);
Indian Affairs (Select) ($0);

The reserve shall be available to such committee for the period commencing March 1, 1991, and ending with the close of September 30, 1991, for the purpose of (1) meeting any unpaid obligations incurred during the funding period ending on the last day of February 1991, and (2) meeting expenses of such committee incurred after such last day and prior to the close of September 30, 1991.

SEC. 23. Of the funds authorized for any Senate committee by this resolution for the funding period ending on the last day of February 1992, any unexpended balance remaining after such last day shall be transferred to a special reserve for such committee, which shall not be less than the following amounts for the following committees:

Agriculture, Nutrition, and Forestry ($14,816);
Appropriations ($150,000);
Armed Services ($89,500);
Banking, Housing and Urban Affairs ($250);
Budget ($134,315);
Commerce, Science, and Transportation ($145,760);
Energy and Natural Resources ($105,253);
Environment and Public Works ($70,000);
Finance ($24,065);
Foreign Relations ($408,926);
Governmental Affairs ($194,935);
Judiciary ($73,395);
Labor and Human Resources ($32,068);
Rules and Administration ($58,551);
Small Business ($40,344);
Veterans' Affairs ($500);
Aging (Special) ($29,000);
Intelligence (Select) ($92,884);
Indian Affairs (Select) ($0);

The reserve shall be available to such committee for the period commencing March 1, 1992, and ending with the close of September 30, 1992, for the purpose of (1) meeting any unpaid obligations incurred during the funding period ending on the last day of February 1992, and (2) meeting expenses of such committee incurred after such last day and prior to the close of September 30, 1992.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on mercenaries and drug cartels.

These hearings will take place on Wednesday, February 27, 1991, at 10 a.m., in room 216 of the Hart Senate Office Building and on Thursday, February 28, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel F. Rinzel of the subcommittee's minority staff at 224-9157.

ADDITIONAL STATEMENTS

TERRY ANDERSON

• Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,169th day that Terry Anderson has been held captive in Lebanon.•

INEVITABLE FIFTH HORSEMAN

• Mr. SIMON. Mr. President, Prof. Thomas Ferguson, of the University of Massachusetts in Boston, had an article in the New York Times, which points out the debt problem that comes with the Middle East war.

As my colleagues in the Senate know, I have been suggesting that, insofar as possible, we ought to pay for this war on a pay-as-you-go basis.

The economic reasons for doing this are obvious.

The social reasons are less obvious but even more important. We should not get into a war and think that the only people who must sacrifice are soldiers in Saudi Arabia and their families here at home. If we're going to get into a war, all of us ought to sacrifice.

If we fail to do this, we're going to have even more of a squeeze on education and health care and the other great needs of this country.

Professor Ferguson accurately comments:

> Spending on virtually everything besides the military will be even more desperately squeezed. Financial pressures on States and cities will intensify. However, many of the foregone expenditures are precisely those that are most vital to the revival of American productivity.

I urge my colleagues in the House and Senate to read Professor Ferguson's comments, and I ask to insert them in the RECORD at this point.

The article follows:

[From the New York Times, Feb. 3, 1991]

THE WAR'S INEVITABLE FIFTH HORSEMAN

(By Thomas Ferguson)

As the Four Horsemen of the Apocalypse rampage east of the Suez, yet another scenario for a short, bargain-priced war is vanishing in the sands. The ghastly implications of this "creeping Vietnamization" are clear. But human sacrifices will not be the only costs.

In modern wars, a Fifth Horseman always trails behind the more familiar quarter to claim the toll on mountains of debt run up by the armies as they fire the cash equivalent of Mercedes-Benzes back and forth at each other. In 1991, this horseman's long, black shadow already stretches far across America.

Back in November 1990, when Desert Storm was still Desert Shield, the Center for Defense Information, a private research organization in Washington, estimated that the operation added about $74 million a day—or $27 billion a year—to the military budget.

This sum, however, did not take account of subsequent deployments, later revelations that the Pentagon was paying premium prices for equipment acquired on short notice or the gigantic costs of canceled debts and foreign-aid payments funneled to third world economies devastated by the crisis. For example, the United States has already forgiven about $7 billion in loans to Egypt alone. As of last December, at least half a dozen more countries had also received money from the allied coalition.

Once the air war started—at about $500 million a day—the sky became the limit in many senses. A recent Congressional Budget Office report suggests that a short, one-month war could cost about $28 billion while a longer one of six-months would cost $86 billion. But these widely repeated figures also neglect the costs of foreign aid and debt forgiveness.

The Administration, however, argues against any tax increase, claiming that the war amounts to an extraordinary one-time expense, which should simply be rolled into the deficit.

The Bush team also suggested that the allies and the gulf states will bail out the United States by agreeing to pick up much of the tab, a claim the President advanced himself in the State of the Union address.

These assertions essentially represent a very curious new "voodoo economics" of war.

While Administration economists sit in one room of the White House explaining that the war is a one-time expense, their colleagues down the hall at the National Security Council and across town at the State Department are leaking sweeping plans to restructure the whole Middle East once the shooting dies away.

Now it is perfectly obvious that the web of bilateral treaties and special security agreements American policy makers envision for the region will be spun from threads of the purest gold. Foreign aid "loans"—better read as grants—and, particularly, foreign military assistance, are destined to skyrocket. And while the Chairman of the Federal Reserve, Alan Greenspan, argues that costs can be contained by not replenishing depreciated equipment, the postwar scenarios envision a massive pre-positioned buildup in the desert for possible future use.

The golden cloud does come with a silver lining: Saddam Hussein is an authentic monster whose departure will be extensively unlamented.

But there is a tunnel at the end of the light. Apparently unaware of how its "new world order" looks to the vast mass of poor Arabs, Washington now appears determined to throw its full weight behind a set of quasi-feudal regimes on the verge of a head-on collision with democracy and the 20th century. This we have all seen before and as we know, implies further visits by all Five Horsemen.

As for the allied promises to pay, the paltry amounts actually anted up thus far suggest that for purposes of realistic fiscal planning, these must be regarded as the equivalent of sovereign "junk bonds": worth something, but less than face value.

Nor is it reasonable, once the war ends, to expect either the gulf states or the allies to finance a Middle Eastern Pax Americana at anything remotely resembling concessionary rates. Obtaining foreign financing for two major wars cost Britain its empire; in the long run, Americans cannot expect to pay any less if they go that route. Citizens and especially the Congress, accordingly, should recall that the policy makers who now assure them that foreigners will open their wallets are the same ones who said the allies would open their markets.

The Fifth Horseman, however, is implacable. He must still be paid. How?

Probably not in steeply inflated dollars. For this to occur, the political and economic establishment would have to be prepared to cede the international role of the dollar. This is about as likely as flowing uphill.

In the end, it is all too clear who will pay. American overseas assistance to less strategic areas will be cut even more, but most of the costs will come out of the domestic civilian sector.

Spending on virtually everything besides the military will be even more desperately squeezed. Financial pressures on states and cities will intensify. However, many of the foregone expenditures are precisely those that are most vital to the revival of American productivity.

But the Fifth Horseman will claim still more in the short run, extra military spending will help pull the economy out of recession. But as the economy revives, the tumescent deficit will keep fueling total demand. To limit inflation, the Federal Reserve will have to tighten the money supply, bringing the economy right back to the devastating combination of tight money and expansive fiscal policy that defined real-life Reaganomics.

In the short run, as we learned in the 1980's, such policies can produce political business cycles substantial enough to guarantee the re-election of almost any regime. But as we also learned in the 80's, the cost in terms of long-term industrial competitiveness is steep: fixed investment by business—outside of the military sectors—is desperately squeezed, while import-competing and interest-sensitive industries like automobiles are hammered.

The Fifth Horseman's ultimate victims will thus be the middle- and working-class Americans whose real earnings will continue falling while racial and economic inequality increase.

(Thomas Ferguson is professor of political science and senior associate at the John W. McCormack Institute of Public Policy at the University of Massachusetts.)•

THE MOSCOW-IRAQ CONDITIONAL PEACE ITEMS

• Mr. EXON. Mr. President, in my view the President took the stand today that was the correct one, as difficult a decision as I know that must have been for him.

Last night after hearing the Soviet-Iraq proposal, I said I did not believe that the President would or should accept it. The deadline of Saturday noon that the President issued on behalf of the coalition was clear and unequivocal and should end the diplomatic banter by the Soviets and the Iraqis, obviously designed to protect Saddam and his future. This is something I believe totally unacceptable.

Had the offer been accepted, Saddam would have been retained as the leader of Iraq for as far as we can see in the future and I believe that in the long term he would have been declared the victor in this struggle. This would be unconscionable.

With the ultimatum given today, Saddam Hussein clearly has in his hands the decision to retreat and withdraw and forever give up his dream of unlimited power and of force in the world and otherwise he is going to force a great deal of death and hardship on all.•

THE SHAPE OF THE POST-GULF WAR, MIDDLE EAST

• Mr. SIMON. Mr. President, through a mutual friend, Myron Cherry of Chicago, I have had the opportunity to come into contact with Jawad Hashim, former Presidential adviser to Saddam Hussein, who is familiar with most of the major leaders in Iraq and very familiar with the economic situation there.

Recently, he sent me a paper titled "The Shape of the Post-Gulf War, Middle East."

Considering his background, it contains important insight and suggests that we ought to be paying much more attention to the postwar situation.

I am pleased that Secretary of State Jim Baker, in his recent testimony before our Foreign Relations Committee, has focused on that.

But Jawad Hashim's statement contains so much insight into the overall situation, that I urge my colleagues of the House and Senate to read it.

I ask to insert it into the RECORD at this point.

The statement follows:

THE SHAPE OF THE POST-GULF WAR, MIDDLE EAST

AN OPINION

(By Jawad Hashim, M.Sc. Ph.D.)

1. On Monday, January 14, 1991, the New York Times published an article on the effectiveness of U.N. sanctions against Iraq. The article was a summary of the extensive analysis of 115 cases of economic sanctions since World War One. Estimated by Gary C. Hufbauer and Kimberly A. Elliott, the authors concluded that the cost of the embargo would reach 48% of Iraq's Gross National Product, which makes the probability of sanctions succeeding nearly 100% over a short period of time. The reasons for that

probable and dramatic success were attributed to the following factors:

(i) 100% of Iraq's foreign trade and financial resources are subject to sanctions;

(ii) The resulting loss of 48% of Iraq's GNP is twenty times the average economic impact in other successful episodes;

(iii) The embargo of Iraq is comprehensive and draconian.

2. I, for one, always thought that even with 50% chance of success, the sanctions imposed by the U.N. Security Council against Iraq would eventually bring the Iraqi Government to its knees.

The Iraqi economy has for some years been so badly managed that within a maximum period of 18 months there could have been a change of Government. That change could have resulted in a negotiated settlement of the Kuwaiti crisis. It would only be a matter of time for the Iraqi regime to collapse, because oil and credit embargoes were sufficient to create enormous difficulties, bearing in mind that the Government fought an eight-year war with Iran dependent on two main sources of revenue: aid from the Gulf States and credit lines from the United States and other Western countries.

3. On January 17, 1991 at 2:44 a.m., Baghdad time, the war against Iraq erupted. Military communiques commenced to flow and each warring party is claiming victory or expecting one. It behooves us now to think positively towards working out the best possible scenario which genuinely makes the outcome of this war a starting point towards the solving of Iraq's problems, the Arab countries' problems and the Arab-Israeli issue. But, first I would like to emphasize that the opinion expressed in this document relies on:

(i) Personal experience as a Minister and Presidential Advisor who closely worked with Saddam Hussein and the Ba'ath regime during the period 1968 to 1982 and thus privy to a considerable number of very confidential matters including Saddam's perception of the Gulf region in general and Kuwait in particular;

(ii) Monitoring the crisis through international media and discussions with American, British and other Western politicians.

4. I set out three scenarios for post-war Iraq within the context of the Middle East with a view to long-term to stabilize the region politically and economically including the international oil market.

5. This document also deals with three major matters:

a background on the Arab region;

post-Gulf war scenarios;

the international oil market;

But, before doing so, I should emphasize the following:

5.1 The majority, if not all, Iraqis strongly believe that Saddam Hussein was created and vigorously supported by the West, despite continuous warnings from many quarters of his ruthless and fearful regime.

5.2 The people of Iraq act as they do simply because they are told to, not because they share the regime's convictions. It is, therefore, important to make a very clear distinction between the people of Iraq and the governing regime in order to dispel any doubts or misunderstanding about the role of the Iraqi people. They have been brutalized and downtrodden for the past twenty years. This war should not be pursued to the point of increasing the suffering of the Iraqis, hence creating internal support for the regime.

5.3 War is no more than the climax of tragedy that touches the most extreme elements of human spirit. It is no more than the eruption of hostilities and violence with huge loss of human lives within a political event. Unless this war comes to an end quickly, the world will be living its effects for decades to come. Hence it is imperative for the United States, Britain, and indeed the international community to focus as a matter of urgency on the political and economic structure within which the Middle East should be reshaped. This point is of great importance because since August 2, 1990, the American Administration focused only on the "diplomatic" and military aspects of the crisis.

From the debates in the American Congress, the British Parliament and from various analyses, it is quite apparent that there has not been enough thinking about the shape of peace. Indeed, the "new world order" has not even been defined in proper and clear terms seeming to remain some ethereal hope.

5.4 It is widely accepted that with power comes responsibility. Hence, it is for the United States and Britain in particular to frame a genuine peace plan for the region and to bring about its implementation. Iraq, naturally, is outmatched in all departments of the allied war machine and military intelligence. This in inself places a special burden on the United States to refrain from and indeed to resist any impulse to destroy Iraq. It is not in the world's long-term interests to reduce Iraq and its people to some primitive level of existence.

The outcome of this war and so in effect its ultimate aim should be the attainment of a final settlement of the regions problems leading to a stable political climate.

If the war drags on and Iraq's infrastructure is destroyed and the Ba'athist regime stays in power, then the Americans, British and other allies will be perceived by the people of the Arab region as vengeful crusaders. The war would then cut the deepest wounds and millions of Arabs would turn to embrace fundamentalism fueled with feelings of anger and resentment of their present rulers, the United States and the West in general.

I suspect that Egypt will be the first casualty in this event.

6. Historically, Iraq and Iran were the two major regional powers in the Gulf because of:

(i) their population and levels of cultural and educational achievement;

(ii) their enormous economic resources.

Other Gulf states (Saudi Arabia, UAE, Qatar, Oman, Bahrain) put together cannot match Iraq or Iran in these terms.

7. The Arab Region: Background.

7.1 The Arab region has been and, of course, still is a troublesome part of the world. The region is like the human body and tends to reject foreign objects even if that object could be a possible curing medicine.

7.2 The early forties witnessed most Arab countries achieving independence. Since then, they have been ruled by a variety of Government structures. Democracy, however, is non-existent and no Arab king or president is accountable to his people.

It is interesting to note that between the early forties and 1989 the Arab region has witnessed a number of coups and attempted coups. As far as I can recall, they were as follows:

Syria: 15 attempted coups; 8 successful;

Iraq: 17 attempted coups; 6 successful;

North Yemen: 9 attempted coups; 4 successful;

South Yemen: 4 attempted coups; all successful;

Libya: 7 attempted coups; 1 successful;

Morocco: 5 attempted coups; none successful;

Jordan: 4 attempted coups; none successful;

Egypt: 4 attempted coups; 2 successful;

Lebanon: 4 attempted coups; none successful;

Tunisia: 5 attempted coups; one successful;

Oman: 4 attempted coups; 2 successful;

U.A.E.: 1 unsuccessful attempted coup;

Qatar: 1 successful coup;

Bahrain: 1 unsuccessful attempted coup.

7.3 As a result of all these attempted coups, whether successful or not, the people of the region suffered politically, economically and socially.

There are also recognizable phenomena in almost all Arab countries, which may be summarized:

Revocation of each countries constitution and replacement with "Provisional Constitutions" which are, in turn, abrogated every now and then to be replaced by yet further "provisional" codes.

The creation of revolutionary courts, special courts and similar bodies, with no right of appeal in the majority of instances.

Centralization of government authority and the restriction of personal freedom.

Creation of one-party systems and the prohibition of multiple party organizations.

Continuous in-fighting in attempts to seize power and rule by the barrel of the gun leading to horrifying abuses of human rights.

The fall of five monarchies: Egypt (1952), Tunisia (1956), Iraq (1958), Yemen (1962) and Libya (1969).

7.4 Despite those negative phenomena, Arab countries lived, until the late sixties, amid the euphoria of Arab nationalism and unity.

The rulers, by means of state controlled media and educational systems sold two dreams to their people: economic development and the liberation of Palestine.

The dreams were rekindled, nurtured and promoted by President Nasser of Egypt and the Ba'ath Party. After the defeat of Arab armies in 1967 and the subsequent death of Nasser in 1970, the call for Arab unity began to fade and the pattern of Arab politics took a new dimension, especially after the huge increase in oil revenues.

The economics of oil in itself introduced new parameters to the region, which became more unstable as its social structure changed and we were (and still are) faced with two distinct strata of the Arab population: the rich and the poor, the "haves" and the "have-nots". Pan-Arab ideology has been further shattered by the conduct and brutality of Arab leaders who were the proponents of that ideology.

7.5 Looking at a map we can observe that, from the political viewpoint, the region is ruled by two systems of Government: eight monarchies or family skeikhdoms; and thirteen republics.

Note that the monarchies and sheikhdoms are:

(i) all (except Morocco) clustered geographically in the South-Eastern part of the Arab region and have common borders with Saudia Arabia;

(ii) all (with the exception of Morocco) ruled by family and tribal structures;

(iii) all (except Morocco and Jordan) producers and exporters of oil, enjoying huge financial surpluses but with sparse populations;

(iv) all autocratic governments depending either on religious or tribal allegiance or both, to justify their legitimacy.

The "republican" Arab governments, on the other hand, are very unusual. Though

they are "Republics", none of them have any legitimacy, i.e., no government was properly elected by the people. They rule, and justify their rule either by:

(i) ideology; or

(ii) dictatorship.

These "Republics" govern through a variety of structures including:

Revolutionary Councils;

National Fronts;

One Party Systems;

Leading Party Systems.

It distresses me, as an Arab, that I have never been able to exercise any voting right in my country through a genuine democratic process. The assemblies which those governments created, whether called "Parliaments" or "National Assemblies" or "Peoples' Assemblies", are no more than phony structures created to provide an aura of legitimacy to the ruling elite. As such they are an insult to the intelligence and dignity of their people—a denial of freedom.

7.6 In examining whether or not there are significant differences between Arab "Monarchies" and Arab "Republics" in their practice of governing, it is my opinion, there are no fundamental differences at all. Both systems share common ground:

(i) All systems are no more than dictatorships. Personal, family and tribal loyalties play an important role in the process of decision-making;

(ii) All systems live in continuous fear, thus surrounding themselves with various and innovative structures of protection such as: national guards, republican guards, popular militia and the like. The fire power of these "guards" is not less than that of each countries regular army;

(iii) All systems have a strong and powerful internal security apparatus, armed with up-to-date technology, for torture and suppression;

(iv) All systems follow a policy of spreading fear and threatening physical liquidation making it known that there is no other alternative;

(v) All systems create, every now and then, external crises to divert attention from domestic unrest;

(vi) All systems, in one way or another, sell dreams to their people;

(vii) None of the Arab rulers genuinely attempted to build up democratic institutions in order to develop and allow the evolution of a political system to make the countries they rule more stable, more accountable to their subjects.

All of these factors have created citizens with dual personalities, afraid to express their opinions, unable to enhance their knowledge and practically living in continuous fear.

Fear attracts as many people as it repels and those afraid can do nothing.

8. The Arab Region: Post-War Scenario:

Despite the pain and destruction associated with this war and the anti-American and British feelings in the region, I believe that there comes an opportunity to deal with the outcome of this war in a positive manner and to overcome any difficulty of managing a successful political re-entry. The United States and European allies (especially Britain) should not miss this opportunity to bring into the Arab region genuine political and economic reforms bearing in mind the following points:

(i) There can be no stability without true political reforms and the establishment of democratic system of Governments;

(ii) There can be no stable balance of power in the region without a redistribution of wealth to reduce the immense disparity between the "haves" and the "have-nots";

(iii) That the Israeli-Palestinian conflict constitutes the root and the substance of the continuous crisis in the region and Arab countries' increasing military expenditure. It is the focal point of inflammation.

8.1 *Scenario One:*

(i) Iraq is laid waste and defeated but Saddam Hussein and the Ba'ath regime remains in power in Iraq;

(ii) The Gulf States' system of Governments remains the same;

(iii) Iraq is required to pay war reparations.

8.2 *Scenario Two:*

(i) Iraq is destroyed and defeated but Saddam Hussein and the Ba'ath Regime is removed from power and replaced with another military government;

(ii) The Gulf States' system of Governments remains the same;

(iii) Iraq is not required to pay war reparations.

8.3 *Scenario Three:*

(i) Iraq is decimated and defeated, Saddam and the Ba'ath Regime removed and a civilian transitional government takes over.

(ii) Gulf states are restructured as follows:

U.A.E., Bahrain and Qatar become part of Saudi Arabia;

Kuwait remains part of Iraq;

(iii) Iraq is not required to pay war reparations.

(iv) The whole Arab region starts genuinely to proceed towards the democratization of the systems of Government.

(v) Elections are held under the scrutiny of an international inspectorate.

8.4 The first scenario in particular and the second scenario to a lesser extent have some negative impacts. For if the existing "systems of government" in the Arab region are not changed to true democratic systems, solidly based on democratic institutions, then for the coming thirty years, the whole region will be much worse off than now because:

(i) History has shown that "family" rule leads to political, social and economic disaster.

(ii) Instead of the "Palestine" issue, the rulers will find some other issue to create a cover for their military buildup and expenditure, to the detriment of economic growth which, in my opinion, is much more important for the well-being of the local population in particular and the world community in general;

(iii) The region will face an acute political crisis, not because of the oil surplus and the haves and have-nots, but because of a new element much more important than oil, namely: the scarcity of water. The issue of water has already arisen between Syria, Turkey, Iraq, and Iran;

(iv) The defeat of Iraq, though temporarily bolstering the Gulf states, would certainly lead the Arab masses to fundamentalism and boil up in the United States, Britain and other allies' face and scar them for decades to come. It will also leave open the eastern flank of the Arab region to territorial and political disintegration.

8.5 Scenario three, may seem far-fetched, but in my opinion it is the scenario which will bring, in the long term, stability to the region and so to the world. It will create three centers of local power in the region: Iraq, Iran and Saudi Arabia. It would further create a Middle East that is capable of political modernization based on freedom. The United States and Western democracies, who embraced and encouraged the democratic tendency in Poland and other Eastern European countries must not turn their backs on the horrifying consequences of continuing undemocratic, brutal and corrupt systems of government in the Arab region.

9. Iraq: Post War:

In order to bring this war to a quick end and avoid the alienation of Iraqi people, to reduce their suffering and avoid possible militant tendencies in the region, the United States and its Western Allies should move quickly towards the implementation of a postwar plan. The plan should consider the following:

(i) The United States, Europe and Japan should come up with a form of Marshall plan to rebuild Iraq immediately. The implementation of the plan could be under the supervision of either the "Regional Development Bank" proposed below, under the World Bank, or by way of a Committee of Experts;

(ii) A regional development bank, akin to the World Bank, be established with generous contributions from the United States, Europe, Japan and the Gulf states to develop the non-oil exporting Arab countries;

(iii) All border and water disputes between Turkey, Syria, Iran and Iraq be referred to the International Court of Justice;

(iv) Iraq's access to the sea should be resolved;

(v) All United Nations Resolutions imposing economic sanctions against Iraq should be revoked;

(vi) All Iraqi foreign assets should be released;

(vii) A civilian transitional government be set up on the same lines as the Government of post-1958 Revolution, i.e.

A Sovereign Council of three members: a Shiite, a Sunni and a Kurd. Chairmanship of the Council revolves every six months. The Council assumes the duties of "President".

A Prime Minister (preferably Shiite) with full executive powers.

Within a maximum period of two years a democratic election is to be held with full proportional representation.

(viii) A British style of permanent Civil Service be established;

(ix) A two house parliament along American lines be established.

10. The International Oil Market:

10.1 The international financial community will await the outcome of the Gulf crisis mainly concerned over price and production patterns of oil. Not only because oil is the largest internationally traded commodity, commanding 20% of the world's merchandise trade, but also since any uncontained upheaval in the price and production structure of oil will cause untold damage to the world economy.

10.2 Over the past three decades certain factors have contributed to the present anxiety:

(i) The high economic growth which the industrialized countries experienced in the post World War II era was fueled by cheap oil. Due to depressed prices, the proportion of oil of the total energy used was progressively increased from 29% in 1950 to 39% in 1960 and to about 55% in the eighties;

(ii) In 1973, when the first major oil price increase took place, the shock that followed was not so much a result of the absolute change in the price level, but more importantly the sudden realization that the world could no longer finance economic growth on what has been a cheap source of energy and a building block of many chemically produced products;

(iii) Since its recognition as an internationally important and vital growth re-

source, oil has suffered from a singularly incoherent, irrational and very shortsighted policy of pricing and production.

10.3 This will turn out to be the most crucial issue in the last decade of this century. The destiny of nations and their peoples depends on the orderly conduct of international economic growth.

Can one simply allow "free market forces" to determine this destiny?

In my opinion, it is the task of the governments of industrialized nations and of oil-producing countries to put the long-term interests of their people at the top of their list of priorities. At the present, we are attempting to share out the inheritance of future generations; the environment in which they will live, without any effective consideration of their future.

10.4 As an optimist, I believe that, despite the present depressing international situation, there are certain positive elements:

(i) There is greater awareness and, indeed, recognition of the fact that national economies are much more inter-dependent than previously acknowledged;

(ii) Pressure for integration and interdependence is likely to increase more rapidly in years to come, triggered by advanced telecommunications, mass media and micro-chip technology in the face of shrinking national resources, environmental and political forces;

(iii) There is growing awareness among people of different nations that their problems are becoming more complementary than contradictory.

10.5 Such a situation will eventually impress upon decision-makers, and indeed governments, the need to move from the micro self-interest level to a macro view that takes into account the needs, rights and obligations of others. To bring stability and discipline to the oil market and hence to the international financial situation, a comprehensive and objective view of the interaction between consumers and producers should be taken. To achieve this we must accept:

(i) The era of cheap energy is over, and the world cannot depend entirely upon an oil-based energy source.

(ii) Oil will continue to play an important role in any future supply mix. However, since the mid-seventies, OPEC countries have assumed the unenviable role of the world's residual suppliers. Such a position should continue but through positive dialogue and the realization of commonality of purpose rather than conflict and division.

(iii) International investment and environmental promoters and managers should avail themselves of the financial surpluses of oil-exporting countries. It therefore behoves the industrialized nations to remove barriers to international investment and to encourage the fruitful investment of oil funds. Such a policy should be coupled with international agreement on the protection of foreign investment and the guarantee of foreign assets. In other words, politically motivated actions which may result in an adverse discriminatory effect on foreign investment must be avoided for the benefit of the international community. This, of course, must be coupled with a stable and planned supply of oil and suitably funded and managed research into alternatives.

10.6 Who should bring together the major consumers and oil producers? Who should set out the agenda that will inspire confidence and stability in the international markets, and lead to long-term policies and objectives?

In my view, the United Nations is perhaps best qualified to organize such an international gathering, because:

(i) It comprises both major oil producers and major oil consumers;

(ii) Its leading members are industrial countries and they are important participants in the G7 and the European Community;

(iii) Re-inforced by Britain it enjoys a commonwealth relationship with many developing countries whose interest in the long-term establishment of stability in the financial and economic order is of paramount importance to their national development.

Such a call by the major players in the U.N. for an effort to bring rationalization to the oil situation should be led by the European Community, the United States, and by other non-OPEC producers. Never again should an upwards spiral in oil prices cause the shock and sufferings of the past.

FEBRUARY 5, 1991.●

H.R. 555, THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT AMENDMENTS OF 1991

● Mr. ADAMS. Mr. President, I rise today in support of H.R. 555, the Soldiers' and Sailors' Civil Relief Act Amendments of 1991. Over 500,000 American troops are presently serving in the Persian Gulf. All of these troops are at risk, and that risk will increase greatly if and when allied forces decide to undertake a ground offensive. Though the decision to initiate war in the gulf has caused divisiveness within this Chamber, and outbreaks of protest around the country, I am proud of Congress' and the American people's overwhelming, unified support for the troops. While I continue to pray for the safety and well being of our troops, and for a quick resolution to the war, H.R. 555 provides the opportunity to offer tangible support for U.S. forces. Like the COLA and agent orange bills passed earlier in the session, passage of H.R. 555 will reassure out troops that their sacrifices in the name of our country will continue to be honored long after they return from the battlefield. I urge unanimous support for the Soldiers' and Sailors' Civil Relief Act Amendments of 1991.

As a veteran, I understand the strains of participation in military actions. The Soldiers' and Sailors' Civil Relief Act was first passed at the outset of World War II to moderate the tremendous burdens that overseas duty can pose to service members and their families. Though updated twice during the course of the Vietnam conflict, the proposal before us today offers a comprehensive overhaul of the original Soldiers' and Sailors' Act. Today, our military is an All Volunteer Force whose combat success is predicated on a total force policy. Instead of relying on the draft to provide a large pool of potential fighting forces, present policies rely heavily on Selected Reserve and National Guard units to supply a significant portion of our Nation's defenses. The burden of being called to active duty, particularly for those who leave civilian careers and responsibilities behind as well as their families, has increased dramatically. H.R. 555 will go a long way to help U.S. service men and women deal with the potential financial and other hardships of their service.

First among the provisions of H.R. 555 is protection against eviction or distress of family members. This provision, which previously protected families paying rent up to $150 per month, raises that amount to $1,200. Housing issues continue to dominate the conerns of American families, and this increase will keep affected families in their homes.

Another crucial provision allows active duty personnel to suspend professional liability insurance protection—and premium payments—and to stay any court actions covered by their policy. Over 60 percent of the total Desert Storm medical capability comes from reserve personnel, yet premium payments for many doctors exceed military pay for an entire year. Because of the ongoing nature of professional liability claims, continued coverage is an absolute necessity. This provision will protect reserve troops from the prospect of being financially crippled by their service in the Persian Gulf.

The availability of health insurance, and the high associated cost, is a concern to all American families, and may present a particular problem to Reserve Forces called to active duty. The act before us today, which guarantees the reinstatement of health insurance upon reemployment in a previously held civilian position, allays those concerns. Furthermore, the act provides for reinstatement of the original policy immediately upon return to the civilian position, and allows no exclusions for conditions which may arise while the policyholder is on active duty. This will ensure the continued coverage of family members for the duration of the conflict.

In conjunction with the health-insurance provision, the act includes an unequivocal statement on veterans reemployment rights, clarifying title 38 of United States Code. This clarification is the most basic assurance we can give our veterans that their civilian jobs will be there for them upon their return.

Finally, among certain other benefits, the act provides that exercise of the rights guaranteed will not affect future financial or credit status. This protection is critical to reassure personnel returning from the gulf they can take full advantage of the acts provisions without fear of retaliation from creditors or insurers. The Soldiers' and Sailors' Civil Relief Act is more than a token of congressional support for American troops. It is a concrete package of financial support and assistance

for active duty troops and their families. This final provision ensures that the act will be observed and honored throughout the Nation.

As long as men and women continue to serve this country in the Armed Forces, we must continue to recognize and address the problems they and their loved ones face as a result of their service. I am a committed supporter of veterans and veterans causes, and am particularly pleased to have been appointed to Senate Persian Gulf Military Personnel and Families Task Force. Yesterday, the task force reviewed more than 30 separate bills and proposals to benefit military personnel stationed in the Persian Gulf or their families. Today we forwarded a series of those bills, including a proposal I promoted to allocate funds for school counselors to help children whose parents are deployed in the gulf, to the White House Office of Management and Budget for cost estimates. These initiatives are on a legislative fast track, and will provide real benefits for those deployed and their families.

With passage of the Soldiers' and Sailors' Civil Relief Act Amendments of 1991, we begin to address the real needs of our Armed Forces presently serving in the Persian Gulf. Adoption of the act will send a particularly strong signal to those troops called from the Guard and the Reserves who left jobs and families behind to serve their country. In so doing, we can encourage Reserve and Guard personnel to stay in the armed services after their period of active duty has ended, and continue the all-volunteer tradition that has served our country so well. My support of H.R. 555 symbolizes my pride in the entire contingent of U.S. troops presently serving in the gulf, particularly the 6,000 brave men and women of Washington State. I urge my colleagues to join me in supporting this legislation.•

THE PERSIAN GULF CRISIS GIVES SCHOLARS A CHANCE TO ENCOURAGE MORE ACCURATE DEPICTIONS OF ARABS

• Mr. SIMON. Mr. President, I am concerned by the rising indications of attacks against people because of the groups they belong to.

This phenomena is occurring on our campuses and in communities everywhere.

The Washington Post recently ran a story indicating that anti-Semitic acts have almost doubled over the last year in the D.C. metropolitan area.

The Chicago Sun-Times has reported that anti-Arab activities have grown substantially since the war.

The particular danger at a time when we are in conflict with Iraq that Iraqi- and Arab-Americans will be treated unfairly.

We have to learn the simple lesson that people are people, and judge them as individuals and not because of any racial or religious or national or ethnic group they belong to.

I recently had the opportunity to read an article that appeared in the Chronicle of Higher Education written by Prof. Jack Shaheen of Southern Illinois University at Edwardsville, who is a professor in mass communications there.

He writes about the depiction of Arab-Americans in movies, and while I am no expert in the field, I fear that what he has to say is accurate.

I also recently wrote a column for the newspapers in my State commenting on this whole question of hatred against groups.

I ask to insert into the CONGRESSIONAL RECORD both the column I wrote and the article by Prof. Jack Shaheen.

The material follows:

THE PERSIAN GULF CRISIS GIVES SCHOLARS A CHANCE TO ENCOURAGE MORE ACCURATE DEPICTIONS OF ARABS

(By Jack G. Shaheen)

Operation Desert Shield has transported more than 200,000 American military men and women to Saudi Arabia. Thousands of armed forces from Egypt, Morocco, Syria, and other Arab countries are stationed alongside U.S. troops in the Saudi desert. How much do Americans, particularly members of our armed forces, know about the Arab peoples?

Prior to the Persian Gulf crisis, many Americans had probably never met an Egyptian, a Saudi, or a Syrian; most had never visited an Arab country. Their knowledge of Arabs came from the mass media, which provide virtually all the images average Americans have of the people of the world.

Yet the media's Arab lacks a human face. Images on television and movie screens present the Arab as a bogeyman, the quintessential Other. Nothing is shown of the Arab world's tradition of hospitality or its rich culture and history. We are shown nothing of value about its principal religion, Islam, a faith embraced by some 180 million Arabs in 21 nations.

Plato recognized the power of fiction when he said, "Those who tell the stories also rule society." In more recent times, Professor George Gerbner of the Annenberg School of Communications has said, "If you can control the storytelling of a nation, you don't have to worry about who makes the laws."

For nearly two decades, I have studied how the Arab people are depicted in our culture, giving special emphasis to the "entertaining" images of television programs and motion pictures. My research has produced convincing evidence that lurid and insidious portraits and themes are the media's staple fare. The abhorrence of the Arab has embedded itself firmly in the psyche of viewers. In more than 450 feature films and hundreds of television programs that I studied, producers bombarded audiences with rigid and repulsive depictions that demonized and delegitimized the Arab. In the process, they have created a mythical "Ay-rabland," an endless desert with occasional oil wells, tents, 12th-century palaces, goats, and camels. Emotions are primitive, with greed and lust dominant; compassion and sensitivity are virtually non-existent. These images do not just entertain; they narrow our vision and blur reality. Most Arabs are poor, not rich; they are farmers, not desert nomads; they have never mounted a camel, lived in a tent, or seen an oil well.

What are the predominant portrayals in the media? Arab males are billionaires and bombers. They are corrupt, dimwitted, sneaky, hook-nosed, obese, oily, and oversexed. Only two basic categories exist: wealthy sheiks and grotesque, seething-at-the-mouth terrorists. Arab women fare little better. They appear as obese belly dancers or as chattel—mindless harem maidens or silent bundles of black cloth who carry jugs on their heads as they trek across the desert behind camels.

On television and in motion pictures, the media's sheik is projected as uncultured and ruthless, attempting to buy media conglomerates (*Network*, 1977); destroy the world's economy (*Rollover*, 1981); use nuclear weapons against America and Israel (*Wrong is Right*, 1982); influence foreign policies (*Protocol*, 1984); and kidnap Western women (*Jewel of the Nile*, 1985). The sheik image parallels the image of the Jew in Nazi-inspired German films. Just as the Jew was made the scapegoat for Germany's problems in such movies as *Jüd Suss* (1940), today the sheik appears as a swarthy menace lurking behind imbalances in our own economic life.

As for the Palestinian-as-terrorist image, the stereotype has evolved over a period of four decades. There are numerous similarities between the savage American Indian depicted in early Westerns and the dehumanized Palestinian portrayed in current movie dramas. In the 1980's, 10 of the 11 feature films that focused on the Palestinian portrayed him as Enemy Number One. Made-for-television movies such as *Hostage Flight* (1985), *Terrorist on Trial* (1988), and *Voyage of Terror* (1990), augment the film image. Producers selectively frame the Palestinian as a demonic beast with neither compunction nor compassion, who abducts, abuses, and butchers men, women, and children.

What is forgotten in all this is that the great majority of Palestinians, like all other human beings, seek peace and abhor violence. Yet, on silver screens Palestinians, adorned in fatigues and kuffiyehs, almost never appear as victims of violence or even as normal human beings. When, if ever, has the viewer seen a Palestinian embracing his wife or children, writing poetry, or attending the sick? As journalist Edward R. Murrow said, what we do not see is often as important, if not more important, as what we do see.

Print journalists help perpetuate the stereotype. Recently, Meg Greenfield, the editorial-page editor of the *Washington Post*, wrote in a *Newsweek* column that Muslim women are slavish, submissive, and forced to stay at home. She noted "the contempt with which the Saudis treat women." One wonders where she obtained this information and how extensive her contacts with Saudis actually have been. A letter to the editor recently printed in the *Chicago Tribune* supplemented Greenfield's thesis: In Saudi Arabia, the writer asked, "Why should our female soldiers have to endure the baleful, lustful stares of the Arabs?" This remark is on a par with past hate-mongering stereotypes of Jews lusting for money and blacks lusting for white women.

Although there are nearly 500 million Muslim women—the Muslim world ranges from Guinea on the west coast of Africa to Borneo in the South China Sea—the most distorted and misunderstood aspect of Islam concern the status of women. For centuries Muslim

women had property and legal rights greater than those afforded to women in Europe and North America. The media, however, usually portray Arab women as mute, uneducated, unattractive, enslaved beings who exist solely to serve men. It is true that in Western eyes there are problematic aspects to the status of Arab women, just as there are problematic aspects to the status of Western women from an Arab perspective. In the United States and in the 14 Arab nations I have visited, I have come to know women, Muslim and Christian, who are protected, loved, honored, and respected for being physicians, teachers, journalists, architects, and/or homemakers. We almost never see Arab women portrayed in those roles in the entertainment media, much less anyone modeled after Anwar Sadat's widow, Jihan, whose life is clearly the antithesis of the prevailing stereotype.

Who benefits when people are denigrated? All groups contain some Attila-the-Hun types, but they are in the minority. History teaches us that a major obstacle to world peace is the tendency of image makers to dehumanize others and to enhance myths. As a recent *New York Times* editorial states: "Bigotry thrives on slanderous stereotypes, and the crazed Arab is today's version of the Teutonic hordes and the yellow peril. . . . To hold a diverse Arab world collectively responsible for a single leader's misdeeds traduces an entire people."

Members of the academic community often play an important role in producing and critically analyzing portraits of various groups. But most have ignored the harm done by the Arab stereotypes. Those who do examine this phenomenon risk being accused of being prejudiced themselves or of promoting some hidden agenda. While researching the image, for example, I was characterized by some academics as an "anti-Israeli Arab lover" who engages in "Arab propaganda."

Why was my research attacked? Several possibilities exist. Did the accusers have their own prejudices? Is there an assumption that we do not need to know the Arab people? Because of the Arab-Israeli conflict, which frequently clouds scholarly objectivity with deeply held fears for the future of countries in the region, some academics label research into the media's depiction of Arabs as being pro-Arab and anti-Israeli, ignoring the fact that numerous Jewish scholars have also criticized the Arab stereotype. My Arab heritage is occasionally brandished as an excuse to discount my studies by people who would never consider advancing the equally absurd notion that blacks or women cannot objectively study their own groups.

College administrators and heads of departments actively and rightly seek out Jewish, Hispanic, Asian, female, and black scholars to teach courses related to their particular racial and ethnic backgrounds. The presence of those faculty members reflects a university's sensitivity and commitment to increasing understanding of minorities and ethnic groups. Yet, to my knowledge, no university offers classes studying the Arab image in popular culture; no university actively seeks to recruit faculty members who could address that need.

Some academics, notably film historians and those who study perceptions of racial and ethnics groups, women, and the elderly, are beginning to recognize the importance of including Arab portraits in their analyses of pervasive cultural images.

Soon after he launched Operation Desert Shield, President Bush said that the actions of Saddam Hussein went "against the tradition of Arab hospitality, against the tradition of Islam." The President's words help dilute prejudice by debunking prepackaged Arab stereotypes. We need more such high-level declarations to encourage us to examine carefully the realities of the region, both bad and good.

The current crisis in the Persian Gulf gives scholars the chance to promote more accurate portraits of Arabs. They could challenge students and the general public to look beyond the obvious by focusing on the telling effects of myths. As President John F. Kennedy said: "The great enemy of truth is very often not the lie, deliberate, contrived and dishonest, but the myth, persistent, persuasive, and realistic."

Popular culture's messages teach us whom to love and whom to hate. There is a dangerous and cumulative effect when such messages remain unchallenged. I am confident that educators will eventually define, document, and discuss the racism prevalent in the media's images of Arabs. Our present preoccupation with Saddam Hussein and his villainy should not blind educators to the need for that effort. The ultimate result should be an image of the Arab as neither saint nor devil, but as a fellow human being, with all the potentials and frailties that condition implies.

(Jack Shaheen is professor of mass communications at Southern Illinois University at Edwardsville and author of The TV Arab (Bowling Green State University Press, 1984).•

WARNING SIGNS IN ADMINISTRATION'S CIVIL RIGHTS RECORD

• Mr. SIMON. Mr. President, it was discouraging to read the statement of Assistant Attorney General for Civil Rights, John R. Dunne. I had hopes that the appointment of John Dunne, after the very weak attempted appointment of William Lucas as Assistant Attorney General for Civil Rights, might indicate that the administration was willing to move ahead.

Regrettably, John Dunne apparently is following the administration line.

My hope is that John Dunne will examine his conscience carefully, and if he does not see the administration standing up on civil rights, he will do the honorable thing and resign, and tell the world why he is resigning.

Mr. Dunne's statement to the House Judiciary Subcommittee on Civil and Constitutional Rights makes it appear that the great threat to our society is not racism but quotas.

In the conference on this civil rights bill last year, we went out of our way to make clear, beyond any question, that quotas were not a part of affirmative action in this Nation.

Yet the President decided to use quotas as an excuse of vetoing the bill.

The uproar over minority scholarships came after the Assistant Secretary for Education consulted with some people in the White House. Who he consulted with is not clear.

The combination suggests that in 1992, the President intends to campaign in a way that divides America rather than uniting America. He won in that way, in part, in 1988 with the Willie Horton ad, but I hope there will be citizens of both political parties who will stand up and denounce this drift in the same divisive direction.

There is clearly a lack of sensitivity by the administration on the questions faced by less fortunate Americans of whatever color.

We need leadership that pays attention to the problems of less fortunate Americans. We need leadership that brings Americans together, and John Dunne's statement to the House committee is a great disappointment.

I was pleased to note the comment of Congressman JOHN CONYERS of Michigan at the hearing, "The nearest thing that I know of to a quota is the disproportionate number of African-Americans in the Armed Forces in the Persian Gulf."

John Dunne has to make a decision whether he is going to follow the lead of an administration that is anemic in the area of moving on the problem of racism. I hope he rescues his own reputation by standing up.

I ask to insert the New York Times article by Steven A. Holmes into the RECORD at this point.

The article follows:

RIGHTS BILL SEEN AS AIDING QUOTAS: U.S. AIDE'S COMMENTS SIGNAL HARDENING IN OPPOSITION

(By Steven A. Holmes)

WASHINGTON, February 7.—A top Justice Department official said today that hiring and promotion quotas favoring minority members and women are prevalent in American society, and that a civil rights bill pending in Congress would only make quotas more pervasive.

"Quotas, regrettably, are alive and well," the official, John R. Dunne, Assistant Attorney General for Civil Rights, told the House Judiciary Subcommittee on Civil and Constitutional Rights.

Mr. Dunne's statement was the first official response to the introduction of the proposed Civil Rights Act of 1991, meant to counter discrimination in hiring and promotions. A somewhat weaker anti-discrimination bill was passed by Congress last year but vetoed by President Bush.

The two sides remain far apart on the bill as indicated by Mr. Dunne's remarks, including his comments about one of the Supreme Court rulings that the bill is intended to overturn.

Last year the Administration, which had been seeking to cut longtime Democratic support among blacks, conceded the need to modify a key 1989 Supreme Court decision, Wards Cove Packing Company v. Atonio. Proponents of the bills maintain that the Court's ruling made it easier for companies to defend hiring practices resulting in exclusion of minority groups or women. If businesses find it difficult to prevail in court cases, proponents assert, they will turn to quotas to avoid litigation.

ADMINISTRATION SHIFT SIGNALED

Today, signaling a harder line on Wards Cove by the Administration, Mr. Dunne disputed the contention that the Court ruling made it too easy for companies to win such cases. He cited a Justice Department study showing that in Federal cases since the

Court's ruling, plaintiffs prevailed nearly as many times as the defendant.

Like the bill vetoed last year, the new measure would overturn the Wards Cove ruling and five other Court decisions that the civil rights groups contend have seriously weakened Federal anti-employment discrimination laws. It would also amend the Civil Rights Act of 1964 to permit victims of intentional job discrimination to win larger monetary awards in court.

Both Mr. Dunne's comments and the bill itself indicate that both sides are much further apart than they were when negotiations to forge a compromise bill collapsed last fall.

The hardening of attitudes toward the bill indicates the difficulty in reaching a consensus.

A Senate Republican aide put it this way: "Last year, the sponsors of the bill and the Administration started out a mile apart. Then through the efforts of people like Danforth, Specter and Jeffords you got them a foot apart." The reference was to Senators John C. Danforth of Missouri, Arlen Specter of Pennsylvania and James M. Jeffords of Vermont, all Republicans. "Now they're starting off a mile apart again," the aide said. "That's not encouraging."

Last year, in an effort to gain White House acceptance, sponsors of the bill placed a ceiling of $150,000 on punitive damages that can be awarded to plaintiffs who prove intentional discrimination. This year's bill contains no such ceiling.

HIGH CHARGED ATMOSPHERE

The Senate aide added that the debate over the bill is taking place in an even more highly charged political environment than last year. "Ninety-two is closer," he said, referring to the next Presidential election.

Democratic supporters of the bill have assailed the Administration for opposing the measure, while blacks make up such a large percentage of the ground troops serving in the war in the Persian Gulf.

"The nearest thing that I know of to a quota is the disproportionate number of African-Americans in the armed forces in the Persian Gulf," said Representative John Conyers Jr. a Michigan Democrat.

For their part, Republican opponents of the bill point to last November's elections, saying few, if any, party candidates were rejected because of the veto.

Sponsors of the measure oppose quotas, but voiced skepticism at Mr. Dunne's contention of the pervasiveness of quotas.●

RECESS UNTIL 2:30 P.M. TUESDAY

The PRESIDENT pro tempore. Under the order previously entered, the Senate will stand in recess until the hour of 2:30 p.m. on Tuesday next.

Thereupon, the Senate, at 10:59 a.m., recessed until Tuesday, February 26, 1991, at 2:30 p.m.

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