SENATE—*Wednesday, May 8, 1991*

(Legislative day of Thursday, April 25, 1991)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama.

The PRESIDING OFFICER. Today's prayer will be offered by guest chaplain, Rabbi Alvin K. Berkun, Tree of Life Congregation, Pittsburgh, PA.

PRAYER

Rabbi Alvin K. Berkun, Tree of Life Congregation, Pittsburgh, PA, offered the following prayer:

Let us pray:

Heavenly Father, as we begin our day of deliberations in this, the Senate of the United States, we pause to acknowledge You and to pray for peace. According to the 2,000-year-old volume written by the ancient rabbis, the Ethics of the Fathers, the world rests on three things: on truth, on justice, and on peace. All three are connected and intertwined. The goal of the first two is to bring about the third, peace. To the Jewish sages of old, peace was God's very name. Peace—Shalom—is the ideal toward which we must all strive.

In Jewish tradition, the word "Shalom," has a much wider meaning than does its English equivalent, peace. In the Hebrew context, the word peace touches on the work that is done here. It refers to the welfare of all: It implies a sense of security, of contentment, of sound health. The prophet Isaiah taught that Shalom would then be opposed to the dissatisfaction and the unrest that evil can cause.

May we be inspired by one of the greatest of the Jewish sages, a contemporary of Jesus, Rabbi Hillel, who said: "Love peace and pursue peace."

May the inspiration of our Judao-Christian civilization inspire all of us as we work together to make of our Nation a beacon of hope, a symbol of freedom, and a harbinger of peace for all. During these days of concern for our President, we join in prayer to the Lord our God and God of our ancestors, that our President, George Bush, be blessed with good health and well-being and that he continue to be endowed with vigor of body, mind, and spirit as we all say, Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 8, 1991.

To the Senate:

Under the provisions of Rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD C. SHELBY, a Senator from the State of Alabama, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

THE PRAYER OF RABBI ALVIN K. BERKUN

Mr. SPECTER. Mr. President, I would like to take a moment to acknowledge the presence of Rabbi Alvin K. Berkun, who just delivered the Senate's prayer.

Rabbi Berkun is a Pennsylvanian. He has served as rabbi for the Tree of Life Congregation in Pittsburgh for the last 8 years. He is currently the Jewish chaplain for the Veterans' Administration in Pittsburgh, and was a U.S. Navy chaplain during the Vietnam era. He is married and has two daughters and one son. I am pleased to note his daughter, Elizabeth, has just completed an internship in my Washington, DC, office.

Rabbi Berkun is a very distinguished rabbi. Therefore, it is with a great deal of personal pleasure to have heard his opening prayer this morning. I welcome him to the Senate, thank him for his contribution to the body, and thank him for his contribution to the national Jewish community.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the time between 12 o'clock noon and 12:45 p.m. shall be under the control of the Republican leader or his designee.

Mr. COCHRAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

ORDER OF PROCEDURE

Mr. COCHRAN. Mr. President, I ask unanimous consent that I be designated as the person to control the time on this side of the aisle under the order.

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

EDUCATION IN AMERICA

Mr. COCHRAN. Mr. President, this is an exciting time for education in America. Every newspaper in every town has had at least one front page article on education in the weeks following the unveiling of the President's historic strategy for improving the quality of education in our Nation's schools.

President Bush has asked all Americans to take part in "the crusade that counts most—the crusade to prepare our children and ourselves for the exciting future that looms ahead."

Last week I was able to spend some time in my State of Mississippi, meeting with education leaders to discuss this crusade, and I can tell the Senate they are ready to accept and meet the challenge. I feel confident that parents, teachers, and community leaders all across the country are also ready to get involved in this new emphasis on education and help implement the programs in America 2000.

In America we believe that education should give every individual the opportunity to rise to his ambition and achieve his goals. By doing a better job of educating children, we are preparing them for the future, empowering the people of this country, and ultimately empowering this country.

Even though our country has changed greatly since the days of the early settlers, community and family involvement that marked successful education in our Nation's infancy still work today; these timeless truths are reflected in America 2000. This plan will make schools more accountable, align our educational system for the future, help communities improve their schools, and make learning a bigger part of our lives.

The plan is far-reaching and ambitious, incorporating the best education concepts and ideas offered by experts

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

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nationwide. President Bush's leadership and his tenacity in developing this plan truly establish this as the education Presidency.

More importantly, this plan will work, and it will make our education system what it ought to be—the best in the world.

President Bush promised to lead a nonpartisan, populist crusade to transform America's schools by the year 2000. Republican and Democratic Governors, who have the primary responsibility for education in their States, all across the country have enthusiastically given their support to these proposals and to these goals.

I am pleased that the Labor and Human Resources Committee is showing a willingness to consider the legislation being developed by the President and his Secretary of Education, Lamar Alexander, to implement the Federal initiatives included in the education strategy. I am hopeful that we will see bipartisan cooperation in bringing a bill to the floor in time to influence the appropriations process this year.

Our Federal responsibility is to promote a climate in America for opportunity, inventiveness and educational excellence. America 2000 provides the steps to reach these goals. I think we can make it happen. Our children and our country deserve no less.

Mr. President, may I inquire of the Chair how much time remains under the order previously entered?

The ACTING PRESIDENT pro tempore. The time between now and 12:45 is controlled by the Republican leader or his designee.

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the Senator from Washington [Mr. GORTON].

Mr. BYRD. Mr. President, before the Senator yields, would he be able to yield me some time following the statement by the Senator from Washington?

Mr. COCHRAN. Mr. President, I am happy to accommodate the distinguished President pro tempore. We do have a list of speakers who have indicated an interest in speaking during this special order.

I hope that they will be able to keep the commitment that we have given to them to enjoy the benefit of speaking on the floor, but I do want to cooperate with the President pro tempore.

Mr. BYRD. Hearing the Senator speaking on excellence in education, I am a strong supporter of what he is saying. I want to get in a few words in that connection, hoping that I might call attention to the need for our schools to urge our young people to stop using the crutch expression, "you know." I think that it would be an indication, if we could do that and see an improvement throughout the country, that we are achieving some greater excellence in education than we are presently achieving.

So, at some point, I would like to say a few words on that subject.

Mr. COCHRAN. Certainly, we can accommodate that request; we will do everything we can to accommodate the request.

The ACTING PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON] is recognized.

THE PRESIDENT'S AMERICA 2000 PROGRAM

Mr. GORTON. Mr. President, the last few weeks have offered more promise for the cause of reform in education than we have seen in decades. The President's America 2000 Program, coupled with widespread interest in reform in the Congress, give us an opportunity we must not miss. I am inspired by the national goals the President has set and the course he has suggested to meet those goals.

These proposals are based on a call on all to do their part in reforming our system of education. It encourages students to achieve, teachers to challenge, parents to be involved, businesses to be creative, and communities to support the necessary changes in our educational system.

The first two goals of the President's program are particularly noteworthy.

First, creating better and more accountable schools for our students today; and

Second, creating a new generation of American schools for tomorrow's students.

ACCOUNTABILITY

The United States leads the world in providing a focus on opportunity for each individual. The ability to seize opportunity is a natural consequence of education. For the United States to be competitive in the 21st century, it is crucial that our students have the opportunities that are the result of proficiency in the basics of education: English, math, science, history, and geography.

The President's plan to create voluntary national examinations to evaluate the proficiency of students at the 4th, 8th, and 12th grade levels is key to measuring our success, to providing accountability for today's students.

The proposal to provide $200 million in education certificates to local school districts to experiment in parental choice is also central to accomplishing our overall goal of accountability. American citizens choose their spouses, careers, hometowns, churches, and community groups. It is only reasonable that they should also be enabled to choose schools of their liking for their children's future. It fits with the American way and the American dream.

CREATIVITY

The second major theme of the President's proposal is the creation of a new generation of American schools for tomorrow's students. The plan to involve business leaders in the creation of a series of research and development teams to help improve American education will draw on some of our best creative resources. Leadership at all levels will be encouraged, from Governors, business, principals, teachers, parents, and community leaders.

I also support the President's proposal that States provide for alternative means of certification for professionals who wish to teach in our schools. We have a shortage of teachers in a wide range of fields. Providing a means for attracting professionals in many areas, technical and otherwise, would expose our children to people with real world experience in those fields.

Mr. President, many school districts in Washington State have already accepted the challenge of providing a creative approach to the education of our children and youth.

Washougal School District in southwest Washington has begun a modified year-round school.

Bellevue's school district has a day care program and the Lake Washington district has an extended program for after school care.

Advanced technology is being incorporated into the school programs of Spokane and Moses Lake.

The Seattle, Snohomish, and Lake Washington school districts have taken up the challenge of causing business, industry, and State government to work together for more carefully focused educational programs.

Mr. President, it is through innovative approaches to education, combining the efforts of parents, educators, business and community leaders that we will cause a transformation of our childrens' lives and our Nation's future.

I commend the President for his efforts and Secretary Lamar Alexander for his leadership in working toward this most worthwhile goal. I look forward to joining together with them and dedicated Members of this Senate in the coming months to turn their plans into reality.

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the distinguished Senator from South Carolina [Mr. THURMOND].

THE EDUCATION INITIATIVE OF PRESIDENT BUSH—AMERICA 2000

Mr. THURMOND. Mr. President, I am pleased to rise this morning to speak on behalf of the new education initiative, America 2000, unveiled last month by President Bush. His plan for reform of education in this country is exciting, innovative, and far-reaching. As

we have read and heard, the framework for this new strategy involves four broad themes:

First, creating better and more accountable schools for today's students;

Second, creating a New Generation of American Schools for tomorrow's students;

Third, transforming America into a Nation of Students; and

Fourth, making our communities places where learning will happen.

This is the framework. It is now up to Congress to work with the administration, superintendents, teachers, board members, others in the education community, and all Americans to fill in the structure. As a member of the Subcommittee on Education of the Labor and Human Resources Committee, and as a former teacher, coach, and county superintendent of education, I look forward to working with the administration and my colleagues on this very important initiative. As Secretary of Education Lamar Alexander alluded to in the past, this is like a train leaving the station—there is plenty of room on board for give and take, as we work to move this Nation forward.

The education we provide to our children and future generations of children is no doubt one of the most important gifts we can give to them. With four children in school, I am keenly aware of this fact.

Yet, education is not just for young people. It is a lifelong process. I am pleased that one of the themes in the America 2000 strategy advances this lifelong learning process. It would do so by strengthening adult literacy programs, creating business and community skills clinics, and enhancing job training opportunities.

Finally, the President has focused on communities as "places where learning will happen." He is calling on communities to adopt the six national education goals as their own. These goals include: First, all children will start school ready to learn; second, the high school graduation rate will increase to at least 90 percent; third, American students will leave grades 4, 8, and 12 having demonstrated competency in English, math, science, history, and geography; fourth, U.S. students will be the first in the world in science and math; fifth, every adult American will be literate and possess the skills necessary to compete in a global economy; and sixth, every school will be drug-free.

In addition, communities would be encouraged to develop local strategies to meet the goals and produce report cards to measure results. As elected representatives, all of us know the value of active community involvement in bringing about change—change through the active participation of parents, teachers, school board members, and other citizens.

Mr. President, this broad-based reform strategy is bringing renewed vitality to education in this country. I look forward to working with the administration and my colleagues on this exciting plan for change—America 2000.

I commend our able President, George Bush, and the new Secretary of Education, Dr. Alexander, for their plans, and we should cooperate with them and do everything we can to promote education in this country.

I thank the able Senator.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. COCHRAN. I yield such time as he may consume to the distinguished Senator from Alaska [Mr. MURKOWSKI].

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and my distinguished colleague from Mississippi.

Mr. President, certainly everyone in this body agrees that the issues that we deal with day to day are for the benefit of our children, our greatest human resource. Our hope is that they will continue the careful stewardship of this country, and that can only be realized if those children are well educated.

We all agree that changes must be made in our education system if we are to achieve that goal. The startling statistics that come across our desks make change and reality associated with that all too self-evident.

We have spent 33 percent more per pupil in 1991 than we did in 1981. However, scholastic aptitude test scores have dropped steadily from a mean score of 948 in 1970 to 900 last year.

It is estimated that 15 million new jobs will have been created between 1985 and the year 2000. These require solid skills, skill in mathematics, reading, and writing, but only 22 percent of the workers entering the job market today appear to have the necessary skills for those jobs.

The Department of Education numbers show that 2,455,000 students graduated from high school in 1989. The bad news is that 948,000 students dropped out during the same year.

The list goes on.

So what do we do? I think the President has offered us a dynamic and viable strategy and alternative. The President's proposal builds on four related themes: Creating better and more accountable schools, creating a new generation of American schools, transforming America into a Nation of Students, and making our communities places where learning can happen.

The President's strategy includes a comprehensive plan to meet the four goals: The plan will include establishing world-class standards to ensure competency in five core subjects—English, mathematics, science, history, and geography. It will create a system of voluntary examinations that will monitor the progress of learning in the five core subjects and will be administered in the 4th, 8th, and 12th grades.

New Presidential academic awards will challenge students to develop better minds in the same way the Presidential fitness awards have urged students to build better bodies. Similar awards will reward outstanding teachers, not on tenure but on proficiency.

States and school districts will be encouraged to afford more flexibility to schools in exchange for better results, certainly a fair tradeoff. The President will make $40 million in new grants available to award school districts that show significant gains in student achievement in the areas of mathematics and science, and it will include Federal education programs and funds to encourage and support the parental choice programs.

The most important message here however is that this is a national challenge. The President has called upon all Americans to help create better and more accountable schools. He has encouraged all elements of our communities—families, businesses, unions, workplaces, places of worship, neighborhood organizations, and other voluntary associations—to work together to help the Nation achieve education excellence.

This is the beauty of the strategy and the message that I enjoin my colleagues to take back to their constituents. It is time to reaffirm such enduring values as personal responsibility and individual action.

Parents should encourage children to study more, learn more, and strive to meet higher academic standards, and they should take an active role in structuring an education system that meets the needs of their children and their community and our Nation. The interest is there. Thirty percent of adults polled in a recent Department of Education study think public schools were worse in 1980 than in 1985; 69 percent of our adults would give U.S. public schools a grade of C or D or some an F; an incredible 92 percent of the adults polled believe local school quality would be improved by more parental involvement in what is taught and the way the schools are run.

The businesses in our communities should be encouraged to embrace our President's strategy. They have a great incentive—preparing future generations to be successful and providing for a competent work force. They should take, if you will, the inspiring message and apply it to preparation and maintenance of a competent work force. It can be a profitable and innovative system to keep pace with our international competitors and the rapidly changing technological age that we are in.

Mr. President, schools and local districts will be given, in this proposal, the flexibility and the incentive to be

creative. This is the increment in the policy chain that I think is most important. The administrators cannot tailor their schools to respond to input of the community if they themselves do not have the flexibility. Teachers cannot teach what they do not understand or believe in. The President's strategy builds on the intimate knowledge that these two groups have about their students. What do students face in their community upon graduation? What are the strengths in our school district? What are the limitations? Where do we need work? And how can we train to serve better? In concert with the business community and parents, administrators and teachers can fashion the system best suited for their students.

In conclusion, Mr. President, the concept is simple yet it has great potential. We are all responsible for the education of our children, so we must all be active participants in the process. I encourage my colleagues to do their part by encouraging their constituents to get involved in this process.

I certainly commend our President not only for his dynamic education strategy but for his choice of a Secretary of Education to implement America 2000, Lamar Alexander. Mr. Alexander is well respected among the Nation's Governors and educators and as a consequence, we look to him with the belief that the expectations which we want to see coming out of the educational system can become a reality. He is a seasoned policymaker, who will have no trouble meeting the high expectations we all hold for him. We wish him well and look forward to his success.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. COCHRAN. I yield such time as he may consume to the distinguished Senator from Minnesota [Mr. DURENBERGER].

Mr. DURENBERGER. Mr. President, all Americans who care about this country's future should applaud the leadership and initiative shown by President Bush and Education Secretary Alexander in launching America 2000. I urge my colleagues to join me today in making a personal commitment to helping both the President and Secretary turn their bold vision for American education into reality.

Historically, the Federal Government has focused on assuring equal access to educational opportunity for every American. But, with this initiative, we are now seeing a much broader commitment, a commitment to provide national leadership and stimulus to improve not just access but to improve the quality of education for all Americans as well.

One of the reasons for my optimism about this initiative stems from my own experience in observing and supporting the education reform agenda that has emerged over the past several years in my own State of Minnesota and increasingly in a number of other States around the country. The experience in Minnesota shows that choice should not be a cause of anxiety or fear, nor should it be an issue that splits along partisan lines. In fact, choice in education in Minnesota was developed under a Democratic Governor and continues to find strong support from one of the most liberal State legislatures in America.

In the State of Minnesota, every student and parent now has a right to choose any public school in that State. More than 28,000 Minnesota students are now participating in a half dozen different interdistrict choice programs that Minnesota's public school districts offer.

While the number of students in these programs is growing, they still represent a relatively small percentage of Minnesota's school-age population. However, as we have seen in Minnesota the success of its public school choice programs is measured only partly by the number of students participating.

More important is the fact that dozens of school districts, in an effort to hold onto their students, have started or expanded new programs for students who might otherwise have left high school, who might have transferred to a different district, or who might have taken courses at a postsecondary institution. Dispelling the myth that students who choose not to change schools are left behind at a disadvantage in schools that have fewer resources and more students, parents, and educators who do not care as much about where they attend.

Minnesota's experience also helps dispel concerns that black, Hispanic, and other minority students will not benefit or may be hurt by the availability of choice. That is not true in practice. In its first 2 years, minority participation in Minnesota choice programs was at or above the percentage of minority students in the State's public schools. And in a recent national survey 72 percent of nonwhites favored school choice, compared to 60 percent of whites.

The President's plan should also be commended for incorporating the flexibility for logical next steps in educational reform by expanding the number of choices that parents and students have. In what is being called the most transforming of the four proposals, the President calls for a new generation of American schools.

My State of Minnesota is already moving forward in this area. Legislation now pending in the Minnesota Legislature creates new chartered or outcome-based public schools. This begins by redefining what constitutes a public school. Under Minnesota's proposed chartered schools legislation, public schools would no longer be defined strictly by ownership and location—by being owned and run by the resident public school board that has an exclusive franchise to own and run all public schools within a limited geographic boundary.

Instead, these new public schools would be defined by criteria that reflect the most fundamental public interests in education. Under this proposed legislation dos and don'ts and musts and mandates are kept to an absolute minimum—while still deferring to the most fundamental tenants of American public education. The schools must be nonsectarian and must meet health and safety requirements, as well as human rights and antidiscrimination laws established by the State.

But, once up and running, these new public schools would have flexibility to design their programs to meet their individual needs. In short, each of these schools would be different. They would be designed by those who know the most—teachers—and those who have the greatest stake—parents, students, and others in the community. And, they would be held strictly accountable for meeting the outcomes set forth in a written multiyear contract between the school and its sponsor.

All of these Minnesota initiatives—establishing the right to choose schools, expanding the number and range of choices, and placing much more emphasis on outcomes—run parallel to the America 2000 Program outlined by President Bush and Secretary Alexander.

I just wanted to take the time today to share the success of the Minnesota program to help better define what we mean when we say choice, what we mean when we say choices, for those who still do not seem to understand this concept called choice; and to respond to the criticisms that America 2000 cannot work because, Mr. President, out in the heartland of America, people, Republicans and Democrats alike, out there in the heartland, are responding with enthusiasm to the very types of reforms the President is advocating. It is time we board the train.

I would also, Mr. President, compliment the Washington Post, in its efforts to get educational reform, on its latest contribution in an op-ed piece by Kathy Stearns that appeared in this morning's edition of the Post.

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

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

[From the Washington Post, May 8, 1991]

FAST-FORWARD LEARNING

(By Kathryn Stearns)

The Roman Empire conquered Hollibrook Elementary in Houston last month. Third-, fourth- and fifth-graders began wearing

togas, making viaducts, reading from Shakespeare's "Julius Caesar" and trying to calculate just how fast they would have to run in order to escape a steaming torrent of lava like the one that erupted from Mount Vesuvius one day in the year 79 A.D.

Pompeii is a long way from the places Hollibrook kids know, places where the eruptions tend to be political not geological, places like San Salvador and Managua. Hollibrook kids speak Spanish, and they get a free lunch. They walk into the classroom wearing invisible tags reading: "at risk." But at Hollibrook, the risk may be diminishing. Two years ago, fifth-graders were reading two years below grade level; now they are reading at grade level and their math scores are a year above.

Hollibrook has embarked, with the help of Stanford University, on an "accelerated schools" program geared for mixed-minority urban kids lacking in comforts and resources. The idea is to "reverse the pedagogy," as creator Henry Levin explains it. Remedial work is discarded for an enrichment program that borrows from the much vaunted "gifted and talented" programs. "Slowing down the kids isn't going to help," explains Levin.

And so at Hollibrook as at scores of other "accelerated" schools, teachers set forth not only the basics but also the embellishments by creating a language-rich environment where learning is said to take off. The children work in small mixed-age groups that engage in interdisciplinary inquiry. The parents are treated as crucial, the teachers as underutilized and the students as if they were "gifted."

The slogan, suggests Hollibrook principal Suzanne Still, is "Let my people go. . . ." So far, it seems to be working.

Hollibrook is a good contender for the New American Schools contest the administration hopes to wage. But how to get one of these schoolhouses that have imposed some pedagogic order out of chaos? It's anecdotal evidence such as this that both entices and frustrates beleaguered school board members, principals, parents and other would-be reformers. There is no factory issue.

But while everyone keeps insisting the model doesn't exist, there are some specifications common to the Levin accelerated schools and other initiatives Secretary of Education Lamar Alexander finds interesting enough to mention in his education strategy.

One specification is the common-sensical but often disregarded need for wiggle room—in short, flexibility. Teachers and students must be set free to pursue knowledge the way they find interesting, not the way the school board or the state finds interesting. The mixed-age, mixed-grade Roman Empire unit at Hollibrook is typical of what happens when people are "let go."

The Coalition of Essential Schools, founded by Ted Sizer of Brown University, also stresses the primacy of the classroom. Two of Sizer's imperatives for better schools are: "Give room to teachers and students to work and learn in their own, appropriate ways," and "Keep the structure simple and flexible." At the oldest "essential school," Central Park East Secondary in East Harlem, seventh- through 10th-graders concentrate on two "blocks"—humanities and math and science.

When the classroom transforms into a kind of gymnasium for the mind, some interesting things begin to happen. The 42-minute class period disappears, and so does the day that ends at 2 and the year that stops after 180 days. So do pen and pencil tests and report cards. "Performance portfolios," declamations, recitations and auditions have replaced multiple-choice tests. It's not that "drill-and-kill work sheet mess," as Hollibrook's principal puts it.

And once teachers and students are "let go," the shackles that restrained them have to be cut loose. This means granting waivers from collective bargaining agreements and curriculum mandates and other imposed policies that prescribe how many minutes and how many students a teacher can teach in a day. The principal of Central Park East has spent much of the past four years negotiating with Albany. The school couldn't pretend to conform to city and state regulations and still undergo meaningful reform, says the coordinator of New York's essential schools movement.

Similarly, a surprising number of schools across the country in receipt of multi-year state and corporate grants intend to use the money for just one purpose: to operate for more hours in the day or more days in the year and to pay their teachers accordingly. The legislation propping up Washington state's Schools for the 21st Century program is really just a waiver-granting mechanism.

Another specification is to make room for parents. James Comer, a Yale psychiatrist who jump-started New Haven's elementaries and whose developmental approach is followed in some Prince George's and District schools, probably led the way here. Comer schools employ "management teams" that include not just principals and teachers but parents as well. Other schools also demand parental participation that goes far beyond baking cookies for the PTA. The local parent-teacher councils in Chicago, shaken by court challenge, are perhaps the most dramatic example of parent empowerment. Likewise, Henry Levin insists an accelerated school cannot exist without willing and engaged parents. Hollibrook's principal sets out old textbooks in the school's "parents' center"—even though Texas law requires that they be burned—as a way of inviting parents to join their children's journey through school.

From these few specifications it's possible to construct a composite of what Secretary Alexander calls a "break-the-mold" school. Whether it's built on hollow trends or higher truths can't yet be determined. But many of the schools daring enough to experiment are having noted successes. For the people who seek innovation, the building blocks aren't impossible to get a hold of. What's missing is the instruction manual. And that has to be written by each community, over and over again.

Mr. DURENBERGER. I will just conclude, Mr. President, by saying this community in which we all work probably has the most prospects for real choice and real reform in education of any community in America, any community in the country. It is ideally suited for innovation, it is ideally suited for opportunity, and it is ideally suited for challenge, I suspect more so than any other capital in the world. The ability to focus on change by focusing on family, personal, and professional choice ought to be seized as soon as possible.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. COCHRAN. Mr. President, I yield myself such time as I may consume.

Mr. President, during the last weekend on May 3 and 4, I had the honor and privilege of serving as host for the Eighth Annual Policy Conference of the Southern Republican Exchange. This was a meeting that was held in my State of Mississippi in Jackson. During the conference, we had several speakers including the Secretary of Education, Lamar Alexander and others; Governors Carroll Campbell of South Carolina and Buddy Roemer of Lousisiana spoke; Senator TRENT LOTT was on the program.

One of the best speeches on the subject of education, in my view, was given by Buddy Roemer. Lamar Alexander made a great speech, but I thought it was appropriate to bring the remarks made by Governor Roemer to the attention of the Senate because they give a perspective from the State government official that has responsibility in his State for administering education programs, and trying to improve and upgrade reform the education system to make it more responsive to the needs that we have in every State to improve competitiveness and excellence in our schools.

So I ask unanimous consent, Mr. President, that a copy of the excerpts that I have here from a speech to the Southern Republican Exchnage of the Honorable Buddy Roemer, Governor of the State of Louisiana, be printed in the RECORD.

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

EXCERPTS FROM A SPEECH, BY GOV. BUDDY ROEMER, TO THE SOUTHERN REPUBLICAN EXCHANGE, JACKSON, MS, MAY 4, 1991

The issue for the Republican Party for this century ought to be education. Now, I will be blunt, as is my reputation. I'll try to be kind, but I will be blunt.

Now our armies are important and there are times of war when our armies are essential. But it's not our armies that make us great. The world has grown awfully small. When my granddaddy went to school, the competition was in the classroom. When my mother went to school, the competition was somewhere in the parish or in the town or in the state. When I went to school, the competition was somewhere between San Francisco and New York. My youngest son is ten; he goes to the public schools—fifth grade. And when Dakota goes to school the competition is somewhere between Frankfurt, Germany, and Tokyo. The world has grown smaller.

As we crowd into a smaller world, we have to grow larger personally. We have to be more tolerant, more understanding; and that requires education.

As competition increases, our workers have to become more skilled. We can't muscle our way into the twenty-first century—it won't happen. There will always be a Singapore—someplace where they'll make it for $.40 an hour. We can't be the cheapest. We can't be the toughest. We can't be the strongest. We don't want to be. We don't want to pay our workers $.40 an hour. We don't want our kids to be digging ditches.

Therefore, we have to be the smartest, the best trained. Education is the key to America.

A professor at Princeton said not long ago, when the Russians surrendered in the Cold War, "After 45 years' struggle, the Cold War is over. Japan won."

How did they win? Was it their army? They don't have one. Was it their television programs? Was it their oil and gas reserves? They don't have any.

They won in the first grade classroom. They won by lifting their children. They won by making the space between their ears fertile and open and focused.

The battle of the twenty-first century will be between Japan and the United States of America. Don't fool yourself. It will be a battle for about what this country is about—the ability to make choices. That's what's always been good about America; we have options.

A guy once told me—you've heard it before—he was from Alaska, and he said, "Remember Buddy, the scenery only changes for the lead dog."

Now America ought to be about the lead dog. That's who we are. And it's threatened. Look at the numbers—the top ten banks on Earth are all in Tokyo. Look at the numbers on trade. Look at the numbers on quality of products. Look at the numbers and then check your heart.

We're in a battle, and it is a good kind of battle; they're good competitors. I admire them greatly. It's the right kind of battle.

It's the one we ought to win. But we're not winning it now and we're no closer today than we were ten years ago, in my opinion.

It's time for some innovative approaches. We're trying them in our little state. And I'm so proud of President Bush and Lamar Alexander and others who are beginning to try them at the Washington scene. I set this up for the premise that unless we win this battle, my oldest son, who is a junior at Harvard, will be living in Osaka. Because that's were the future is.

I don't want it to happen. We've got to win the battle for our children.

Now we can do it and it ought to be our issue in this room to ask every American to join us. We're going to have to do some things differently:

Number 1: We're going to have to stop saying yes to the education establishment. Now let me tell you, I went to public schools in Bossier City, Louisiana. I graduated from high school when I was 16. I went to Harvard, the youngest kid in my class, studied economics. Stayed at Harvard and got a Master's Degree in economics and finance from the Business School. I have a little bit of education, but I'm not near as smart now as I was then.

I want you to understand that education is a lot of things; but the truth is that our educators, as good as they are, cannot be left with a monopoly in education. They must have a place. We must respect them.

Understand the picture I'm drawing? There must be a dialogue of respect. They are valuable people and their contributions are enormous. But we cannot leave education at the educators. We cannot. Parents have to be involved. We, as a party, must show Americans that there are some choices.

Now in Louisiana, we try to put some meat on those bones. You've heard about Pat Taylor and what he's done in higher education. You've heard that a youngster, black, white, male, female, born on a farm somewhere in Louisiana with a lot of ability and a lot of courage but with no money can go to college, can receive a degree—paid for by the citizens because we all know it's an investment in our future.

That's an innovative idea. It's one that will sweep this country. There are others. Teacher evaluation is one. I'm battling with the teacher unions in my state every day—I'm the no-goodest, lousiest . . . All we've done in Louisiana is give our teachers three consecutive years' pay raises—from 20 to 30 per cent. Spent half a billion dollars of extra tax money to pay our teachers. I love them. They are the key to our education system. But we ask in return that we find out who can teach. Is that a radical idea? Everybody's talking about the revolution in Louisiana. I don't consider that a revolution.

And we test our teachers in some unique ways, ways that you ought to know about. Subject matter—a math teacher ought to know math. Radical stuff, now we are pushing it.

Number 2: We find out how they value children. Should a teacher respect a child? Yes. We test that. We test and evaluate the way a teacher tells a child "no." We test and evaluate the way a teacher tells a child who gave the wrong answer, "You're wrong, but I love you anyway. There's a better answer." What a powerful test that is. We're finding that 26, 27, 28 per cent of our teachers are superior. They could teach anywhere on Earth. And we're giving them a 10 per cent pay raise again this year. We found that an additional 60 to 63 per cent of our teachers met our high standards. We gave a failure rate in the first year of somewhere between 8 and 9½ per cent. Doesn't sound like much. Statistically it's valid, within one standard deviation of a physics test. But that means that almost 10 per cent of our students are being taught by teachers who can't teach. We will spend the next year remediating our teachers, working with them to see if they have the skills to teach. Then we'll test them again. And, if they fail the second time, they will not be allowed to teach our children.

Now, Number 3: We've done teacher pay—classroom sizes. We believe in the grades K through 3, there should be no more than 14 students per teacher. When I took office three years ago, it was 29 to 1, today it is 20 to 1 and we're headed to 14. That's three tables here. Two and a half exactly. Can you imagine the power of a competent first grade teacher, well trained, walking into a class with only 14 students?

The fourth thing we are doing is grading our schools. Beginning last fall and extending for the next two years until we complete the cycle, we will grade every school in Louisiana and publicly release the scores, ABCD and F. So that the parents will know and can interact with their schools to change the scores. They'll know the grade and why they received the grade.

Finally, we will ask the legislature to approve choice for our parents. The power of choice is not to be ignored. When the G.I.s came home from World War II—I'm not that old, my daddy told me—they had the G.I. Bill. America said, "Thanks for defending America. And in return, we're going to let you go to college."

That bill was not restricted to a particular school or to public school. You could go to Notre Dame or to LSU. I mean, if you wanted to make a real bad choice, you don't have to go to LSU, but we let you make that decision.

The taxpayers of America paid for men and women on the G.I. Bill to go to private colleges, if that's what they wanted to do, if that met their college needs. Did it threaten public education in America? Did LSU close down? Did Michigan State disappear? No, they got better. They competed, and as a matter of fact, 71 per cent of all G.I.s went to state-run schools. Public schools as a matter of choice. We're not ready yet for choice in Louisiana. We don't have enough information to the parents, but we're close and we're going all the way.

Here's the way we do it. We'll begin with the F and D students and work up. We find that an A student will make an A no matter where you send her or him. But an F and D student might be helped by a change of venue, a change of scenery. An F student might be helped if he or she is the son or daughter of a single parent, a mother, and in our state now we're requiring AFDC recipients to be job-trained and take a job—that's called welfare reform. The son or the daughter of that single parent might be best helped if Mamma works at a plant and she has the optional choice of taking her children to a school close to the plant. She's a single parent and if something happens to John or to Buddy or to Mary or to Lawanda or to Cassandra, she could leave the workplace, go to the school next door and then go back to work.

That's what choice is all about. Choices about putting education into our lives and quit acting as if it's something artificial or to be left to teachers.

There's a lot we can do in education and my time is out. I can't touch on them all.

But, I came today to say I was proud to be a part of this Party. I look forward to working with you to build it. I think our issues in the next campaign ought to be law and order. It ought to be safe to walk in your own neighborhood. I know that's another revolutionary thought. It ought to be putting our children first; we ought to win this battle in education. It ought to be about competitiveness. Does America really want to compete? I think it does. And, it ought to be finally about inclusion. We need more people.

One story and I'll leave you alone. I went to the Harvard Business School. I've been trying to get over that for 25 years. I learned two things. I learned only two things there, but they were valuable. One was to buy low, sell high. I haven't gotten it right yet, but I know it's there. The other I learned from a businessman who came to the Business School; he was the richest guy in America.

Of course, we all wanted to be the richest in America so we invited him to see what the answer was. He came and talked about 40 minutes.

He didn't give the answer, so one of my classmates said, "What's the answer? How'd you get to be the richest? How'd you get to be so successful?"

He said, "Easy—two words. Right decisions."

My classmate raised his hand and said, "How do you make all these right decisions?"

He said, "Easy—one word. Experience."

So my classmate raised his hand again and said, "Well, how'd you get all this experience?"

He said, "It's easy—two words. Wrong decisions."

It's a great country. We've made some wrong decisions. But my guess is we'll use our experience to lift our children. Thank you.

Mr. COCHRAN. Mr. President, there are a number of other speakers who have indicated an interest in speaking before 12:45, but none are on the floor.

I am happy to yield to the distinguished President pro tempore and Chairman of the Appropriations Committee, if he would like to have some time at this point.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the time I consume not be taken out of the time under the control of the Senator from Mississippi.

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

Mr. BYRD. Mr. President, I compliment those Senators who have spoken on the subject of excellence in education. This is a subject which should be in the minds and hearts of all Americans. There is simply no room for mediocrity in education or in anything else. The standards ought to be that we achieve the utmost, and not only the children in our schools, but also the adults in our country, ought to strive to learn for learning's sake. We would have a much better country.

THE INANE EXPRESSION "YOU KNOW"

Mr. BYRD. Along that line, I had indicated that I wanted to address a few remarks to that inane expression, "you know," that seems to creep into most of the conversations that we hear. Increasingly on television I hear even the television commentators using the expression. I gather that a good many people feel that they are being fluent in their speaking of English if they can just fill in the gaps with "you know," "you know," "you know," "you know." But to the careful listener, it stands out as a weakness. And I cannot understand why the teachers in the public schools do not emphasize to their students the need for avoiding too much dependence upon any particular word or expression. Perhaps some of the teachers do emphasize this.

I have talked about it with some of the members of my staff. I think it has helped. They were not aware that they were using the expression. And my suggestion is, "Why don't you sit down and put on a tape recorder a conversation, and then go back and listen to your conversation, and they would be amazed at the times that they used the expression." Because, as I have often said to my staff, you will not always be on my staff. You will perhaps get employment elsewhere, someday, and I would like for you to feel, as you will have left Robert C. Byrd's staff, that you are a better person. And I would like for your next employer to feel that, when he employs you, Robert C. Byrd has some standards in his office.

One of my concerns is that I will hear it so much that I, too, shall inadvertently begin using that empty, useless expression.

A few years ago, here on the Senate floor, I called attention to the galloping overuse in American speech of the inane phrase, "you know."

At that time, a few commentators wondered why a United States Senator would be concerned enough about a seemingly innocuous phrase to bring the subject up here on the Senate floor.

As I said at that time, and as I repeat now, I am concerned about our culture. Among other elements, our culture is defined by the quality of our language and the caliber of education in self-expression and communication being provided to children in our country.

Interestingly, I have discovered that I am not alone in my concern about the abuse of the phrase "you know."

In his best-selling book "Strictly Speaking," former NBC newsman, commentator, and language analyst, Edwin Newman has said: "The prevalence of Y'know is one of the most far-reaching and depressing developments of our time, disfiguring conversation wherever you go."

Newman goes on to recount that in Britain, a "National Society for the Suppression of Y'know, Y'know, Y'know in the Diction of Broadcasters" was organized in 1969. This group then compiled a list of the "you know" offenders in British broadcasting, interviewed the most egregious "you-knowers," and presented them the evidence over the interviewees' objections.

You guessed it! Newman reported that nothing changed.

In his book, "Dictionary of Problem Words and Expressions," educator and grammarian, Harry Shaw states, "(You know) usually appears in conversation with no more meaning or purpose than 'uh' or any other pause that is merely a time-waster."

I think there can be an art in the use of a pause. And I find nothing wrong with a pause. It does not have to be filled in with "you know."

Alcibiades was one of the most eloquent speakers of his time. Plutarch tells us, on the authority of the prince of orators, Demosthenes, that Alcibiades often hesitated in the midst of a speech, not hitting upon the word he wanted, and stopped until it occurred to him.

Alcibiades is not exactly a paragon of good living. He was not a model of good morals. But I think we can take it on Plutarch's word that he was an eloquent speaker; a fine looking young man, very influential, exceedingly intelligent.

So, Alcibiades would pause until the right word came to him. Then why do we not do that as well, instead of attempting to fill in the gaps with the senseless, meaningless, inane, empty expression "you know?"

Across every level of education and class in this society—indeed, internationally wherever English is spoken—the prevalence of "you know" and its variants is a symptom of the widespread neglect of grammar, precision, clarity, and variety with which too many people are taught to master the English language.

Taken at a superficial level, "you know"—thrown again and again and again into a person's conversation—is an irritant.

But taken more analytically, "you know" betrays a mind whose thoughts are often so disorganized as to be unutterable—a mind in neutral gear coupled to a tongue stuck in overdrive.

A disillusioning experience is to watch a television interview, for example, in which a highly touted expert or a noted personality is featured, only to hear that individual punctuate his inarticulation, again and again, with a string of "you know, you know, you know, you know."

This inclination toward "you know" is a habit. That is what it becomes, a habit—a habit that sometimes results from a stunted vocabulary; not always. Increasingly in our society, as reading is neglected in favor of viewing television or listening to raucous music, young people are not learning the words that they need to know in order to share their thoughts with others. Growing into adulthood, too many of our youth find themselves crippled by an infantile vocabulary insufficient to match the mature experiences, complex procedures, adult emotions, and expanding information that confront them.

Perhaps I shall remain a voice crying in the wilderness. But as Americans, we do comprise the largest single concentration of people in the world for whom English is the primary language. At the same time, English is the world's most popular language, spoken by more people as their first or second language than any other on Earth. As native English speakers, we have a responsibility to maintain our tongue as a vigorous, vivid, exact tool of communication.

But, as I have implied, and stated explicitly earlier, contrary to that hope is the spread of "you know," and the spread of it internationally.

Like many of our colleagues, I never cease to be amazed at the English fluency that one can hear at many places in the world where American or British media interview nonnative English speakers on the streets of major world cities—Moscow, Paris, Berlin, New Delhi, Copenhagen, and so on. But again and again, one can pick up that irritating "you know" thrown in even by otherwise brilliantly fluent English speakers in foreign countries.

Not surprisingly, during recent televised interviews of Kuwaiti natives in their Iraqi-devastated homeland, English-speaking doctors, engineers, and local officials, not to mention semiliterate Kuwaitis, were heard seasoning

their sentences with that ubiquitous "you know" irritant.

This is not a concern which can or ought to be legislated, of course. My hope and purpose are that people who speak and love the English language, and above all those who teach the English language in the schools—and do not forget that we parents have a responsibility to teach the English language in our homes, to our children and grandchildren—will become sensitive to the unconscious pollution that "you know" and its variants are producing in civilized conversation and public discourse. If enough Americans, British, Canadians, Australians, New Zealanders, Jamaicans, Senators, teachers, TV commentators and anchormen, and other English-speaking peoples become concerned about this problem, perhaps then the pesky, pestiferous "you know" will be banished forever from serious speech around the world.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SIMPSON. Mr. President, let me just comment briefly on the remarks of the senior Senator from West Virginia. They were very adroit and very understandable. It is something the Senator cares a great deal about and not only talks of it but lives it, because I asked him once what he had done during a recess period, and he said, "I finished 'Plutarch's Lives' and the dictionary." And I had been off dallying about. I was guilt ridden.

So I learned much from the Senator from West Virginia. But what I learned is his love of literature and art and the language, the mother tongue, and he speaks it beautifully and with great care and attention. We should heed his words.

I yield 5 minutes to the Senator from Missouri.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. I thank our distinguished Senator from Wyoming.

I would only add that I, too, enjoyed the comments of our President pro tempore. His distinguished discussion and discourse on the English language is most informative and he leads, in that pack of knowledgeable individuals, journalists like Edwin Newman and William Safire, who are trying to rescue the English language from the depths to which it falls.

I was once advised by the Ambassador to Great Britain that the greatest barriers between our two countries was our common language. With leadership such as we heard today, perhaps we will be able to use the language as a means of communication rather than as a blunt weapon.

I think it is very helpful for all of us to heed the admonitions offered by the distinguished President pro tempore.

PARENTS AS TEACHERS PROGRAM

Mr. BOND. I was pleased, Mr. President, to hear the President last month speak of his vision for America 2000. The proposal on education contained a number of excellent ideas to revamp the educational system in this country.

I want to highlight just one particular area that the President noted in his speech because it is something that is very near and dear to my heart.

During his speech, the President introduced Michelle Moore, a single parent from St. Louis who participated in Missouri's Parents as Teachers Program. She said she wants to be sure her 16-month-old son Austin enters school ready to learn.

The President, our Nation's Governors and we in Congress have focused increased attention on the first few years of life, before school even starts, as crucial in the development of a child's language skills, social skills, and personality.

We also know that parental involvement in the education of their children is key to long-term gains for youngsters. Parents are their children's first and most influential teachers. What parents do to help their children learn is more important to academic success than how well off the family is, where it lives, or what other advantages that family may have or even disadvantages.

With a limited Federal investment, we can help parents get their children's lives started in the right direction by exporting to other States the success of Missouri's Parents as Teachers Program.

I note what I read today that the Iowa Legislature just passed legislation to adopt a similar program. The Parents as Teachers Program is an all-in-one early intervention, parent education, and early childhood education program which addresses a variety of needs for young families.

The Parents as Teachers curriculum starts early in strengthening the foundations of later learning, language and intellectual development, curiosity and social skills. In addition, health screening is provided for participating preschool children to detect potential impairments early on.

An independent evaluation of the program in Missouri showed that children whose parents participated in the program consistently scored significantly higher on all measurable standards of intellectual achievement, auditory comprehension, verbal ability, and language ability than their peers who did not participate.

Parents participating in Parents as Teachers were shown in the same study to be no more knowledgeable about child-rearing practices and child development than comparison parents. Parents as Teachers' staff have been successful in my State in identifying and intervening at-risk situations and encouraging families to seek medical assistance or other specialized services. Many children receive no health screening between birth and the time they enter school, but through the early intervention and Parents as Teachers improved or corrected conditions often benefit the child before he reaches school.

The Parents as Teachers legislation is a great way for the Federal Government to work with the President and the Governors to meet the first of the very important educational goals, and that is that all children enter school ready to learn.

Briefly, our legislation would set up a $20 million competitive grant program for States who wish to begin or expand Parents as Teachers Program similar to the Missouri mode. We believe by providing seed money for each of 5 years to expand proven effective programs is an appropriate role for the Federal Government.

I envision down the road the States would be able to muster the political support they need for this great program, to sustain it by themselves and provide for a diminishing Federal share because the benefits will result in substantial savings.

Mr. President, I have a personal interest in the ongoing success of the program. The program started before I even became Governor of Missouri in 1973 on a limited basis as a Federal pilot project. But when our child Samuel was born, in the beginning of my second term, my wife and I utilized the information of the program and found out how effective it was for us and for our son. I commended the Legislature of Missouri for 4 straight years of passed legislation, and finally on the last hour of the last night of the last legislative session it was passed, signed into law, and over 50,000 Missouri students and families have participated in it.

I want to see every family in America have the same opportunity, and I will at the appropriate time offer the measure as an amendment, if it is not otherwise before the body, because I believe we can assist parents to maximize the intellectual and social development of their children.

Many of my colleagues, including the distinguished occupant of the chair, have already cosponsored the legislation, and I invite other colleagues to do so as well.

I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the time for morning business be extended 15 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. SIMPSON. I now yield to the Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from California.

AMERICA 2000

Mr. SEYMOUR. Mr. President, I rise today to commend President Bush and Secretary of Education Alexander for their efforts to set a new course for education in America's schools.

This new approach, America 2000, is a comprehensive master plan mobilizing all segments of society to constitute America as the world's leader in education.

However, the success or linchpin of America 2000 is predicated on a serious national commitment to education. Schools are not the only ones being asked to roll up their sleeves and get to work. Each community, its elected officials, industry, business, and of course, the parents must engage in this process and make education their top priority so that our children are in the best environment possible to foster educational excellence.

The most important participant in this strategy is the family. Students, be they young or old, need support in their endeavors. Their parents and guardians are the most important people in their lives—they are the role models whose examples and teachings lend so much to a child's development. If children see that education is important to their parents, then it becomes an important goal for them. Parents need to involve themselves in the day-to-day activities and accomplishments of their children. It is up to them to see that homework is done and that a young child's curiosity and yearning for the yet-unknown is not shunned.

One of the most critical ingredients to education's success is communication between parents and the teachers. That is why schools should be encouraged to develop and maximize strong parental involvement programs at all grade levels. Unless parents are aware and care, the education strategy will not work.

I am pleased to see the administration proposal places a special emphasis on skills for five core subjects; English, mathematics, science, history, and geography. The time has come for us to go back to the basics, and demand that graduation from an American school carries with it a guarantee of proficiency and knowledge. This is not to say that a national curriculum is warranted, because there are cultural and regional variances that need to be reflected in our educational system. Education is the means by which cultural mores are maintained. It is this diversity that goes to the very heart of our social fabric and makes the United States unique and strong.

And, in addition to the five core topics, we must insist upon mandatory drug and substance abuse education in elementary and secondary schools. We are reminded daily that the scourge of drugs reaches into every aspect of our society; in order to attack it, we must prevent its proliferation to future generations, we must educate our children to go beyond "Just Say No."

In tandem with a return to basics it is necessary to ensure that the educational plan is working. As with any experiment or business venture, periodic evaluations can stimulate adjustment and ensure effective results. American achievement tests will not only challenge the students and teachers to meet the standards prescribed for them, but it will also challenge entire communities to see that its future work force is a capable one; one that will have the higher order skills to be productive contributing members of the community.

One aspect that cannot be overlooked—the teacher—the key element of the system, must be addressed. I join with President Bush in strongly encouraging communities to implement merit pay for teachers. Incentives should be given to those who excel in teaching. I believe that these new educational plans will empower the teachers to meet the challenges set before them. We must recognize the outstanding job that good teachers do and treat the profession as one that deserves our respect and support.

I am confident that prospective teachers will be excited by the many new opportunities the education strategy offers them. Qualified and exceptional people must be encouraged to enter this profession, and I support the development of alternative certification programs for teachers and principals. So that professionals in other areas, those who have been frustrated previously by certification requirements, will opt for a second career in teaching. In most instances, second career teachers bring with them an additional perspective and a wealth of knowledge which can only enhance the student's educational experience.

In my mind, one of the most progressive components of the education strategy is school choice. It is here that we can best involve students and parents in educational decisionmaking, and give them the opportunity to decide which educational plan is best suited for the child. In tandem with the other improvements in the system, there will emerge new and different types of schools. These schools will be based on different philosophies, and different approaches to learning, but all will share the result of well educated students who will be prepared to meet the global challenges of the 21st century.

Choice is critical to the success of the new American schools. But it is not enough, Mr. President, that we improve the educational system. We must work more diligently to address other concerns that affect school performance. The schools themselves and the communities surrounding them must be made safer environments conducive to the learning process. America's schools must be free of drugs and violence. In conjunction with the President's crime package Congress must take a leadership role and promote safe schools, by encouraging States to adopt laws that will increase penalties for assaults that occur during school-related activities. Federal penalties on drug crimes, particularly those that involve minors must be stiffened.

Some have been quick to criticize America 2000, asserting that it lacks fully developed programs. I do not believe this to be true. The education strategy sets out a master plan, and it asks communities to adapt these guidelines and standards to be compatible with specific local needs. A program developed for Manhattan or San Francisco will, by all odds, be inconsistent with the needs of a school in the California Central Valley. Only a plan which offers flexibility will succeed.

The President has in this regard properly asked that the entire community become active participants in achieving the goal of educational excellence. All communities have been asked to adopt six goals set out by the President and the Nation's Governors.

By the year 2000:

First, all children in America will start school ready to learn.

Second, the high school graduation rate will increase to at least 90 percent.

Third, American students will leave grades 4, 8, and 12 having demonstrated competency in English, mathematics, science, history, and geography; students will learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

Fourth, U.S. students will be first in the world in science and mathematics achievement.

Fifth, every adult American will be literate and possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Sixth, every school in America will be free of drugs and violence, and will offer a disciplined environment that is conducive to learning.

This is but the beginning. Communities and their leaders must go far beyond this and we must help them. Community members must be education decisionmakers. Active participation is needed by all to implement those goals.

The private sector has a role as well: For example, another component of the strategy calls on the business community to fund the New American Schools Development Corporation whose mandate will be the awarding of contracts to experts in education who are willing

to develop innovative methods for teaching. I applaud this effort to break free of the conventional models of education we have been using all these years. It is time for newer and more pragmatic approaches to restructure the way America learns.

Businesses of all sizes must be willing to demonstrate that excellence in education will lead to a brighter employment future. Their commitment must reach beyond financial support and exhibit a time commitment that begins at home. The business community must be the catalyst to change, showing America what is needed to be a successful global competitor. Using entrepreneurial spirit and good old American business know-how, we encourage students and demonstrate to them that there is a practical application for the skills they are learning in school. This is just one approach to ensure local coordination and collaboration on our education goals.

Once again, I commend the President for his comprehensive approach to this complicated problem and know this commitment is shared by all Senators. It will take years of hard work on the part of all citizens, but the effort is well worth it. The cornerstone to all social and economic success is education.

Our children are our greatest asset. We must not fail them. We must preserve their future opportunities to succeed and that of our free society.

Mr. President, I stand before this body today to strongly support President Bush's recently announced and Secretary Alexander's recently announced program to ensure high quality education for all American youngsters.

I speak as one who has spent 8 years as a State senator in the State of California, serving 8 years on the State of California Senate Education Committee, one who has supported year in and year out through those 8 years a continuing increase of funding for education. I am not sorry I did that. I think it has been necessary.

In fact, we have moved California in its funding per child, Mr. President, from ranking near the bottom of all the States in our Nation, relative to dollars invested per child, to up in midrange, and we have more to do.

I am also convinced, Mr. President, that just continuing to throw money at this issue and this problem will not resolve it. I look back over my shoulder and I ask what have California taxpayers received as a result of their continuing escalating financial commitment to the education of their youngsters?

I must say that they have not received a great deal. There has not been a tremendous improvement whatsoever in the SAT scores. There has not been an improvement in the dropout rate which, in California, runs somewhere between 25 and 30 percent of our youngsters not receiving a high school diploma.

Therefore, what I am suggesting is, despite our sincere efforts, despite our commitments to funding, there has to be more. That is why I am here to support President Bush and Secretary Alexander in their efforts—in particularly three areas that I think are absolutely critical—to improve the quality of education: First, accountability.

There must be accountability at the local level. We have one school district, Richmond School District to be specific, in the State of California, where the local board of education has bankrupted that school district, been totally fiscally irresponsible, but yet that school district has gone to court and said we know we may have bankrupted this district, but we want you to require the State to bail us out.

If we are going to have accountability at the local level, then that school board must be held accountable not only for its fiscal practices but must be held accountable for the quality of education of the youngsters who are attending their schools.

Accountability, yes, requires some form of measurement. The President suggests that form of measurement be testing. I know there are those who say testing does not do it all. I agree. But as a father of six children, I will tell you what I do when one of my children brings home their report card. I measure their performance based upon what is contained in that report card. I think the taxpayer has the right to also measure the performance of their schools and their school districts relative to the performance of testing.

Second, the President has suggested parents ought to have a choice in schools. I support that notion. I think a parent who cares enough to go down to their local school and say I am dissatisfied with the quality of education or the curriculum you are offering my child and therefore I choose to remove my child and place them in another public school which I believe will better serve my child's needs, it does two good things. First, they say to the school that is losing the child, you better do a better job. Second, they say to the public school receiving the child, you must be doing something right. But, most importantly, it says to the parent, you are in control; you are in charge.

That is the third element I support in President Bush's program, parental involvement. We cannot expect teachers to be solely responsible for the education of their children. Parents—even though we may be a one-parent household—must be involved, must know what is going on at the school, must know the courses and how their children are performing in school, and therefore to the degree we get them involved I suggest we will see a dramatic improvement in the quality of education of our youngsters.

Mr. President, I thank the Chair. That concludes my remarks. I yield the floor.

The PRESIDING OFFICER (Mr. GORE). The acting Republican leader, Mr. SIMPSON, is recognized.

Mr. SIMPSON. Mr. President, I thank our colleague from California. It is nice to have him as our newest Member.

Mr. President, I yield to myself 3 minutes and then yield the remainder of the time in extended morning business to the Senator from Delaware.

IMPROVEMENT OF THE EDUCATIONAL SYSTEM

Mr. SIMPSON. Mr. President, I, too, speak on the subject of the President's most recent proposals on reform and improvements in the American educational system.

In some ways, the problem of education reform is much like the old adage about the weather, everyone talks about it but nobody does anything about it.

Education is not exactly like that since so many things have been tried by past Congresses and Presidential administrations. But the adage does apply when it seems everyone agrees "something" has to be done.

There are deep flaws in our educational system, but effective prescriptions for dealing with them seem so very few. This proposal, which comes to us from the White House bearing the imprint of our remarkable new Secretary of Education, Lamar Alexander—I do not hesitate to put great strength and credence in what he is going to do. I am very high on this man. He is the most impressive person I have met in many years of public life. I knew that years ago when I met him through our former colleague, Howard Baker—will "do something about it" in defiance of that old adage.

What he will do is to seize upon the problems, which there is virtual unanimity in diagnosing, and suggest appropriate applications of resources, Federal and non-Federal, to correcting them.

We all know what those problems are. They have been outlined very well this morning. It is our purpose in this education bill to deal with them not just with money. We do that with everything, and we do it ineptly. If you want to believe it in the best way, then look at the health care system where we are spending $660 billion per year and have some serious, serious defects.

Fortunately, the U.S. Government is involved in only about 7 or 8 percent of the entire education budget, which is paid for by the taxpayers from the Federal Treasury. They pay for it through the counties and the cities and the

school districts where 93 percent of the funding comes.

So I do want to commend Lamar Alexander. I look upon him as a great leader in this area. He will, indeed, not just make us believe George Bush is the "education President," which he has every credential to attain, but he will help him attain it and in the course he will be the "education Secretary" we will all know did something about it.

What are those problems? You hear them time and again. Children do not enter school today ready to learn; their home lives do not foster an emphasis on learning. Many of the communities in which they live are wracked by drugs and violence. Schools are not held accountable for the success of their students. Everyone says that teaching is a noble profession, yet teachers are underpaid, unrewarded, and are asked to act as social workers as much as instructors. While our postgraduate education is the envy of the world, we are not educating our students adequately at the primary and secondary level.

The President's plan looks each of these problems right square in the face and addresses them sensibly.

The plan does this because it recognizes the appropriate role for the Federal Government to play. Where there is a consensus about what the problems are, we have in the past argued among ourselves as to what the Federal Government can do, and how it should do it.

This has been the case, in my view, because so many of the standard Washington approaches to problem solving, simply do not work for education; that is money. It has taken a long time to recognize that, but our frustrations and failures in this area have now made it abundantly clear.

The stock solution to any societal problem here is to hurl Federal resources at it. That's what the Federal Government is—the collective resources resulting from the contributions of millions of taxpayers. Those resources can be put to effective use for a myriad of purposes. But in education, less than 10 percent of our national spending comes from the Federal Government. It would take a complete redistribution of education funding sources for Federal dollars to make anything but a peripheral difference.

The standard solutions also do not work because education problem-solving cannot be done in isolation. There is no single line item you can increase to alleviate the difficulties. The greatest school with the greatest teachers is not going to produce good students if those students must dodge drug peddlers on the way to school, if they fear violence during the time they are in school, or if their parents are wholly indifferent to their educational needs. Federal spending on education is wasted unless we improve these other areas, too.

One of the things the Federal Government can effectively do is to act as a coordinator—to improve communication between the different States and localities regarding education reform, and to establish a bottom line of quality which school districts should and can reach. The administration would have us do that. The Federal Government can contribute to educational quality by rewarding excellence and attacking failure. The administration's plan will do that, too. And the Federal Government can use its resources to attack those socioeconomic problems which make education reform such an uphill struggle. The administration's plan pays careful attention to that problem as well.

First, the administration would have us set standards, which our schools are to reach by the year 2000. We have forgotten too much about that—standards, accountability. Report cards for school districts, schools, States, and for the entire Nation. Children would be required to demonstrate proficiency in the five core subjects—and perhaps others—of english, history, geography, mathematics, and science.

While minimum standards must be set, excellence will be the ideal, and this plan would reward it. Presidential citations for educational excellence, honors for oustanding teachers in the five core course subjects, merit schools program to reward schools that move toward the goals, Governors' academies for school leaders.

Second, a new generation of American schools would be created using the most advanced knowledge available to us in the area of education. Our Governors would designate America 2000 communities in which would be established new American schools—these would be schools which would put in practice the knowledge gained by educational research and development teams. Some of the innovations would no doubt fail, but others would certainly pay off—get too grades—and we will all be better off for the chance to put new ideas into practice, and to abandon old prejudices about how things have to work.

Third, the plan would eliminate a great hypocrisy. We currently tell children that education is important, of great value to them. But too many of us give the lie to that in our own lives. The administration's plan would therefore create a national conference on education for adult Americans. The plan would also establish job-related skill standards and skill certificates. Let our children see that education and skill is valued in the adult world as well, and let them see their parents and relatives demonstrating the values which they wish to see adopted by children.

Perhaps most importantly, the administration's plan would seek to improve the environments in which school-age children live—by targeting programs which benefit at-risk children—such as Head Start, Even Start, and nutrition programs—and by also coordinating the efforts of those parts of the Federal Government whose functions directly impact education in this way. The Department of Labor and the HHS Department have both made clear that they will be contributing to this process.

I know it will be frustrating for some here that education cannot be reformed from above. We cannot control the process, and indeed we will not even provide the lion's share of the resources. That is the nature of the beast—the glory will largely go to others, innovators on the State and local level; but then—they are those who must do the hard tough—and sometimes unrewarding work in the trenches to make it possible for our children to learn. We must listen to what they are telling us—Governor Sullivan, the Democratic Governor of Wyoming, says that the new plan will fit hand in glove with Wyoming aims for improving its educational system. We need to listen to those voices, and we need to see that this plan is effected as promptly as is possible.

Mr. President, I yield the remainder of my time to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

EDUCATION

Mr. GRASSLEY. Mr. President, I, along with the rest of Congress and most of America, listened with great interest to the President's address on education. I share his excitement and commitment to putting education first on the Nation's agenda.

As Congress takes up the President's proposal, or other education bills, we must emphasize a partnership structure.

The Federal Government certainly does have a very important role in that partnership. That role has been and should remain, however, limited. True education reform and true education excellence can occur only at the State and local levels.

But the most important reform effort must take place in the children's own homes.

We, as national policymakers and opinion leaders, cannot and should not lure the public into believing that the Federal Government can, or will, provide all the answers, or all the money, for our education concerns.

I whole-heartedly agree with the President's statement that what happens in the Federal Government is not half as important as what happens in each school and in each home.

Congress must protect the time-honored authority of parents and locally elected school officials to put reform in place.

Students in education systems, such as in my home State of Iowa, excel because they care, their parents care, and their communities care about them and about their education.

I know that the task ahead is as complex, as it is crucial. It will require creative and courageous exploration of new approaches for delivering education. It will require bold vision for the future.

To recite from an ancient Chinese proverb:

If you plan for a year, plant rice.
If you plan for 10 years, plant trees.
If you plan for 100 years, educate your children.

Our children must be educated for their future—not our pasts.

Their's will be a world which my generation cannot even imagine.

Our children need and deserve the best. So we have to make sure that we provide the best—without being hamstrung by old traditions—just because "it's always been done that way."

So, I especially applaud the President's plan to create a catalyst for invention and innovation.

Our country is known for its creativity.

And putting that creativity to work for education will provide new answers to the difficult questions and challenges facing our school systems.

Although new innovations are key to successful education reform, we cannot forget to provide sufficient resources to the good Federal programs we already have.

Tried and proven programs, such as Head Start, chapter 1, and school nutrition, cannot be left in the dust in the race to establish new programs.

The future house of education will not stand on window dressing if its walls and foundation are not solid.

That is why I supported the home front initiative in the Senate's 1992 fiscal year budget resolution. I urge my colleagues to retain that commitment to those existing programs which have proven themselves over and over again.

Mr. President, I applaud this renewed commitment to the future of our children. The responsibilities of Congress cannot end with adopting Federal legislation.

We must provide the leadership and the motivation to inspire families and communities to invest in their children's education. And we must do this—not only as the collective body of Congress—but also as individuals.

AMERICA'S PEANUT PROGRAM

Mr. ROTH. Mr. President, when I was a young boy growing up like any other young boy in America, I never imagined that one day I would be standing on the floor of the U.S. Senate speaking about peanut butter. Then again, in those idyllic days when my favorite lunch consisted of a peanut butter sandwich and glass of cold milk, I never imagined that I would see a time when such a staple product in a child's life would be threatened in America.

But due to unfair and archaic laws that benefit a few at the expense of many, that time has come. Our Nation's supply of peanuts and peanut products is threatened. Prices are skyrocketing out of reach for many hard-working Americans and dependent children. The time has come to lay aside special interests and do what is right to correct the gross inequities in America's Peanut Program.

Today each of us received a peanut butter sandwich for lunch, compliments of the nonprofit and nonpartisan Consumer Alert Advocate Fund. I advise you take a good long look at it before eating, because if recent trends are allowed to continue, it may be the last peanut butter sandwich you see for a long time. A poor domestic harvest and protectionist laws that forbid peanut imports have caused the price of peanuts to rise so high and so fast that already the Department of Agriculture has dropped peanut butter from the School Lunch Program and the Low-Income Food Supplement Program.

The irony of this should not be lost on any of us, by virtue of its own actions, the Federal Government has priced itself out of the market for a food item critical to its own programs.

The lack of peanuts for our U.S. processors is so great that 6 weeks ago the International Trade Commission recommended that at least 300 million pounds of peanuts be permitted to be imported. Unfortunately, certain special interest groups have persuaded some of our colleagues to place their protected status above the welfare of our children and families, especially limited-income families that rely on peanut products as a fundamental source of protein.

This is not right. Nothing can justify neglecting the needs of our children to protect what amounts to nothing more than peanut barons who control the land, quotas, and import regulations that restrict the availability of peanuts in America. It is ridiculous for Americans to be paying prices 50 percent above world levels. Consumers pay as much as $150 million to $369 million more for peanuts as a result of these restrictions.

Likewise, these restrictions are inconsistent and even hypocritical to our insistence that other nations open their borders to our exports. How can we encourage the Japanese to import our rice, if we are so intransigent in restricting the import of foreign peanuts? The answer is clear; the laws must eventually be changed.

It is a very complex system the peanut growers have devised, one that is based in archaic, feudalistic laws that restrict new farmers from growing peanuts for domestic use and limit the amounts of peanuts that are allowed to enter our borders.

Quota licenses are distributed on the basis of who was growing peanuts 50 years ago. It is commonplace for a person to own a quota solely because he inherited it from a family member who grew it 50 years ago. In fact, an owner may be a city dweller, who never sets foot in a peanut farm, but leases it out. Half the people who own quotas do this.

While, inevitably, the best way to remedy this problem—the best way to restore equity to the peanut program and safeguard our children—will be through fair and responsible legislation, at present there is not enough time for the long, drawn-out process such legislation would require. Consequently, I am encouraging my colleagues—as well as Americans everywhere—to join me in asking the President to accept the recommendation of the International Trade Commission and allow for the immediate importation of 300 million pounds of peanuts.

Mr. President, I ask unanimous consent that three editorials be printed in the RECORD. These editorials include the Washington Post, the New York Times, and the Richmond Times-Dispatch, all of which urge the President, as do I, to act swiftly.

I also ask unanimous consent, Mr. President, that a release by the Consumer Alert Advocate Fund likewise be printed in the RECORD.

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

[From the New York Times, Apr. 21, 1991]

LUNCH WITHOUT PEANUT BUTTER

Peanut prices have doubled in the U.S. since summer, driving up the price of peanut butter, candy and baked products. That has forced the Agriculture Department to drop peanut butter—an excellent cholesterol-free source of protein—from the school lunch program.

Most observers blame a production squeeze caused by severe drought and plant disease in the Southeast for the high prices. But nature is not the chief villian in this story; Congress is. Laws dating from the 1930's virtually ban imports of raw peanuts and prohibit farmers from expanding U.S. sales. The absurd system forces American shoppers to pay prices 50 percent above world levels: it's become cheaper for some companies to import processed peanut butter rather than manufacture it from home-grown peanuts.

The archaic regulations enrich 45,000 "farmers" who inherited or bought production licenses, most of which were issued during the Depression. Half of the current owners aren't poor farmers eking out subsistence from unforgiving land. They are absentee landlords renting their licenses for exorbitant fees.

This is a problem with a simple solution. The President could suspend the import ban, as the U.S. International Trade Commission

recently recommended, allowing U.S. food processors to buy peanuts at low international prices. That would help millions of U.S. consumers. It would also help poor peanut growers in third world countries like Senegal and Ghana to earn a decent living. And it would let the Agriculture Department restore peanut butter to the lunch tables of schoolchildren.

[From the Washington Post, Apr. 25, 1991]

NUTS TO WHOM?

The peanut program contains no additives, artificial coloring or flavoring. It is 100 percent pure protectionism. Only a limited number of farmers whose grandfathers did it before them are permitted to produce for the U.S. market, and imports are virtually banned. The government props up prices by calibrating supply.

Last year a drought in the major southeastern producing states caused the system to go awry. There were plenty of peanuts in the world, but here a shortage drove up prices to such an extent that a group of peanut butter manufacturers and other processors petitioned the government for relief. A month ago the International Trade Commission, a government agency, recommended to the president over the growers' objections that he let in some foreign peanuts to satisfy demand. The president has yet to be heard from.

The symbolism of his decision will be more important than the substance. The current crop year is already two-thirds over. The proposed imports will scarcely have time to make a difference before the new crop will arrive and prices likely return to normal anyway. Meanwhile the government has suspended purchases of peanut butter in favor of cheese for the school lunch program, but the peanut butter and jelly sandwich probably remains about as much a staple of the American juvenile (and not so juvenile) diet as ever.

It is not so much that relief should be granted this year as that the entire program should be scrapped, along with a lot of other costly and anti-competitive practices not just in U.S. agriculture but worldwide. That is the stated goal of the Bush administration in the currently on-again world agricultural trade talks. It would presumably be a feature of the free trade agreement that the administration envisions with Mexico as well.

If the president doesn't follow the ITC's recommendation on peanuts, he risks looking as if he is practicing one thing on trade while preaching another. In fact that is what he would be doing. But if he does follow the recommendation, aides fear that he will incur the opposite risk of giving opponents of the two trade agreements an instant example to point to; this is what will happen if you denude your industry too.

From the tiny peanut a mighty precedent thus grows, if the president doesn't let more peanuts in, he'd better have a pretty good reason. There's more at stake than the temporary price of peanut butter.

[From the Richmond Times-Dispatch, Apr. 23, 1991]

FREE THE PEANUTS

Peanut butter lovers may have noticed a sharp increase in the price of the nutritious spread in recent months, about 22 percent in the first quarter of 1991 alone. But neither grocers nor packers are to blame. A government-created peanut shortage is what lies behind high prices.

The federal government closely regulates who grows peanuts for sale as food in the United States, and it almost completely bans the import of food peanuts. In order to grow food peanuts a farmer must have a federal license, and such licenses are hard to come by since they are distributed on the basis of who was growing peanuts half-a-century ago. As for imported peanuts, assault-rifle smugglers might have better luck. It is in fact easier to import a handgun than it is to import peanuts.

This Soviet-style regulation is intended to keep supplies short and prices high, and in that endeavor it is an overwhelming success. Peanut license holders get inflated prices for their crops and regulators are kept busy, but the lowly consumer just has to dig deeper in his wallet—about one-third deeper than his European counterpart. Considering the heavily regulated and subsidized nature of European farming, that takes some doing.

The federal International Trade Commission recently took a look at all of this and recommended that the ban on imported peanuts be lifted. The Bush administration is expected to make a quick decision.

We hope that the decision will not be left to the Department of Agriculture, which long ago was taken prisoner by farm interests. The department continues to insist on quotas and other programs that drive up food prices while at the same time handing out food stamps to the poor who suffer the most from its programs.

The time has come to abandon Soviet-style peanut regulation. Peanut butter is a staple in millions of households, and in many of them its protein substitutes for meat. But thanks to the ban on imported peanuts and domestic peanut quotas, a pound of peanut butter costs more than a pound of ground beef, and a pound of shell peanuts costs more than a pound of chicken.

Some peanut farmers would protest that they cannot make money at market prices, but even if true that would only indicate that at least some of them ought to be growing other crops. Peanut growers outside the United States manage to make a living at market prices, and we believe American farmers could, too. As long as people are willing to buy peanut butter, there is money to be made in peanuts.

CONSUMERS GIVE PEANUT BUTTER SANDWICHES TO EVERY MEMBER OF CONGRESS TO PROTEST SKYROCKETING PEANUT BUTTER PRICES

This morning, Consumer Alert Advocate, a national consumer organization, distributed peanut butter and jelly sandwiches to all members of the U.S. Senate and the U.S. House of Representatives to call attention to high peanut butter prices and the peanut import decision currently pending at the White House.

Senator William Roth of Delaware and Representative Richard Armey of Texas issued floor statements asking that the Administration allow in peanut imports to alleviate the shortage and bring down peanut butter prices.

Prices of raw peanuts doubled beginning last Fall as a result of a drought-caused domestic peanut shortage—from roughly .60 per pound to 1.25 per pound. This cost is being passed on to the consumer. Consumers are frustrated as they notice the price of peanut butter continually increasing—in some cases more than a dollar per jar in just a few short months.

Senator Roth told the Senators to take a good long look at the peanut butter and jelly sandwiches like the ones they received from Consumer Alert Advocate "because it may be the last peanut butter sandwich you see for a long time."

The cost of peanut butter is so high that the U.S. Department of Agriculture has actually stopped purchasing it for the school lunch program as well as for its food programs for low income families. Prices will continue to soar unless more peanuts can be imported to make up for the domestic shortage.

The shortage could be alleviated by imports, but U.S. Government policy actually restricts the supply of peanuts through limits on both the domestic supply and on imports. The current government quota only allows peanut imports of 1.7 million pounds—less than one-percent of current usage.

Consumer Alert Advocate has joined several other consumer groups in urging the Administration to lift the current restrictive peanut import quota. A majority of the International Trade Commission (ITC) has already recommended that the President lift the current import quota.

Mr. ROTH. Mr. President, I reserve the remainder of my time.

TENNESSEE AND JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

Mr. GORE. Mr. President, I am honored to recognize 14 high school students from across my home State of Tennessee who have written outstanding essays for the 1991 "Tennessee and Japan: Working Together Toward a New Century" Essay Contest sponsored by the Tennessean newspaper, Toshiba International Foundation, and Tennessee-Japan Friends in Commerce.

More than 2,000 Tennessee high school students submitted essays exploring the relationship forged between Tennessee and Japan. The contest helps students learn more about Japan's culture and economy. Students explore the ties between Tennessee and Japan by conducting research, touring Japanese plants in Tennessee, and talking with State government officials and officials from the Japan Center of Tennessee.

The business partnership between Tennessee and Japan has had a positive impact on my home State, resulting in educational and cultural programs such as this contest between the citizens of my State and the citizens of Japan.

These students are the future of Tennessee and of our country. It is with great pleasure that I recognize and commend these 14 winners of this essay contest: Gill Geldreich of Franklin High School in Franklin, Emily Flowers of Henry County High School in Paris, Kelly Powell of Page High School in Franklin, Sandra White of Martin Luther King Magnet High School in Nashville, Christine Harris of East Robertson High School in Cross Plains, Carla Strassle of White House High School in Tyree Springs, Jeremy Latimer of Henry County High School in Paris, Greg Profitt of Hermitage Springs School in Red Boiling Springs,

Leigh Ann Curt of LaVergne High School in LaVergne, Jason Couch of McGavock High School in Nashville, Billy Copenhagen of Brentwood Senior High School in Brentwood, Billy Strasser of Montgomery Bell Academy in Nashville, Jason Holleman of John Overton High School in Nashville, and Lane Mullins of Lebanon High School in Lebanon. Congratulations to each of these talented young students. I wish them all the best.

I am pleased to submit the winning essays into the CONGRESSIONAL RECORD.

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

FIRST PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Gill Geldreich, 10th grade, Franklin High School, Franklin, TN)

William Perry, a farm boy of thirty-four years from Portland, Tennessee, works at the Yamakawa Manufacturing Corporation, which manufactures parts for the Nissan Motor facility in Smyrna. William, nicknamed Junior, trained in Japan under Takehiko Mochzuki, nicknamed Mo, who is now a close friend and fellow employee here in Tennessee. This friendship is one of many that serve as examples of a new era of Japan-Tennessee business, political, and social relations. These new relations are based on exchanges of new ideas, old traditions, and ways of life.

Japanese executives come into the United States searching for wise investment opportunities and eager workers. They find them both in Tennessee. Tennesseans are willing to cooperate with, learn from, and share our good ways of life with others. Because these two factors exist, Japan and Tennessee will both symbiotically benefit from a close business and cultural relationship toward the Twenty-first century and beyond.

Japanese businessmen are constantly searching for new, potentially successful business opportunities in Tennessee. Ninety-five Japanese corporations have established centers of manufacture and/or distribution here, and the number is growing at a steady rate. It initially began in 1977, when the executives at Toshiba decided to locate a television factory in Lebanon, Tennessee, employing 650 people. They liked the climate, the topography, and the people. It felt like home. It also made good business sense. Seventy-six percent of the U.S. population located within 500 miles, excellent interstate transportation, and an industrious work force were supporting factors. Toshiba loved Tennessee, and other Japanese companies soon followed. In 1980, Nissan Motor Mfg. established an over $800 million operation in Smyrna, the largest single foreign investment ever by a Japanese company.

Also, Japanese businessmen are looking toward expanding current investments. When quality reports showed that the Nissan plant was producing trucks with quality equal to that of Japanese plants, cars began to be manufactured there in Smyrna. Bridgestone Tire, after its acquirement of Firestone, decided to locate its central headquarters in Nashville and expand a former Firestone plant in Lavergne to make a new line of passenger-car tires. The operation may someday employ more people than does Nissan. The Japanese are known for holding onto a good thing when they find it, and they seem to have found something in Tennessee.

Tennesseans are among the most ready and willing to work in the nation. Overall, Tennessee has an excellent worker attitude. That factor is a very major element of Japanese investment here. Also, Japanese employers demand that their employees be loyal and trustworthy. Before any new employee is hired, applications are studied under close scrutiny, and appliers may be interviewed several times. Education is an extemely important consideration. Most importantly, Japanese demand that all their relationships, business and personal, possess *amae*. Amae is complete trust and confidence. Without amae, relationships are worthless so say the Japanese. Say many Tennesseans the same. This is one major reason why Tennessee and Japan have joined forces smoothly to form a team, a team that can make products of which both Americans and Japanese can be proud.

Believe it or not, Tennessee and Japan have very much in common. Besides climate and topography, Tennesseans and Japanese have something that we both hold dear to our hearts: Tradition. However, rather than inflicting our traditions and culture upon each other, we show more of an interest in sharing them, and we both show a desire to learn of each others ways of life. A prime example involves the town of Maryville, Tennessee. The town of Maryville was in the process of preparing a proposal trying to convince Nippondenso, a Toyota affiliate, to locate a starter-and-generator plant there in Maryville. The proposal was running smoothly, except for one major problem: What should they serve the Japanese executive when the proposal is presented? Kumiko Franklin, the Japanese wife of a Maryville College English professor, suggested this: Serve Jack Daniel's whisky, fried catfish, hush puppies, and cold beer. Maryville town executives tried the suggestion, and later that same year, Nippondenso broke ground in Maryville for a $200 million operation employing 550 people. That's what it's all about.

Japanese love almost everything about Tennessee. Country music is extremely popular in Japan, and Southern cooking is cherished by the Japanese who find it. Tennesseans enjoy Japanese food as well, and Japanese history, civilization, and culture are studied very much. This is another main reason why Tennessee and Japan have bonded so well together in friendship.

Friendship, whatever the type or subjects, should be both beneficial and rewarding to both partners, not just one. Tennessee and Japan both possess a will to work together with one another for both benefit and reward. In the future the friendship, if *amae* is present, can only become more beneficial and more rewarding to both partners.

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SECOND PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Emily Flowers)

Kokusaika, a Japanese word meaning internationalization, is our future. In other words, internationalization is our ultimate goal: not the destruction of individual cultures reconstructed into one culture, but the interreacting of all nations and the education of all peoples about the customs and ways of others.

Tennessee and Japan are working together to produce this "kokusaika" by introducing the ways of the East in the West. Now Tennesseans do not have to travel to the other side of the world to learn about Japan and its people: the discovery can be made in their own communities, with the aid of Japanese companies who bring their industry to create economic opportunity and their culture to create understanding.

Economics is essential to human existence: when our economy fails, we fail. Japan is enjoying great economic success, and many of its companies are looking to expand by seeking new consumers. They have the products Americans want; however, Americans cannot continously purchase Japanese products when the money returns solely to Japan; therefore, Japan brings its factories here. Americans obtain employment and buy the favored products. The money remains circulating in the United States, and everyone is happy. Tennessee needs Japan, and Japan needs Tennessee. As we become "interdependent", we become internationalized, drawing nearer our goal.

Understanding between nations is the most important factor in the development of humanity and the construction of world peace. There are ways to accomplish this seemingly impossible feat, and Tennessee-Japan: Working Together is one of them, as it slowly narrows the gap between the two civilizations. When a Japanese company moves into Tennessee, they bring along their families, customs, language, religion, and food. They bring them to share with Tennesseans who, in return, share theirs. It's an exchange of lifestyles, and it is a benefit to everyone involved.

Many residents of the United States still hold resentment for the Japanese because of their part in World War II, and the reverse is probably also true. But both countries have changed since that time, and now there is no reason for these hostile feelings. A Japanese company in a Tennessee community creates a connection between the people of the two nations. As the employers and employees work together, they discover their differences and their similarities: lifting the prejudices as the truths are revealed. Thus, by "intermingling" we are internationalizing.

Breaking down the barriers and building the foundations of friendship—that is Tennessee-Japan: Working Together, working for a future which depends on internationalization. Presently there are 95 Japanese companies in Tennessee, and that number is continuously growing because this alliance works. Its economic success produces "interdependence" which causes "intermingling" which creates "internationalization—proof that the goal of kokusaika can be achieved.

What we must now do is expand this cooperative alliance, not only in Tennessee, but throughout the world. As Merlin pointed out to the young Arthur: when seen from above, the Earth has no boundaries. It is one solid mass: a big, beautiful ball of possibilities. But those possibilities diminish one by one with each boundary drawn. In this last decade of the twentieth century, with international relations becoming increasingly complicated, and events with world-wide effects occurring daily, it is apparent that our future lies with kokusaika. As long as we work together, our tomorrows will never end.

THIRD PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Kelly Powell, 11th grade, Page High School, Franklin, TN)

On a pleasant day in Japan, a seed is planted. After many years of nourishment and growth, it matures into a healthy, young mulberry tree. It is one of the many mulberry trees which grow on about 400,000 acres of land inside Japan. Its leaves are fed to the silkworms. In turn, these silkworms produce silk threads and spin them into the form of a cocoon. The cocoons are then taken to the silk factories where the threads are unwound. Thus, the silk results in being used in the fabric which produces a beautiful and complete new garment of clothing.

This process seems to parallel the cycle of relations between Tennessee and Japan. Many seeds have recently been planted here in Tennessee in the form of Japanese-based businesses and factories, as well as by Japanese exchange students. Through this interaction, we learn from each other and then apply this knowledge to everyday circumstances in order to better both Tennessee and Japan alike. Thus, both countries have benefited from this profitable relationship.

Through the recent years, many Japanese-owned businesses have settled in the Tennessee area. They have grown and developed into highly successful firms employing many Tennesseans. They have not only helped improve economic conditions by creating new jobs, but they have also contributed to local school systems and other deserving projects. This interacting between the two cultures seems to weave a "cocoon" interlocking both Japan and Tennessee. This serves as the fuel for the people of Tennessee. Tennesseans, along with the Japanese, feed off of Tennessee's resources in order to produce highly valuable products, similar to the process of making silk.

The Japanese exchange students, in much the same way, have helped students here in Tennessee. Students share stories with each other to relate the two cultures of the countries. This enriches the minds and imaginations of all those involved. These images then blossom into beautiful cocoons of hopes and dreams for the future.

These efforts will continue to be beneficial to both countries. As we approach a new century, more Japanese businesses will continue to find homes in Tennessee. In return, more jobs will be created, and economy will be strengthened. Thus, creating a better environment for all those involved.

The relationship between Tennessee and Japan is an excellent example of a peaceful tie between two foreign countries. This should be noted by other countries around the world. It seems ironic that peace and war can exist at the same time. Tennessee is involved in a war in the Persian Gulf, and at the same time, we are strengthening our peaceful relations with our friends in Japan.

With both Tennessee and Japan working together, much progress can be made in the future also. Our relationships can be observed by other countries and perhaps set an example for peaceful relations. More countries should interact with each other in this way. Thus, Japan and Tennessee would not be the only beneficiaries. The whole world would gain a sense of unity, love, and most importantly, peace in the new century.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Sandra White)

The relationship that has arisen between the Land of the Rising Sun and the Volunteer State is based upon similarities, and upon the doctrine of economic freedom and democracy, with the resulting system incorporating characteristics of both Japan and Tennessee. This bond has led to the enhancement of both areas and will continue to do so in the future.

In Japan there is a flowering cherry that resembles the Tennessean dogwood, so the Japanese feel at home in the rural setting that characterizes Tennessee. The weather and geography remind them of home, not to mention the very aura of Southern hospitality in the air that seems to welcome them. Perhaps the Japanese contemplated this when considering Tennessee for a partnership, or perhaps they felt that the lack of unions and relatively few jobs would provide fertile ground for the Japanese seeds of management.

Economic freedom is dependent on many things. A choice of jobs is one of these characteristics. In order for one to have his/her choice of jobs, whether the job is professional, technical, or otherwise, the least restrictive environment must be offered. The least restrictive environment includes an availability of jobs, training for those jobs, and an employer that trusts and values employees.

Japanese involvement in Tennessee has created over 15,000 jobs in professional and technical fields. The promise of these jobs has led to training in the skills needed to fill the positions. Japanese management, so very different from most management systems in America, is founded upon mutual trust and loyalty between workers and management.

Economic freedom relies upon the fact that participants are consumers, that they are willing and able to purchase goods and services. The availability of money through work completed and services rendered is very important in the American system. The entire concept of freely disposable income is tied into self-esteen.

The opening of Japanese businesses in Tennessee has created jobs, and higher consumption. Also, the movement of Japanese companies has opened the door for more manufacturing and technical companies to move into Tennessee.

Economic freedom is dependent upon the availability of products. The process of choosing is tied into the theory of democracy, that without a choice, that without being able to make the decision one's self, there is no freedom.

Japanese involvement in Tennessee has given that choice to the people. The availability of employees, consumers, and the prospect of a brighter future has led many companies to open a market in, or even to move to Tennessee.

Economic freedom is dependent upon the prospect of advancement, of upward mobility in the workplace. Until recently, advancement in the workplace has meant only one thing, higher pay, and while more money is appropriate, there are other things equally important.

Japanese business has taught Tennesseans that a job can be enjoyed, that the only reward is not money, and that the friendships that grow are a reward too. They have taught Tennesseans that if the product is the best that can be produced, that pride is carried into everyday life.

Since Japan has become involved in America, the long-lived concept of "keiretsu", buying only Japanese, is no longer dominant. Instead, a doctrine of buying only the best, no matter the source, has overtaken this nationalist policy. Because of this removal of the final restraint against full participation, Japan was free to join in a partnership with the best. The bond between Japan and Tennessee is only going to grow stronger, and in today's web of interdependent economies that bond shall surely bring Japan and Tennessee to the forefront of the new world order.

In the ever-growing patchwork quilt of American society, Japan's patch is growing rapidly and through the thread that connects it with Tennessee, it has caused Tennessee to expand also. The thread that joins these two patches will grow until indeed there is a new patch, entirely dedicated to the relationship between Japan and Tennessee.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Christine Harris)

"It's not us against them," according to Tennessean William Perry of Portland, Tennessee's Yamakawa Manufacturing. As Japanese investors and businesses move into Tennessee, more and more native Tennesseans are becoming accustomed to our new neighbors. An exploration of this new-found relationship will reveal that these two cultures are indeed working together toward a new century.

Figures from the Tennessee Department of Economic and Community Development show that Japanese investors have contributed $3.8 billion in capital and investment to the state's economy. Through ninety-four operations (fifty-nine manufacturing, thirty-five sales and/or distribution), Japanese businesses employ nineteen thousand Tennesseans. Tennesseans working directly for Japanese firms and direct Japanese investments are not the only ways, however, that the Japanese are helping to boost the state's economy. Twenty thousand Tennesseans are employed by American firms which rely directly on Japanese businesses.

Another factor, other than the economy, that is affected by Japanese influence is the community. Tennesseans are learning from their Japanese counterparts as well as teaching them through cultural exchange. The Japan Center in Murfreesboro employs four professionals who act as emissaries for schools, companies, and individuals. Sovran Bank in Murfreesboro also held a seminar to acquaint Japanese women with the American checking system. According to Takehito Mochizuki who trains workers at Yamakawa Manufacturing, "The Americans are teaching us to be more spontaneous and outgoing."

Yet another influence of the Japanese on Tennessee can be seen in the labor force. Workers are becoming more open to new opportunities brought to Tennessee by Japanese industry. The relationship between both Japanese and Tennessean workers is one of optimism and acceptance. "They want you to feel that this is your company, not theirs, so that you're working for yourself, too," said William Perry. Working for Japanese firms has not made Tennessean workers lose sight of their American pride, according to Mary Green of Smyrna's Nissan plant. She says, "I know they make a lot of decisions back in Japan, but that's abstract. We don't see many Japanese. We're making the cars, and we're Americans.

As one can clearly see, Tennessee is greatly affected by the Japanese. What remains unseen to most Tennesseans, however, is Tennessee's influence on Japan. Japan is the third largest economic power in the world and is the United States' chief competitor. Japan's investment in Tennessee does not only aid the state's economy, but it also boosts Japan's economy in relation to the international market.

Through Tennessee's economy, community interaction, effects on the labor force, and Tennessee's effect on Japan's international influence, Japan and Tennessee have become partners working toward the common goal of prosperity through peaceful international relations. Tennesseans are learning more about foreign culture. The economy has been boosted through Japanese employment and investment. Workers are now working on an international scale. Takehiko Mochizuki of Yamakawa Manufacturing says, "The reward is not so much the money, it's also the friendships and the working relationships. We don't think so much about salary." The people of Japan view the corporation as something that belongs to them, not something they belong to. The feeling is relayed to Tennessean workers as well. Liberal Democratic Party elder Shin Kanemaru sums up the relationship by saying, "Japan would not exist without America." Evidently, Tennessee relies on Japan in much the same way.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Carla Strassle)

Allies in World War I. Enemies in World War II. Where did America and Japan's path lead after the war? Why, to Tennessee!

Today, we have almost one-hundred Japanese companies located in Tennessee. There are many reasons why Japanese companies settle here. Our topography reminds them of home. The rolling countryside and small-town atmosphere of our communities gives the a sense of belonging. The climate of our state, the people who live here, and our culture here in Tennessee makes it an ideal place for the Japanese companies to locate.

Adjusting to our new partnership has taken some time and patience. Although there are some things between us that are similar, there are many ways in which Japan and Tennessee are very different. In America we enjoy a good night's sleep on a comfortable mattress, but in Japan, their "mattress" is a futon, bedding that is laid out on the floor at night and stored during the day. Another difference between us is the use of a bathtub. When we get in a bathtub, we take a bath to get clean, but in Japan, the bathtub is used to clear the mind and relax the body. Cleansing is done in a shower before they get into the clean water in the tub. Even the things we eat are different. We can both get a hamburger, but fruits and vegetables that make up a good part of our diet are delicacies to them. Their main staple foods are fish and rice, and although we can purchase those at any grocery store, we just can't seem to master the chopsticks that they eat with. Instead we opt for the silverware. All these things show us how different things are between us, and their focus on education is no exception. In America, teenagers have many privileges that are taken for granted. More often than not, school is the least of our worries, but in Japan this is not the case. Japanese teenagers study both in school and in juku, after-school tutorial classes. They go to school six days a week and as much as eleven hours a day. Japanese students attending schools in America like the shorter school days and week, the lighter homework load, and the other privileges that they have experienced during their stay in Tennessee, such as being able to receive a license at sixteen instead of eighteen. Working through our differences has helped us gain a better understanding of each other, and we continue to learn new things through them.

It is obvious that we are very different in many ways, so how do we manage to work together so effectively? Teamwork is the key. By finding similarities in our cultures, working through our differences, and learning with each other, we are facing the future together, as a team. The Japanese know that in our right-to-work state, employees are assured of employment without union pressures. They also know that the laws governing business practices are well established, and that our plentiful resources, central location and low level of taxation make it economical to run a business in Tennessee. While the business practices of Japan may differ from our own, in such ways as decision making and morning calisthentic exercises, we have compromised to form a partnership that is part of a global economy which consists of the worldwide manufacturing, distributing, and consuming of wealth. The companies located in Tennessee provide jobs for over 18,000 Tennesseans, as well as business for existing Tennessee firms, and for every manufacturing job that is created, other jobs are created in other industries. The salaries of the employees of these companies feed directly back into our state economy.

The Japanese companies located in Tennessee are often the largest private taxpayers in the area. Because of this, local goverments are able to improve schools, roads, and hospitals. The companies, however, do not stop there when it comes to enhancing our communities. They donate computers and televisions for our schools, sponsor homes for abused children, and sponsor trips to Japan so that we can experience Japan as they are experiencing Tennessee.

The partnership between Tennessee and Japan is strengthening every day as we learn to work together to accomplish our goals. As we progress into a new century, so does the world. This is not just a business relationship, it is a growing friendship and understanding of things and people who live half a globe away. In Portland, Tennessee, just twenty minutes from my house, the Yamakawa Manufacturing Corporation of America, a parts supplier for the Nissan plant in Smyrna, has made its home. I never knew Japan could be so close.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Jeremy Latimer, 9th grade, Henry County High School, Paris, TN)

Tennessee and Japan are very involved today through Japanese industries and investments. The relationship actually began in the early 1970s, when Tennessee got it's name in the hat with Japanese companies that were beginning to look for sites in the United States to locate their factories. As Tennessee and Japan work together toward a new century, many areas will be affected: education, job quality, financial investments, communications and the cultures of the two countries.

Education in the United States will be influenced by the Japanese ideas. Japanese children are used to a longer school year than we are and three Tennessee cities, Memphis, Murfreesboro and Knoxville now offer "Saturday schools" for Japanese children. They take additional classes in language and math. The Japanese idea may eventually affect what is offered in American schools and the length of the school year. More schools may offer the Japanese language as a subject choice. This would make it easier for Tennesseans going to Japan to train for jobs. They could communicate better if they knew some of the language.

The Japanese are very strict about the quality of the products they produce. Job performance determines job security in factories operated by the Japanese. Their concern shows up first in their hiring process. An applicant may go through several interviews as well as unpaid pre-employment training sessions before being hired. They want to know about work habits and attitudes before they hire a person.

Not only are they very strict about the products they produce, they also are very particular about the parts and materials they buy from other companies. This forces their suppliers to work hard to meet the Japanese standards. It is often hard to obtain a contract with a Japanese company. For example, Plumley Companies in Paris, Tennessee, attempted for approximately four years, to provide fuel hoses to the Nissan Company. They finally signed a contract to supply the hoses.

The involvement of foreign countries such as Japan has changed the financial markets in our country. The Japanese have brought a lot of money into Tennessee as well as other states. They have spent billions of dollars buying land and building factories. Many Tennesseans own stock in these successful companies. Investors also now have the opportunity to invest in international funds that were not always available. Our investment opportunities are now international rather than limited to the United States.

The Tennessee-Japan relationship should also affect our communications future. The Japanese are a highly technical people, being very involved in electronics. They will continue to move ahead in the world of telephones, television and other communication equipment. In some Tennessee cities, a Tokyo newspaper is available on a daily basis. This proves that advances in communication and information have made the world much "smaller" than a few years ago.

The cultures of both Tennesseans and the Japanese are affected by their relationship. The Japanese have changed the work attitude of many Tennesseans. A job is no longer just a job. The Japanese promote pride in accomplishment and a loyalty to the company that many Tennesseans did not have. Workers now feel that they are a part of the company and that, in a sense, they work for themselves. There is a very low rate of workers being absent and workers are punctual, which is very important to the Japanese. Likewise, the Tennesseans have taught the Japanese to relax some and be a little more spontaneous.

The Japanese are also very neat in appearance, most having short hair and no beards. They have learned to accept Tennesseans with long hair and beards by looking to the inside of people not just to the outside appearance.

Tennesseans have learned to appreciate Japanese foods while the Japanese enjoy Jack Daniel's Whiskey (made in Tennessee) and fried catfish.

Tennessee and Japan are working together toward a new century. It takes compromise

on both parts but it is a very beneficial relationship.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Greg Proffitt, 11th grade, Hermitage Springs School, Red Boiling Springs, TN)

Each time that we pick up a newspaper or turn on a T.V., we are reminded that we are living in a troubled world. The past decade has witnessed an increasing crime rate, a struggling economy, and the alarming decline of the family unit. It was—and is—difficult for many to remain optimistic about the future, especially the new century which is so near at hand. If ever our country needed a friend, it is now, and Tennessee has been fortunate enough to find that friend—Japan.

Although Tennessee is noted for its beauty, warmth, and hospitality, it is not immune to the many problems facing our world. For example, economic instability has taken its toll on many a businessman in our state. The small, family owned and operated business is quickly becoming a thing of the past. Tennessee is also in the process of reassessing its educational system and evaluating reforms which it hopes will produce young adults better prepared for the future that lies ahead. It is obvious that these problems and many others are money-oriented to a certain extent, if not totally. It has been said that "money is the root of all evil." It would be more accurate to say that a lack of money is largely responsible for the many problems plaguing our nation.

However, Japan has helped Tennessee through these difficult times by introducing much needed industry into our state. As early as 1978, Japan began establishing companies throughout the state. Thanks to their interest and involvement, Tennessee now has 95 Japanese corporations employing some 18,000 people, mostly Tennesseans. As a result, salaries totaling $½ billion each year are now flowing into the state's economy. Too, many existing Tennessee firms in areas such as retail, construction, and education have benefited because of supplies or services needed by these Japanese corporations.

Yet, we must give Tennessee credit where credit is due. We live in a beautiful state, one in which the Japanese have recognized and learned to appreciate a landscape and climate very similar to theirs. They have also experienced Southern hospitality, which can be as simple as a friendly wave or even a smile.

There are also certain business traits characteristic of Tennessee which have drawn the Japanese to our state. First, they like the low level of taxation and government regulations. The Japanese also appreciate the fact that Tennessee does not allow unions to be ruling forces among its workers. Also, Tennessee, which is centrally located in the nation because of its extensive interstate system, is served by TVA, a provider of clean, affordable energy. Yes, Tennessee has much to offer Japan in their on-going partnership.

This partnership is now striving to improve the problem of the dissatisfied and disillusioned American worker. We have long been aware of the unique relationship between the Japanese employer and employee. Included in the formal decision-making process, the Japanese worker has a strong bond with his or her work, viewing it as a job for life. As a result, employees work harder because they have a tremendous sense of pride in themselves and their work. It is no secret that self-esteem, along with good pay and attractive benefits, is the key to a happy, productive worker.

In conclusion, if Tennessee is to become a part of the global economy, it must continue to be open-minded and willing to change that which has proven to be ineffective. It must look to the future, aware that "times are a-changing." Fortunately, Tennessee has a friend who will stand by it, working hard to see that future generations can enjoy a sense of security and well-being. Yes, Tennessee and Japan are working together to assure us that if the new century holds any surprises, they will be pleasant and welcome ones.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Leigh Ann Curt)

The United States and Japan have had troubles since the turn of the century. Pearl Harbor and related events created much hostility between the peoples of these two nations. The relations have improved, but there still is a prejudice against the Japanese people. There is one state that has extensive interest in a positive relationship with Japan. With a firm partnership between Tennessee and Japan, we can mutually strive toward the expansion of high-tech industries, education, and well-being for our citizens for the upcoming century.

One might ask, "Why is Japan so interested in Tennessee?" Many factors contribute to the attraction. Japanese people feel comfortable here because of the similarities found here such as the landscape, climate, and culture. It is also economical to run a business here. Our state has a low level of taxation, plentiful and cheap energy resources, and a good location for access to other parts of the country. Japanese companies can far better serve the American people from one of its own states than it could from a plant in Japan.

Japan is bringing to Tennessee their industries while Tennessee provides the skilled labor and marketing techniques. Currently, there are 95 Japanese corporations that have opened manufacturing plants and/or distribution centers across the state. Products from these centers and plants can be found almost anywhere you find electronics and automobiles. Toshiba, Nissan, and Bridgestone are examples of Japanese based companies that produce and distribute goods in our state. Typewriters, computers, radios, cars, trucks, and tires are just a few of the products that are shipped from our state to the rest of the world by these 95 companies. Tennessee contributes marketing skills to this business. We have the information needed to enable the industries to compete with American companies for American consumers. With these two contrasting peoples working as one, there is the need to better educate our people about our respective ways of life so we can use this partnership to its fullest potential.

Tennessee and Japan share the common concern of education among our integrated children and the involvement in our respective cultures. Japanese children have a privilege of a more thorough education than that of our children. They study longer hours and also on Saturday. Some students who have been enrolled in both school systems say that Tennessee is definitely much easier. Because there are Japanese children in our schools, adults in our work force, and citizens in our community, we are learning first hand about their culture and they about our culture. Many of the previously mentioned companies have formed partnerships with our schools. They offer financial support, donate televisions, computers, and other needed items, and create "hands on" experience for the children. Bridgestone brought the Masterworks art exhibit to Nashville to share with our citizens. From education to culture, from sushi to hamburgers, we are sharing our ideas, our experiences, and our knowledge, therefore educating our people.

The citizens of Tennessee and Japan greatly benefit from this partnership. Both economies are expanding. Jobs for people of both lands are being created. Because of the competition formed by the number of new businesses, prices are going down. The educational opportunities are being opened for all people. Charitable functions such as the Toshiba boys home are being made available to our citizens. Together, this partnership is doing wonders for both parties involved. We are partners looking to build a better future for ourselves, for our children, and for generations to come.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Jason Couch)

Nowhere else in our nation has the spirit of cooperation between the east and the west in the fields of industry and technology been felt more strongly than in Tennessee. Japan and Tennessee have been drawn together in an exchange of methods and ideas which are proving to be of mutual benefit.

The influx of Japanese companies into Tennessee has already created some highly visible benefits to Tennesseans in job opportunities and improved economics. Almost one hundred Japanese companies are now in Tennessee and close to twenty thousand jobs have been created. In addition Japanese firms have invested millions of dollars in Tennessee real estate. These same companies increased construction and building revenues for the state. The trickle down benefits have provided new revenue generating opportunities for many Tennessee owned and operated businesses. Japanese corporate dollars are being retained in the state. These monies in turn are used to strengthen the economy and attract additional businesses.

Japanese companies base themselves in Tennessee due to our abundance of natural resources, energy supplies, and work force. Low corporate and trade taxes are another added incentive.

In addition to the economic interaction there is also cultural interaction taking place. This interaction manifests itself in the areas of music, art, language, and cuisine. Tennesseans may not yet be eating their grits with chopsticks, but the impact of Japanese culture is being felt in a positive manner across the state. Tennesseans are learning to eat sushi while the Japanese are becoming great country music fans. In a recent extended showing, a Japanese corporation gave Tennesseans an opportunity to view its priceless European art collection. One Tennessee radio station now offers a daily news broadcast in Japanese. Hospitality and a sense of tradition is strongly woven into both cultures creating common denominators. Each culture enriches the other through exposure to new ideas and customs.

Tennessee and Japan must now look to a new century. It will be a century of rapidly expanding technology, and an era of adjustment to continued advances in automation. Corporations will find themselves in growingly competitive markets, while the work force will find a need to be flexible and resilient in the face of change. Tennesseans have learned the benefits of team spirit in the workplace from the Japanese. In return the Japanese have learned about old fash-

ioned American ingenuity from Tennesseans. In the future there will be a growing awareness of the need to ultilize natural resources more efficiently, and to avoid the pollution of the planet. Japan has been forced to deal with limited natural resources for many years, and Tennessee will learn new ways to manage its resources from Japan's experience. Japan and Tennessee will need to continue to promote fair trade and business practices with each other.

The next century will bring its own set of problems but also new and exciting opportunities. Japan and Tennessee must continue to build a friendship based on mutual respect and understanding. It must be remembered that friends draw strength from one another and are interested in each other's welfare. The continued combining of unique strengths will enable Japan and Tennessee to face the challenges of the new century with confidence.

Source for corporation and employment figures: The Tennessean.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Billy Copenhagen, 9th grade, Brentwood Senior High School, Brentwood, TN)

FOLLOW ME INTO THE NEXT CENTURY

As I pulled out of my driveway to go to my job at Yamawaki Industries, I waved to my neighbor Don Wati. I am driving in my Toyota on the left hand side of the road. I drive my car to the toll road. I don't mind paying a little extra to travel on the toll roads because 80% of the revenue made is given to the school system which has the best schools in the United States

As I pull up, I see Charlie the Robot. In his synthesized voice he asks me for my destination. I tell him downtown at the third exit. He gives me my card, and I am off. As I drive, ahead of me is the bluest sky, and to think it used to be a greenish-grey before it was cleaned up by Tatsunoco Enterprises.

I look at my office building, which can't be missed because it's 98 stories of high energy technology. Where am I, you ask? Although you may think I'm in Japan, I'm really in Nashville, Tennessee, about ten years from now.

You see, the Japanese came here to team up with Americans to improve and modify our techniques and skills. At the same time, we have Nashvillians in Japan helping them with their music and entertainment industry.

So you see that since we've teamed up with the Japanese, our productivity and quality has gone up considerably and is unlike that of any other state.

I leave the toll road and drive to my private parking spot underneath the mammoth building in which I work. I pull out my Emerson pocket recorder to make a note to my secretary as I enter the elevator and punch in my floor number. It takes only seconds to reach the eighty-eighth floor because of the technology of vacuum elevators which was another Japan/Nashville development.

I write myself a note to call the Nashville Stock Exchange to buy 25 shares of Eastern II, which is an exclusive airline rebuilt from the old Eastern Airline and moved to Nashville. In a realistically human voice the elevator tells me that I've reached my destination.

Our office is run in a different way than back in the early nineties. Each person is in charge of one thing, so there are no vice-presidents and no private offices. Because of this, there is no one stepping on anyone else, and there is no brown nosing. This is a very effective way to run a business, and because of it, we are 50% more efficient.

After some office work, I go to lunch with a buddy of mine. We take the levitating train to McDonalds Sushi Bar.

On the way back to work, we can't help but marvel at the fusion power plant, which was built as a joint Nashville/Oak Ridge/Japanese team project. I am glad that I don't have to worry about nuclear waste.

It is now the end of the working day, and it is time to unwind and take the required end of day relaxation on the eighty-ninth floor. Mr Yamawaki requires it because the more relaxed we are, the more productive we will be.

I leave the health spa around 7:00 and head home. I get home at about 7:30 thanks to the enhanced tollway system which provides more lanes during evening rush hour.

Ah! home sweet home. I punch in my code to disarm my alarm, and ask the house computer if anyone has called. I am really tired, so I think I'll watch some television on my American/Japanese made television. Of all the things that have changed over the years, I am sure glad that home life has remained simple and uncomplicated.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Billy Strasser, 11th grade, Montgomery Bell Academy, Nashville, TN)

When one works by himself on a project, the project is tough. However, the project is made easier when two people work on it together. By working together, Tennessee and Japan can create a better future. There is much to be learned about the Japanese, such as their cultures and customs. Once we learn about the Japanese, we can apply this knowledge to our jobs in Tennessee. We can create a bright new future by working with Japan toward a new century.

Through the 4-H/LABO exchange program, I have hosted two Japanese exchange students in my home and I have traveled to Japan. I discovered that the Japanese culture is very different from the American culture. When I first arrived in Japan, everything seemed to be different. From food to language to taking your shoes off at the door, the Japanese are very different from us. However, there are similarities also. The hospitality with which they greeted me was much like our Southern hospitality. I also found that a smile crosses any language barrier, and I often had to smile when I tried to say something they could not understand. We developed a great friendship, and it is friendships like these that help us work together toward a great future.

In a global economy, goods and services are exchanged across national boundaries in a process known as international trade. It is evident that Tennessee is part of a global economy when one looks at the amount of Japanese businesses in Tennessee—Nissan, Bridgestone, Toyota, and Sharp. These are only four of the almost one hundred Japanese businesses in Tennessee. This certainly helps our economy: the Japanese businesses employ Tennessee workers and pay salaries to those workers, which puts more money into the Tennessee economy; it helps the problem of United States-Japan trade relations; and Japanese products are now made in the United States and shipped overseas. There is much to be gained economically by Tennessee-Japan partnerships in business.

What can we learn from the Japanese? Quite a bit. The Japanese and Tennesseans can learn from each other in many ways. Their education system is excellent, while ours is in need of reform. They are advanced in the field of technology, and we can learn from them. They have a very low crime rate, while this is certainly not the case in America. These are only three of the areas in which we can learn from the Japanese; there are many more benefits to be reaped as Tennessee and Japan work together toward a new century. Most recently, Tennessee has welcomed the Masterworks exhibit from the Bridgestone Museum of Art in Tokyo, Japan. The exhibit has never been to the United States before, and we are thankful to have had the exhibit here. The Japanese have much to share with us, and we should be receptive to this.

When I went to Japan, I was proud to be from Tennessee. Many Japanese seemed to know Tennessee. When I hosted two students from Japan, they liked Tennessee very much. The hills and countryside of Tennessee reminded them of home. We developed a friendship that will never be forgotten. Through these types of friendships, we can grow and learn together into the next century.

Thomas Jefferson once said: "I like the dreams of the future better than the history of the past." I like the dreams of the future too. Working together with the Japanese, we will have a better future. As long as we take advantage of friendships between Tennesseeans and the Japanese, we can work together toward a new century.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Jason Holleman, 12th grade, John Overton High School, Nashville, TN)

Tennessee, the "Volunteer State," and Japan, the "land of the rising sun," are two cultures very different in history, but very alike in values. These two peoples are doing what the rest of the world must do. They are fighting their dilemmas with the weapons of trust, diplomacy, and ingenuity.

Japan is a nation of great technology, corporate structure, and global economic power. The rapid growth of Japan's population continues to crowd into its relatively small geographic area, an area lacking adequate supplies of raw materials. Tennessee is a land of plentiful natural resources, proud, eager workers, and American ingenuity. However, in Tennessee as well as most of the United States, people are distraught with the loss of jobs and income, partially due to the influx of Japanese-made products in both domestic and world markets. Thus, Tennessee and Japan have joined forces, and are combatting these problems by bringing Japanese manufacturing plants and distribution centers to Tennessee, using our raw materials, while boosting our economy. So, statistically these two seem to be a perfect match for any business endeavor.

Even more amazing than facts and figures, is the colloquial traits that draw this pair together. Japan and Tennessee lie upon the same longitudinal line, so their climates are very similar. Both cultures value honor, trust, etiquette, and tradition. If Japan is the tea brewed from the heritage of courageous shogun warriors, Buddhist philosophers, and Eastern empires, then Tennessee is the lemonade blended from its spirit of early pioneers, its brave volunteer soldiers, Bible-belt Christianity, and Southern gentility.

It is obvious to a knowledgeable observer that these two cultures complement each other in business and as well as in life. Tennessee has provided high worker productivity and low government regulation. They

have laws that prevent workers from being forced into labor unions. Energy resources are cheap and abundant. The Tennessee Valley Authority is the largest electrical power producer in the country, and Tennessee's location makes it accessible to three-fourths of the United States population in a day's drive. Japanese companies have invested in local contractors and labourers for the construction of their plants, providing excellent jobs with many fringe benefits to Tennesseans. A Japanese company is often the largest private taxpayer in their surrounding Tennessee area, and they have boosted America's global economic status. However, these two cultures have aided one another outside of business. Tennesseans have given the Japanese Western music (There is one song that is known by every band in Tokyo, a song that makes every Southerner feel at home, the "Tennessee Waltz"—made popular there in the early 1950's.), Southern food delicacies, and clothing styles. Most notably, we have also introduced to them western hobbies and athletics, such as bowling, baseball, basketball, and golf. This introduction to American sporting events has given them a sense of our ideas of athletic competition and most importantly, individual creativity. Japan has shown us a superior educational system that promotes a strong curriculum and a well-structured school system. This influence is apparent, as Gov. Ned McWherter and Tennessee's state government and local school boards are presently striving towards drastic reforms in our educational system. They have also exposed us to their food and hobbies, and have shown us their loyalties to their jobs and their spirit of team effort.

So as the names Tennessee and Japan grow even more synonymous with the words quality, progress, and integrity, we feel certain that the ninety-five Japanese companies presently in Tennessee will continue to grow in size and number. We know that this relationship will foster the Volunteers into a new era, an era of "the land of the rising economy." And as we futher influence each other in the ideals and traditions that made our nations strong and developed them into world powers, may we continue to grow in this great task, not as a single unit, but as two, each preserving its individual heritages, while striving towards a common goal.

FOURTH PLACE—TENNESSEE-JAPAN: WORKING TOGETHER TOWARD A NEW CENTURY

(By Lane Mullins, 11th grade, Lebanon High School, Lebanon, TN)

Tennessee has opened its doors and its heart to a people whose love of simplicity and beauty truly make Tennessee a home away from home. Tennessee and Japan have formed a lasting friendship. Once enemies, we now share new ideas and technologies for the benefit of us all. What was once thought to be cultural differences have, in many cases, turned out to be similarities. Through mutual respect and understanding, the Tennessee-Japan alliance can boldly face the challenges of the twenty-first century.

Why do the Japanese like to operate in Tennessee? Tennessee has many features that are appealing to a Japanese manufacturer. First, it is centrally located—a day's drive in all directions encompasses three-fourths of the U.S. population. We have a largely non-union oriented labor supply with little government regulation. Tennessee and Japan have a similar climate, also. We are on the same latitude and have similar land features. We have space for building manufacturing facilities—a resource which has been exhauted on the crowded Japanese islands. Tennessee has low taxes, and shipping costs are greatly reduced. Tennessee also produces natural resources needed by the Japanese companies.

But the benefits are mutual. The Japanese companies create new jobs and more money in the economy. Each new Japanese plant creates the need for support businesses which in turn create more jobs. The payroll from Japanese companies is worth $500 million a year. If the local economy is strong, we will buy more goods, build more houses, and spend more on leisure activities. This increases sales for American companies in Tennessee as well.

The Japanese and American cultures appear so different that it was thought the people could not function in a working relationship. The Japanese are meticulous in their decisions and their lives. A new plan is scrutinized and redone until all the bugs are worked out. Only then is it put into action. The process is time-consuming, but leaves nothing to chance. Americans are less formal in both actions and appearance. They often speak first and think later. The success of Japanese manufacturing has forced American workers to regain our lost pride in workmanship and commitment to quality. Still, Japanese and American workers have successfully blended their talents into extremely successful joint ventures.

A Japanese employee is hired for life. A company expects to build a worker before it builds a product. A Japanese person works hard in high school in order to get into a good company. It is a great shame to be fired or quit your place of work. All company employees are considered equal. The men wear the same type suit and have the same benefits. The American system is a "climb-the-ladder" system to get to the top. Very often it is the labor side versus the management side. New emphasis by American companies on employee involvement, "quality circles," and the team concept are a direct result of Japanese influence.

In 1975 only one Japanese firm was established in Tennessee. A major breakthrough came in 1978 when Toshiba came to Lebanon. Bob Traeger was hired by Toshiba to create a television factory in America. He found 107 acres in Lebanon's Industrial Park for $374,000. He knew he had found the place. Toshiba is now an important part of Lebanon.

The largest investment in Tennessee by a Japanese company is the Nissan plant in Smyrna, which began in 1980 with an investment of $500 million. The Nissan plant spurred the opening of many smaller companies to supply their operation, both Japanese and American. Today almost 100 Japanese companies are scattered throughout the state.

The Japan Center of Tennessee, located on the campus of Middle Tennessee State University in Murfreesboro, is helping to inform Tennessee citizens about the culture and society of contemporary Japan. It also helps the Japanese to make the transition into Tennessee life. They offer programs and workshops to assist us in learning about Japanese culture and business practices. The Center is funded by the State of Tennessee and by Japanese and American companies.

It looks as if Japan is here to stay as long as Tennessee deals a dose of southern hospitality and the right atmosphere in which to work. The differences in our cultures are not that significant. We have come to learn that we all like southern music and fish, be it sushi or fried catfish. Tennessee and Japan are working together to make the future brighter for the world of tomorrow.

THE DISASTER IN BANGLADESH

Mr. KENNEDY. Mr. President, once again, a powerful natural disaster has devastated Bangladesh and brought new tragedy to the long-suffering Bangladeshi people. And once again, the lives of countless thousands of destitute men, women, and children are dependent upon the generosity and concern of the international community.

At least 125,000 Bangladeshis lost their lives in the latest monsoon cyclone and the final death toll may rise to 200,000. Most of those drowned were children. Nearly 3 million people have been left homeless by this catastrophe and the lives of over 10 million others have been affected. Economic and property damage exceeds $1.25 billion.

I am deeply concerned over this tragic loss of life in a country that has already borne far more than its share of natural and man-made disasters. In 1971, I visited Bangladesh, then—and still—one of the poorest countries in the world, shortly before its recognition by the United States as an independent nation. Since that time, Bangladesh has suffered almost annually from catastrophic droughts, floods, and cyclones, in addition to the multitude of problems wrought by poverty.

This disaster may be the worst yet. Thousands of acres of farmland have been devastated and much of the country's rice crop has been lost. There is little safe drinking water in places affected by the disaster and poor sanitation in these areas has raised serious concerns about an outbreak of cholera.

Humanitarian groups and international agencies have rushed food and medical aid to Bangladesh, but relief operations have been hampered by a shortage of helicopters and speed boats to reach remote areas. Relief operations have also been undermined by bad weather—a tornado and heavy thunderstorms have deluged large areas of the country.

By the end of this week, the United States will have contributed over $7 million in aid and medical supplies to Bangladesh. Yet initial estimates of the total assistance needed for emergency aid and to rebuild damaged infrastructure range from $500 million to over $1 billion—posing a major challenge for U.S. leadership of this international humanitarian issue.

It is my profound hope that the United States will accept this challenge and agree to provide a much more generous share of humanitarian and reconstruction assistance to Bangladesh as the people of this poor but proud country seek once again to rebuild their lives.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business has closed.

CONSUMER PROTECTION AGAINST PRICE-FIXING ACT

The PRESIDING OFFICER. Under the previous order, the time between 1:15 p.m. and 3 p.m, and between 4:30 p.m. and 6 p.m. shall be equally divided and controlled by the Senator from Ohio [Mr. METZENBAUM] and the Senator from South Carolina [Mr. THURMOND].

The clerk will report the pending bill.

The legislative clerk read as follows:

A bill (S. 429) to amend the Sherman Act regarding retail competition.

The Senate resumed consideration of the bill.

Pending:

Brown amendment No. 90, in the nature of a substitute.

The PRESIDING OFFICER. Who seeks time?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, am I correct we are on the bill at the moment?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. Mr. President, I rise to urge my colleagues to invoke cloture so that we can vote on the Consumer Protection Against Price Fixing Act of 1991. This is a critical vote for the American consumer. It is a vote to stop price fixing, and it is a vote for the free market and free enterprise.

Our President spoke just the other day at the University of Michigan to the commencement class and talked about free enterprise. There is no bill that this Congress will consider that is more in the concept and scheme of free enterprise than is this piece of legislation.

How can anyone argue that an individual, a merchant, who wants to sell his or her product at a lower price, should be prohibited from doing so, should be precluded from doing so, should have jeopardized his or her right to continue selling that product by having the manufacturer withdraw the product from the particular merchant?

This is not a Democratic or a Republican issue. Eleven Republicans voted to invoke cloture yesterday so that we might consider this vital legislation. It is not a conservative measure; it is not a liberal measure. Nor is it a conservative versus a liberal issue.

Many Members from both sides of the aisle who are hardly liberal, and some who are hardly conservative, support this legislation. This legislation has broad-based support.

S. 429, the Consumer Protection Against Price Fixing bill, has undergone many changes over the last three Congresses to try to accommodate legitimate business concerns. I told Senator BROWN I would accept an amendment in the nature of a substitute which he offered. This amendment addresses every single concern raised by those who oppose this bill. But addressing their substantive concerns does not seem to matter. Those who oppose consumers on this issue want this bill dead.

I say to my colleagues on the floor of the Senate, how can you be opposed to the right of the housewife or the head of the house who wants to go to the store, trying to eke out a living, trying to have enough money available to keep the family and home together, going into the store and buying something at a discount? What would cause you to come out here and oppose that?

You can use all the gobbledygook you want about the legal systems in connection with this bill, but when push comes to shove, and when you look at the bottom line, we are talking about the right of the American consumer to buy a product at a discount. Make all the legalistic arguments you want. Quote all the authorities you want. Give us all the legal mumbo jumbo you want. Pontificate as to the question of whether there might be some lawsuits. There can only be a lawsuit if a retailer complains about the fact that one of his competitors or her competitors is selling at less than the price set by the manufacturer.

Under this bill, the manufacturer has the right to set the price. As long as there is no intervention by a competing retailer, there is no problem. Even with the bill, the manufacturer has the right to set the price. The manufacturer has the right to set which area of territorial restraint to give exclusives in certain areas. Nothing would stop that. Nothing would change that.

But the fact is that some manufacturers want this bill dead at any cost. We looked at the Brown amendment. It was not everything that I thought it ought to be. It does not move in the direction of making this law tougher. As a matter of fact, the Brown amendment actually makes it more complicated to maintain a cause of action if there is a violation. But we accepted it, indicated our willingness to accept it, because we thought it was a reasonable approach to the problem.

But in spite of that, we will hear arguments here today against the Brown amendment. We will hear arguments against the basic bill. My colleagues, I just say that is outrageous.

Let me quote from the Philadelphia Inquirer editorial, "Retail Class Wars; Is K mart a Victim of Discrimination?" This is the editorial:

Price-fixing hurts consumers and corrupts the free-enterprise system. But there's growing pressure on discount stores to raise prices on items ranging from furniture to clothes to computers. Manufacturers apply this pressure to please tonier stores that have higher markups.

If this sounds illegal, well, it used to be. But in 1988 the Supreme Court diluted the law's protection for consumers and discounters. Under the new legal standard, it's not clear-cut price-fixing to cut off a discounter unless the manufacturer has dictated a specific, higher price for its product. Of course, that left suppliers with a host of phrases, gestures and expressions for telling stores that their prices are too low.

Fortunately for consumers, a slew of organizations are pushing legislation that would restore the stronger standard against price-fixing. This coalition includes the National Association of Attorneys General, the Consumers Union and the American Association of Retired Persons. Still this strong backing didn't keep the anti-price fixing bill from dying in Senate last year.

Many of the bill's opponents say that manufacturers need to be able to set minimum retail prices so that the stores can afford to provide good service. they say that otherwise, the customer will learn all about personal computers, say, at a specialty store, then buy the item at K mart. But as Business Week put it in endorsing this bill, anyone who believes that higher prices mean better service hasn't been shopping lately." The less-flippant rejoinder is that even under this bill, suppliers could insist that retail stores meet standards for service and support.

Despite high-toned arguments from pricey stores and manufacturers, the fundamental problem is that some businesses don't really like competition. They seem aghast that many Americans shop at outlets where products sit in cardboard cartons and shoppers listen to the P.A. system for the latest special. But such choices should be decided by the free market, not by federal tolerance of price-fixing.

The Philadelphia Inquirer is not the only newspaper or magazine that editorialized on this subject, including Business Week, as I just mentioned. The Journal of Commerce of Friday, April 12, 1991, indicated its support for this legislation. The Boston Globe, in an editorial entitled "Curbing Price Fixers," editorialized in support of this legislation. The Patriot News of Harrisburg, PA, had an editorial, "Keep the Marketplace Free." The Arizona Daily Star had an editorial on March 13, "The Price is Right Bill Would Give Consumers Break on Cost and Choice."

Mr. President, this is one of the few times we can do something for the American consumer that will not cost the Government a penny. A vote for this cloture motion is a vote to stop price fixing. Price fixing raises prices for clothes, toys, TV's, luggage, stereos, perfume, skis, furniture, tennis rackets, cameras, shoes, and a host of other items that people buy every day. This is not about the fanciest stores in the world. They do not have plush carpets and fawning service. You will not see Zsa Zsa Gabor in these stores. Most of them just provide the consumers with the bare essentials: a solid product at a fair price. That means an awful lot to millions of Americans who are struggling to get by on weekly paychecks. Especially at a time when the economy is so weak, we must do something to help the average American.

When it comes to helping out these people, when it comes to trying to allow free and open competition, to lower prices for everyday goods, when it comes to the little guy, we are being asked by opponents to kill a bill dead, no matter how it reads, "do not let it come to a vote." There is no question that a majority of the Members of the U.S. Senate are for this legislation. The question is, can we cut off debate so we can get to a vote on the issue? There is not a doubt at all, and everyone concedes—the opponents as well as the proponents—that there are 51 Members of this Senate prepared to vote for this piece of legislation. Our only problem at the moment is that under the rules of the Senate, which I do not find fault with proponents using, we are engaged in a filibuster, and the only way you can cut off a filibuster is with cloture. So we need 60 votes, three-fifths of the U.S. Senate voting for it. I am frank to say to you that it does make our job more difficult that two of our Members are not able to be with us at this moment. We still need 60 votes; so that means they need 39 votes to defeat us with respect to this bill. That, I believe, they will not get. But I am not certain.

It is a tough thing that the U.S. Senate is being asked to do today. This body is about compromise, not killing bills no matter what they say. When the distinguished Senator from Colorado, a rather new Member of this body, came forth and said, "I am having difficulties with this bill in the committee," we said, "We will be happy to sit down and work with you." The distinguished Senator from Pennsylvania also gave the same indication. Both of them voted against the bill when it was originally proposed to the Judiciary Committee. We said, "we will work with you." When the bill came out to the floor on a 10 to 4 vote with our recommendation, and we have worked with the Senator from Colorado, and the Senator from Pennsylvania came in later and indicated that he had an interest in the amendment offered by the Senator from Colorado, and I am pleased both of them saw fit to vote for cloture yesterday. I make no bones about it that we are prepared to accept the proposal of the Senator from Colorado [Mr. BROWN] when and if we get to a vote on that subject.

If we invoke cloture on the Consumer Protection Against Price Fixing Act, we cannot only consider the Brown amendment, but we can consider all other legitimate amendments. I am and have been open to all and any legitimate changes necessary to make this bill work.

Mr. President, I believe that this is the most important piece of consumer legislation that will come before this body in this entire session. It is not fair to kill this bill by a filibuster. It is not right. I urge my colleagues to vote to break the filibuster.

I yield the floor and reserve the remainder of my time.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself about 3 or 4 minutes, and then I wish to yield to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in opposition to S. 429, the Consumer Protection Against Price Fixing Act of 1991, and to the substitute amendment which was offered last night by Senator BROWN. In the 100 years since the Sherman Act has been in existence, no legislation has posed as great a threat to well established antitrust principles and to American business, as these proposals.

Although Senator BROWN has offered his amendment as a compromise proposal, in fact, it is no compromise and it does nothing to solve the problems of the underlying legislation. If anything, it makes the original proposal worse.

At the outset, let me make clear to my distinguished colleagues that the administration and the Department of Justice are as adamantly opposed to the Brown amendment as they are to the Metzenbaum bill. The Assistant Attorney General for the Antitrust Division, James Rill, has written a letter setting forth their opposition, and has stated that the President's senior advisers would recommend a veto of S. 429, even if amended as proposed, if it reached the President's desk. I would like to read that letter because I believe it would be helpful to my distinguished colleagues in understanding the two proposals.

This letter is from Mr. James F. Rill, Assistant Attorney General for Antitrust:

DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, May 8, 1991.

Hon. STROM THURMOND,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate.

DEAR SENATOR THURMOND: This letter is in response to your request for the views of the Department of Justice on the amendment to S. 429 offered yesterday by Senator Hank Brown. This amendment, while making cosmetic changes, would still permit findings of conspiracy and price fixing where no one has conspired and prices have not been fixed. It thus does not resolve the Administration's serious concerns with this legislation. Therefore, as indicated in the Attorney General's letter to you of April 30, 1991, and in the Statement of Administration Policy on S. 429, the President's senior advisors would recommend a veto of S. 429, even if amended as proposed, if it reached the President's desk.

Our serious concerns with the bill, even if amended as proposed, remain as follows:

Notwithstanding the proposed amendment, S. 429 would allow an inference of an illegal conspiracy where a manufacturer has done no more than decide unilaterally how to distribute its products, subjecting the manufacturer to potential treble damages.

Manufacturers rely on feedback from their distributors to supply the goods and services that consumers desire. Notwithstanding the proposed amendment, S. 429 would hinder this important exchange of information.

Product expertise and product service directly benefit consumers. Manufacturers should be able to terminate distributors who do not provide such benefits, and to establish procompetitive exclusive distributorships or other arrangements to guarantee them. Notwithstanding the proposed amendment, S. 429 could make this illegal.

The Office of Management and Budget has advised us that there is no objection to the submission of this report and that enactment of S. 429, even if amended as proposed, would not be in accord with the program of the President.

Sincerely,

JAMES F. RILL,
Assistant Attorney General.

I just want to say the President is against this bill, the Attorney General is against this bill, the antitrust department is against this bill, the Federal Trade Commission is against this bill, the American Bar Association is against this bill and various experts on antitrust questions are against this bill. They say it will cost the consumers more if you pass this bill.

Mr. President, I now yield to the able Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah. How much time does the Senator from South Carolina yield?

Mr. THURMOND. Mr. President, I yield him 40 minutes, if he needs that long.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my good colleague from South Carolina.

Mr. President, I enjoyed listening to the distinguished Senator from Ohio. If there is anything manufacturers are worried about, it is going out of business; it is being sued interminably with the procedural rules stacked against them in the courts of law, that is precisely what this particular bill will do.

If they are afraid of anything, it is of any bill that is a litigation bonanza for lawyers. We have done that with regard to products liability and now many, many manfacturers have taken their products offshore and their manufacturing facilities, offshore because they cannot do it in the United States of America anymore.

I am not saying the products liability suits are not good; it is just that we made them too easy and consequently manufacturers all over this country are going through unjustified, frivolous products liability suits that they have to settle in order just to save some money, because of defense costs alone.

This bill goes even further. It goes even more into a litigation bonanza for attorneys than products liability, and it is packaged neatly under the idea that we are trying to help consumers. The New York Times thought that.

They thought this bill was good when they first reviewed it. They wrote editorials for it. I have to say the New York Times editorial writers, although I do not always agree with them, are very, very thorough in their approach toward some of these issues. I cite in particular an article and ask unanimous consent that a New York Times editorial, "Price Fixing Isn't Always Gouging," be printed in the RECORD at this point.

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

[From the New York Times, Apr. 1, 1991]

PRICE FIXING ISN'T ALWAYS GOUGING

Should a manufacturer ever be allowed to stop a retailer from cutting prices? No, said the Supreme Court in 1911, declaring any such attempts automatically illegal. No, say many consumers, fearing the demise of their favorite discounter.

But over the past decade many economists, and lately the Supreme Court, have come to a different conclusion: Minimum prices imposed by manufacturers—known as vertical price restraints—can sometimes help consumers by encouraging dealers to provide valuable information and services.

In two decisions during the 1980's, the Supreme Court ruled that efforts by manufacturers to prevent price cuts by dealers were not always illegal; in some circumstances, the question of whether the practice discriminated against the consumer was to be answered on a case-by-case basis.

Senator Howard Metzenbaum, the Ohio Democrat, is pushing a bill that would again make vertical price restraints illegal in virtually every case. At one time this page favored Mr. Metzenbaum's bill. But recent studies suggest that a blanket prohibition could be legislative overkill.

Vertical price restraints can be anticonsumer when rival dealers conspire to fix prices and use manufacturer-imposed price restraints to enforce the deal. Price restraints can also be used by rival manufacturers jointly to keep prices high. But these practices aren't common and would violate the antitrust laws with or without the Metzenbaum bill.

If manufacturers were trying to jack up prices, they wouldn't ordinarily use vertical price restraints. All they would need to do is charge all their dealers more. The purpose of vertical price restraints is to encourage better service to customers.

Buyers of products like computers and cameras need advice and information before making the purchase. Dealers who provide that service do so at considerable expense and risk. Consumers, educated for free, are then tempted to make the actual purchase, for a bare-bones price, from discounters who provide no such information. That can drive full-service dealers out of the market.

Manufacturers can help full-service dealers—to the extent the law allows—by prohibiting price cutting. That leaves dealers no other option than to compete for customers with better service. Yet not many manufacturers sell products that require extensive pre-sale services; most will continue to profit from sales to discount stores.

Mr. Metzenbaum argues for a blanket prohibition because a case-by-case review of vertical price restraints would be too impractical. Customers would not suffer, he claims, because the bill would not forbid manufacturers from requiring all dealers to provide information and marketing services. But case-by-case review of such non-price restraints would be every bit as difficult, probably harder.

Discounters have thrived despite the Supreme Court rulings. The system isn't broke; consumers aren't threatened. There are, however, circumstances when manufacturers have legitimate grounds for protecting full-service dealers. They should have the right.

Mr. HATCH. I would suggest that if the Philadelphia Inquirer and the other editorial writers that the distinguished Senator from Ohio has cited here would look at this matter as deeply as the New York Times has looked at it, they would conclude as the New York Times did. They said this: I will only read part of it:

Senator Howard Metzenbaum, the Ohio Democrat, is pushing a bill that would again make vertical price restraints illegal in virtually every case. At one time this page favored Mr. Metzenbaum's bill. But recent studies suggest that a blanket prohibition could be legislative overkill.

Vertical price restraints can be anticonsumer when rival dealers conspire to fix prices and use manufacturer-imposed price restraints to enforce the deal. Price restraints can also be used by rival manufacturers jointly to keep prices high. But these practices aren't common and would violate the antitrust laws with or without the Metzenbaum bill.

So what the distinguished Senator from Ohio is saying is that, my goodness we have to have this bill so we can do something we can already do under the law.

The only difference is that he stacks the case and stacks it against manufacturers, even with the Brown amendment, to the point manufacturers are going to be sued until they do not manufacture in this country anymore. Then where are the consumers going to be?

The New York Times continues:

If manufacturers were trying to jack up prices, they wouldn't ordinarily use vertical price restraints. All they would need to do is charge all their dealers more. The purpose of vertical price restraints is to encourage better service to consumers.

That is a legitimate purpose.

Then they go on to say:

Buyers of products like computers and cameras need advice and information before making the purchase. Dealers who provide that service do so at considerable expense and risk. Consumers, educated for free, are then tempted to make the actual purchase, for a bare-bones price, from discounters who provide no such information. That can drive full-service dealers out of the market.

It goes on to tell how manufacturers help their full-service dealers and how legitimate it is and how consumer oriented it is, how proconsumer it is.

Finally they wind up with this last paragraph:

Discounters have thrived despite the Supreme Court rulings. The system isn't broke; consumers aren't threatened. There are, however, circumstances when manufacturers have legitimate grounds for protecting full-service dealers. They should have the right.

Mr. President, it is nice to come on this floor and say it is outrageous for people to be pointing these things out, but he is saying the New York Times is outrageous. I am submitting that if the Philadelphia Inquirer really looked at this carefully, they would realize that the New York Times was right.

Mr. President, I strongly favor vigorous retail price competition in the marketplace and low prices for the American consumer. I think every Senator favors that. For those reasons though, I have to express strong opposition to this legislation. I ask our colleagues to vote against cloture which is the way to defeat this legislation and save the American public time and money.

Simply stated, despite all of the concerns that are continually expressed before the Judiciary Committee and the Senate as a whole about the burdens being placed on our court systems, and the concerns that are being expressed about "lawyer relief" bills, this legislation has been written so as to ensure an increase in litigation. This bill imposes these burdens on American businesses at a time when these businesses find themselves in hot competition with foreign companies.

Even if the Senate adopted the pending Brown amendment, S. 429 is unnecessary and counterproductive. The Brown amendment solves none of the problems of S. 429, as introduced, and creates additional problems. I appreciate the hard work of my friend, the Senator from Colorado, but, in my view, the Brown amendment is no reason to vote for cloture.

The Brown amendment allows a case of an alleged agreement to fix resale prices to go to the jury under the per se rule based on wholly inadequate evidence that any agreement between a manufacturer and one or more of its dealers ever actually occurred. In doing so, it overturns an 8 to 0 Supreme Court decision on Monsanto.

Further, where an agreement between a manufacturer and a dealer to terminate a second, free-riding dealer can be shown, the Brown amendment virtually dictates a finding of a per se price violation of the antitrust laws without any need whatsoever to show that the manufacturer and the first dealer actually agreed on a price or to set prices at some level. This overturns a 6 to 2 decision of the Supreme Court, which spanned the Court's ideological spectrum from Scalia and Rehnquist to Marshall and Brennan—the Sharp decision.

As a consequence of the Brown amendment, a manufacturer's ability to undertake, and enforce, many proconsumer, procompetitive agreements with dealers is severely threatened, if not, as a practical matter, virtually eliminated. These include manufacturer requirements that dealers maintain a trained sales force, provide

repair and warranty services, undertake advertising and promotion, and similar agreements that are currently governed under a rule of reason analysis. Under the pending amendment, in stark contrast, suppose a dealer complains to a manufacturer that another dealer is free-riding by not providing these types of services. Suppose the free-riding dealer refuses the manufacturer's request to provide the services. If the manufacturer then terminates the free-riding dealer, the manufacturer is very likely to lose a treble damage case to the terminated dealer, the free rider. This is so because once another dealer other than the free-rider dealer complains about the free-rider dealer's failure to provide these services, these complaints will readily be regarded as resulting in an agreement to terminate because of the cheaper dealer's discount pricing.

As the Supreme Court has made clear, any dealer's complaint about a cheaper dealer's failure to provide repair and warranty services, a trained sales force and the like, can be characterized as being a complaint about the cheaper dealer's price policies.

Litigation costs will go up under the proposed amendment, as defendants find it virtually impossible to obtain summary judgment in their favor. These costs will be passed onto hapless consumers, and America's ability to compete against foreign competition will naturally be eroded.

And I have to ask myself "why?" The Supreme Court was unanimous, 8 to 0, in the Monsanto case. It reached its decision in the Sharp case by a strong 6 to 2 majority. The bases for its decisions in these cases are well-founded and well-reasoned. Yet, these are the sound decisions that this legislation, even as amended by the Brown amendment, would overturn.

OVERTURNING MONSANTO

Some background is useful in considering the Supreme Court's Monsanto decision [*Monsanto* v. *Spray-Rite Service Corp.*, 465 U.S. 752 (1984)].

Our antitrust laws recognize the right of a manufacturer unilaterally to decide under what terms it will allow another business to sell its products. That is the way it is. I cite with particularity the U.S. versus Colgate case which was the landmark 1919 case that has been followed right up to today. Of course, it is only fair for a manufacturer to have the ability to set the terms as to how its products reach consumers, especially since the manufacturer's survival depends on garnering market share against domestic and foreign competitors.

Under the Sherman Antitrust Act, whether particular concerted action allegedly in restraint of trade violates the act is usually determined through case-by-case application of what we call the rule of reason. Under the rule of reason, a court analyzes whether an agreement, on balance, is more anticompetitive than procompetitive, that is, whether it is an unreasonable restraint on trade. This is because some concerted activity, like agreements whereby a manufacturer requires dealers to have a trained sales force, provide repair and warranty services, and advertising and promotions, serve legitimate, competitive purposes. Per se rules are appropriate only for conduct that is manifestly anticompetitive. Since 1911, the Supreme Court has held that manufacturers cannot conspire with their dealers to fix the price of their goods sold to the public. And that is the law and that ought to be the law. A manufacturer's termination of one of its dealers as part of a conspiracy to fix prices has been, and continues to be, a per se violation of Federal antitrust laws. Thus, proof of the existence of the agreement is all that is needed to establish an antitrust violation under the per se rule.

The carefully balanced Monsanto decision, an 8-to-0 Supreme Court holding, specifically reaffirmed the rule against price fixing. It also settled technical questions about what amount of evidence is necessary in order for a plaintiff to get to a jury to prove collusion in vertical pricing arrangements. Resale price cases usually arise when a manufacturer eliminates the supply of products to one retailer. The affected retailer inevitably asserts that the supplier's action was caused by a collusive agreement between the supplier and one or more other retailers.

In Monsanto, the Court of Appeals for the Seventh Circuit held that the termination of a price-cutting distributor in response to or following competitor complaints is sufficient to establish a conspiracy to fix prices. In its review, the Supreme Court pointed out that such evidence was "highly ambiguous" since it was equally consistent with independent action taken by the manufacturer. The Supreme Court held that the mere existence of price complaints from other retailers is not sufficient to create the inference of a price-fixing agreement. Thus, such a case should not go to the trier of fact and may be decided summarily in favor of the manufacturers or whoever the defendants may be. The Court said, "There must be evidence that tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently" [465 U.S. at 764], in order for the case to go to the jury.

The danger, the Court added, of permitting a jury to find a conspiracy based solely on action taken by a manufacturer in response to a competitor's pricing complaint, is that such a rule would seriously erode the manufacturer's right to take unilateral action, which has been unquestioned ever since the Supreme Court's decision in the Colgate case in 1919. It would also seriously erode a manufacturer's right to enforce legitimate nonprice restraints, which were held to be judged under the rule of reason in the Sylvania case in 1977. As the unanimous Monsanto Court said, in a well-reasoned opinion by Justice Powell:

> [T]he fact that a manufacturer and its distributors are in constant communication about prices and marketing strategy does not alone show that the distributors are not making independent pricing decisions. A manufacturer and its distributors have legitimate reasons to exchange information about the prices and the reception of their products in the market. Moreover, it is precisely in cases in which the manufacturer attempts to further a particular marketing strategy by means of agreements on often costly nonprice restrictions that it will have the most interest in the distributors' resale prices. The manufacturer often will want to ensure that its distributors earn sufficient profit to pay for programs such as hiring and training additional salesmen or demonstrating the technical features of the product, and will want to see that "free-riders" do not interfere. . . . Thus, the manufacturer's strongly felt concern about resale prices does not necessarily mean that it has done more than the Colgate doctrine allows.
>
> Nevertheless, it is of considerable importance that independent action by the manufacturer and concerted action on nonprice restrictions be distinguished from price-fixing agreements, since under present law the latter are subject to per se treatment and treble damages. On a claim of concerted price fixing, the antitrust plaintiff must present evidence sufficient to carry its burden of proving that there was such an agreement. If an inference of such an agreement may be drawn from highly ambiguous evidence, there is a considerable danger that the doctrines enunciated in Sylvania and Colgate will be seriously eroded.

In other words, the Court is saying, juries could find against defendants engaging in truly independent action or who have nonprice agreements that are also perfectly lawful.

That is what this bill will lead to even with the Brown language on it.

Justice Powell continued:

> The flaw in the evidentiary standard adopted by the Court of Appeals in this case is that it disregards this danger.
>
> Permitting an agreement to be inferred merely from the existence of complaints, or even from the fact that termination came about "in response to" complaints, could deter or penalize perfectly legitimate conduct. As Monsanto points out, complaints about price cutters "are natural—and from the manufacturer's perspective, unavoidable—reactions by distributors to the activities of their rivals." Such complaints, particularly where the manufacturer has imposed a costly set of nonprice restrictions, "arise in the normal course of business and do not indicate illegal concerted action." * * * Moreover, distributors are an important source of information for manufacturers. In order to assure an efficient distribution system, manufacturers and distributors constantly must coordinate their activities to assure that their product will reach the consumer persuasively and efficiently. To bar a manufacturer from acting solely because the information upon which it acts originated as a price complaint would create an irrational dislocation in the market. * * * In sum, "[t]o permit the inference

of concerted action on the basis of complaints alone and thus to expose the defendant to treble damage liability would both inhibit management's exercise of business judgment and emasculate the terms of the statute."

It should be noted, however, Mr. President, that while the court in Monsanto held that a termination in response to price complaints did not in itself a triable conspiracy make, it also held that if there is additional circumstantial evidence of conspiracy, the matter can go to the jury and the jury can indeed find that the defendant's conduct was per se unlawful.

That is exactly what happened in the Monsanto case, which the distinguished Senator from Ohio was trying to overturn. It was a just case where they found price fixing, but they found it on adequate evidence, more than some other retailer filing a mere complaint.

I have to say the Court found in the Monsanto case that there was sufficient evidence to sustain the jury's $3.5 million damage award, trebled to $10.5 million. So, the very case the Senator from Ohio and his supporters claim is a principal impetus to S. 429 and the pending amendment, the very case that is supposed to make it virtually impossible for terminated dealers or distributors to win resale price-fixing cases, resulted in a victory for plaintiff.

There is no justification for what they are trying to do here today. All it means is more expenses for consumers in the end and larger bank accounts for lawyers.

Monsanto is a sound decision. Plaintiff must prove, by direct or circumstantial evidence, the existence of a conspiracy to fix prices. The Brown amendment completely upsets this sound rule. It allows the case to go to the jury without sufficient evidence that an agreement was ever undertaken by the manufacturer and another dealer to set prices or to fix prices.

Let us take a look at the Brown amendment step by step.

It allows an alleged case conspiracy to fix prices to go to the jury if a manufacturer received from one dealer "an express or reasonably implied request or demand that the manufacturer take steps to curtail or eliminate price competition," by another dealer; the manufacturer terminated the other dealer; "and the first dealer's request or demand was the major cause of such demand or termination. * * *"

Mr. President, almost anything a dealer says about another cheaper dealer can be construed as an implied request or demand to take steps to curtail or eliminate price competition. A complaint that the cheaper dealer is free riding on services provided by the complaining dealer can be so construed. Saying that the implication of a request or demand is to curtail price competition must be reasonable solves nothing. Unreasonable implications would be impermissible even absent this amendment. Further, regardless of how a complaining dealer phrases its complaint, the issue is whether the manufacturer's decision to terminate another dealer is unilateral or part of an agreement. That is the continuing flaw in all of the attempted fixes in the Brown amendment. They simply do not require a plaintiff to present sufficient evidence of an actual agreement, the precondition of a price-fixing case before the case goes to the jury. It just sends the case to the jury on inadequate evidence, much to the detriment of the defendant manufacturer.

Next, the requirement that the complaint be the "major cause of the termination," has two serious flaws. First, if a complaint by one dealer about another dealer has been made and action is taken by the manufacturer consistent with that complaint, this is certainly some evidence that the complaint was the cause of the termination. How important a cause it is will be an issue of fact which will almost certainly have to be determined by a jury, thus, precluding summary judgment for the defendant. And whether the complaint was "major" or not, there may have been many other causes which justified the termination. But there is a much more fundamental flaw in this "major cause" language.

Let us assume, Mr. President, that the complaint was the major cause of a termination. It by no means follows that an agreement or understanding of any kind between the complaining dealer and the manufacturer, much less an agreement to fix prices, was entered into. A full service dealer may file a legitimate complaint that he cannot continue to afford to handle the products or provide services for a manufacturer who is also supplying the products to a free-riding discounter. This complaint may cause the manufacturer unilaterally to decide to terminate the discounter, which is permissible in the law. This is not evidence of a conspiracy, let alone a conspiracy to fix prices.

A manufacturer has the right under the Colgate decision since 1919 to consider the effect of one dealer's pricing or other practices on its overall retail network and make its own decisions about who to deal with. That a complaining dealer led a manufacturer to decide on its own to terminate a free-rider should not lead to treble damages, should not lead to an antitrust conspiracy case going to the jury as is the practical result of this pending amendment.

Next, the pending amendment says that in order for a complaint to be regarded as the major cause of the termination, there must be evidence that the manufacturer did one of two things. The evidence must show the purchaser "expressly or impliedly acquiesced to the request or demand." But the antitrust laws themselves require an agreement, a conspiracy, not acquiescence. Acquiescence could suggest an agreement to do what otherwise might not be done. But it could also mean the manufacturer took an action it otherwise was going to take on its own.

As for the term "impliedly acquiesced," in general, I am confident that while honest business people scratch their heads trying to figure out what that means in order to avoid treble damage awards, antitrust lawyers will be laughing all the way to the bank.

The alternative that must be met in order for a complaint to be deemed a major cause of the termination is evidence that the manufacturer "expressly or impliedly threatened or took actions in addition to the termination to curtail or eliminate price competition by the terminated dealer or others engaged in the resale of goods or services."

Thus, assume a manufacturer writes a letter to discount dealer No. 1 telling him to adhere to the manufacturer's service requirements or the manufacturer will reconsider its arrangement with him. Further assume the letter is not even generated by a complaint. Under this agreement, that is all that is necessary, together with a complaint about discount dealer No. 2, followed by termination of this second dealer, for a treble damage case to get to the jury. That is all you need. Yet, the fact that the manufacturer sent a letter to dealer No. 1 adds no probative evidence to the allegation of conspiracy with respect to the terminated dealer.

This provision is illogical. It allows evidence of some action or threat to another dealer wholly unrelated to the termination of the dealer bringing the antitrust case, an action or threat not even initiated by a receipt of an outside complaint, to be the basis of a conspiracy with respect to the terminated dealer. Far from curing this bill's fundamental failure to require evidence of an actual conspiracy before a case can go to the jury, this amendment makes the problem even worse.

Next, the pending amendment says that in determining whether a conspiracy exists, "The court shall consider evidence in rebuttal supporting any actual, bona fide nonprice business justification for the termination [of a dealer]."

This sounds good, but it is not. It completely misses the point about the underlying flaw of this portion of the bill. The question is not why a manuufacturer might have terminated a dealer, but whether its decision to do so was unilateral or part of an agreement or conspiracy to set prices.

No inference of an agreement, one that can result in ruinous treble damages, should be allowed on the basis of

highly equivocal evidence equally consistent with proper unilateral action.

The problem with all of these attempted fixes is they readily continue to permit inferences of conspiracy on inadequate evidence. As a practical matter, under the Brown amendment, a manufacturer would risk antitrust liability almost any time it stopped doing business with a retailer or otherwise changed its relationship with such retailer. Retailers complain about each other and their price policies all the time. Manufacturers cannot prevent such complaints and should not be blackmailed on the basis of these complaints.

Often, manufacturers must alter their distribution agreements in order to ensure that consumers get proper service or to ensure that products are adequately advertised or for many other valid and beneficial reasons. The Brown amendment would endanger all of these protections that are consumer-oriented protections.

Under its provisions, an allegation of collusion would be permitted to go before the trier of fact or the jury, in this case, if a terminated retailer merely shows the manufacturer received complaints about its pricing from other retailers and acted against the retailer on the basis of those complaints in terminating or otherwise changing the retailer's relationship with the manufacturer.

Never mind that these other retailers could also be complaining about nonprice matters as well and that a manufacturer's decision to terminate a retailer is more likely based on these nonprice factors.

Moreover, I want to reiterate that acting pursuant to a complaint on pricing is not the same as agreeing to fix prices. It is price fixing, however, that is illegal.

As a practical matter, this bill lets a mere complaint about pricing, followed by a termination, go to the jury, when it should be, in many instances, summarily dismissed.

Mr. President, under the pending amendment, amazingly, a complaining dealer does not even have to mention price in order for a plaintiff to get to the jury. The term "price" or "price fixing" does not even have to be mentioned and the case goes to a jury, even though there was none and even though the retailer acted in totally good faith. This amendment says a complaining dealer need only have made an expressed or reasonably implied request that the manufacturer "take steps to curtail or eliminate price competition."

This language easily encompasses, for example, complaints about a competitor's failure to live up to its agreement with the manufacturer to provide advertising and repair services with respect to the manufacturer's product. After all, as the Supreme Court has correctly noted and as I will discuss further with regard to the Sharp decision, all nonprice vertical restraints can affect price.

Complaints regarding another dealer's failure to adhere to service requirements can easily be characterized as really motivated by the desire to terminate a price cut.

Simply stated, this amendment will shift the burden of proof from the complaining retailer, the plaintiff who under the current law would normally have to present evidence of collusion in setting prices; it would shift the burden of proof to the manufacturer and other dealers who would have the burden of showing collusion did not take place.

That is the new form of liberal law: Shift the burden of proof from the person making the complaint to begin with to the defendant to have to prove his or her innocence. That is not American jurisprudence. It should not be American jurisprudence. In this case, it just means more litigation, more legal costs, and more ultimate costs to the consumers.

The terminated retailer would not be required to present any evidence of actual collusion on setting prices prior to going before the trier of fact. This is not sound antitrust or economic policy.

Mr. President, I now wish to turn to this bill's override of the Sharp decision. This issue assumes an agreement between a manufacturer and the dealer does exist, and the question is, what kind of agreement constitutes a price fixing agreement subject to the per se rule?

In the case of Business Electronics versus Sharp Electronics, the Supreme Court held 6 to 2 that a vertical restraint of trade is not illegal per se under the Sherman Act unless it includes some agreement on price or price levels. Ordinarily, as I mentioned earlier, whether particular concerted action violates the act is determined through a case-by-case application of the rule of reason.

Per se rules are appropriate only for conduct that is manifestly anticompetitive. That is not the case here. The Supreme Court has found some nonprice vertical restraints, such as exclusive territorial agreements, serve legitimate purposes such as stimulating interbrand competition.

The pending amendment would make an agreement between a manufacturer and a dealer to terminate another dealer because of its discount pricing per se violation of the Sherman Act, event though a specific price or price level is not established as part of the agreement. Thus, in cases such as Sharp, where one dealer complains about another dealer's pricing policies and the manufacturer does enter into an agreement to terminate the second dealer, the pending amendment would find a per se violation of the Sherman Act, and this would be the case even though the dealer, who had complained about the terminated dealer, neither expressly nor impliedly agreed to set its prices at some level.

Under these circumstances, under current law, a rule of reason analysis applies and, in an appropriate case, will yield a judgment for the plaintiff.

As Justice Scalia wrote in the Sharp case in an opinion spanning the ideological wings of the Court, joined by Chief Justice Rehnquist, Justice O'Connor, as well as Justices Brennan and Blackmun:

> There is a rule-of-reason standard; * * * departure from that standard must be justified by demonstrable economic effect, such as the facilitation of cartelizing, rather than formalistic distinctions; that interbrand competition is the primary concern of the antitrust laws; and that rules in this area should be formulated with a view towards protecting the doctrine of [the Court's earlier caselaw]. These premises lead us to conclude that the line drawn by the fifth circuit is the most appropriate one.

The fifth circuit had ruled that for a vertical agreement between a manufacturer and a dealer to terminate a second dealer to be per se illegal, the first dealer must expressly or impliedly agree to set its prices at some level, though not necessarily a specific one. Justice Scalia went on to say:

> There has been no showing here that an agreement between a manufacturer and a dealer to terminate a "price cutter," without further agreement on the price or price levels to be charged by the remaining dealer, almost always tends to restrict competition and reduce output . . . .
>
> [If an agreement to terminate a price-cutter is made to be per se illegal], any agreement between a manufacturer and a dealer to terminate another dealer who happens to have charged lower prices can be alleged to have been directed against the terminated dealer's "price cutting." In the vast majority of cases, it will be extremely difficult for the manufacturer to convince a jury that its motivation was to ensure adequate services, since price cutting and some measure of service cutting usually go hand in hand. Accordingly . . . even a manufacturer that agrees with one dealer to terminate another for failure to provide contractually obligated servies, exposes itself to the highly plausible claim that its real motivation was to terminate a price cutter. Moreover, even vertical restraints that do not result in dealer termination, such as the . . . requirement that certain services be provided, can be attacked as designed to allow existing dealers to charge higher prices. Manufacturers would be likely to forgo legitimate and competitively useful conduct rather than risk treble damages and perhaps criminal penalties.
>
> We cannot avoid this difficulty by invalidating as illegal per se only those agreements imposing vertical restraints that contain the word "price," or that affect the "prices" charged by dealers. Such formalism was explicitly rejected in GTE Sylvania. As the above discussion indicates, all vertical restraints, including the exclusive territory agreement held not to be per se illegal in GTE Sylvania, have the potential to allow dealers to increase "prices" and can be characterized as intended to achieve just that. In

fact, vertical nonprice restraints only accomplish the benefits identified in GTE Sylvania because they reduce intrabrand price competition to the point where the dealer's profit margin permits provision of the desired services. As we described it in Monsanto, "The manufacturer often will want to ensure that its distributors earn sufficient profit to pay for programs such as hiring and training additional salesmen or demonstrating the technical features of the product, and will want to see that "free-riders" do not interfere."

By overturning Sharp, this bill will open a Pandora's box of costly and counterproductive litigation. While the lawyers will benefit from the overrule of this case and the Monsanto case, the costs of litigation will be passed along to American consumers.

One more part of the pending amendment also needs to be briefly addressed. Section 5 says that this bill does not affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints, "or the existing state of law with respect to other types of non-price vertical restraints."

Now, Mr. President, I am not sure if any two Senators would agree on precisely what that state of the law is. The Sherman Antitrust Act is applied to diverse fact patterns. Indeed, reasonable judges could come out differently on some of these cases. Moreover, the law in this area is a continuously evolving one. That is one of its strengths. The lower courts, guided by the general language of the underlying statute and by controlling Supreme Court precedent, have been free to consider these fact patterns without the convoluted gloss of language such as the pending amendment. The quoted language in section 5 seeks to freeze the law at a given point in time, and I believe that is unwise.

But, Mr. President, it is not only the vagueness of this provision and its interference with continued evolution of the law in this area that concerns me. As I mentioned earlier, the rest of the bill itself threatens the viability of legitimate, procompetitive, nonprice vertical restraints.

Suppose a manufacturer receives a complaint by one dealer concerning the failure of a discount dealer to provide a trained sales force and the same repair and warranty services he does. Suppose, further, that the manufacturer truly wishes unilaterally to enforce the provision of these services. The manufacturer will refrain from seeking to enforce these service, warranty, and similar requirements in order to avoid the likely treble damages that will arise if this pending amendment is adopted.

Moreover, as the Supreme Court has persuasively stated, the complaint by one dealer that a price cutting competitor is free-riding on the services provided by the complaining dealer will readily be construed as a complaint about price competition or discount pricing. Blurring the distinction between nonprice and price restraints in the operative provision of the bill renders any attempted savings clause a practical nullity.

CONCLUSION

Price-fixing is an issue that deserves our careful attention. But in its review of the matter, Congress should not pass a measure which would, as a practical matter, condemn perfectly legitimate conduct on the part of manufacturers. Monsanto and Sharp are eminently sound decisions. It would be a terrible mistake for Congress to overrule these decisions by adopting the pending amendment.

Why encourage a flood of unwarranted litigation? It is not as if there are no cases that are successfully filed and won under these court rulings. We have evidence that good plaintiffs' cases are readily successful under existing law. By making it too easy to allege an antitrust violation and get to a jury in the absence of actual evidence of a conspiracy, S. 429 would multiply litigation and "whipsaw" many companies into early settlement. Moreover, to the extent that more cases are likely to be assigned to a local jury in a trial against a distant manufacturer, plaintiffs are going to have incentives to file more suits on less evidence.

This bill has been touted as a consumer measure, but, in fact, it would impair the ability of manufacturers to ensure that their products are sold and serviced by retailers who are sensitive to consumer needs. It is not as if discount dealers are closing their doors right and left. They are doing well. Such was the point of a New York Times editorial on April 1, 1991, in which the editorial argued:

> Discounters have thrived despite the Supreme Court rulings. The system isn't broke; consumers aren't threatened. There are, however, circumstances when manufacturers have legitimate grounds for protecting full-service dealers. They should have the right.

In sum, the pending amendment harms competition. The pending amendment would encourage lawyers to file antitrust suits on slim evidence. This would tie up U.S. firms in litigation while foreign competitors are free to seek new channels of distribution and greater market flexibility. I urge its rejection, and I urge my colleagues to vote against cloture.

The PRESIDING OFFICER (Mr. ADAMS). The 40 minutes of the Senator has expired.

Mr. HATCH. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I wonder if my distinguished friend from Utah would be willing to remain on the floor for a few moments. Perhaps it would be helpful if we had an exchange of some views in a moment.

Mr. HATCH. I will be happy to, but I do need to get to the Labor Committee, where we are holding a hearing on the free-trade agreement.

The PRESIDING OFFICER. If the Senator from Pennsylvania will pause for a moment, we are under time limitations, and it will be necessary for the Senator from Pennsylvania to either receive time allocated to him by the Senator from South Carolina or the Senator from Ohio, or receive consent from one of them that that be done.

Mr. SPECTER. I am advised that I may receive time from the Senator from Ohio.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Does the Senator request a specific amount of time?

Mr. SPECTER. In the absence of any other Senator on the floor, I wish to take up to 15 minutes. But if another Senator comes, I will curtail my comments below that time.

The PRESIDING OFFICER. On that basis, the Senator is recognized for 15 minutes.

Mr. SPECTER. I thank the Chair. I have asked my distinguished colleague from Utah, Senator HATCH, if he would remain on the floor because it might be useful to have some discussion on these issues.

Mr. President, I am not satisfied with the current standards of the Monsanto and Sharp decisions as they apply the law on retail price fixing, but I do not believe that the present bill or the amendment offered by the distinguished Senator from Colorado [Mr. BROWN] establish an adequate standard.

I voted in favor of cloture yesterday on the motion to proceed because I felt the Senate ought at least to take up this bill and consider it. There is a vote pending on the cloture motion at 6 o'clock this evening, and it is my intention to vote in favor of that motion as well, even though I make no commitment in support of the bill. In its present form, even with the Brown amendment, I am not satisfied with it. It is my intention to oppose the bill unless there can be crafted language which meets the objectives which I am about to articulate.

Mr. President, there is no doubt that price fixing is against public policy and is illegal and ought not to be countenanced. But the issue which we confront in this legislation is what is the appropriate standard to submit a case to the jury, because just as it is plain that price fixing ought not to be countenanced, it is undesirable as a matter of public policy for unfounded lawsuits to be brought where there is enormous pressure on defendants to make settlements where there is no material issue of fact.

The reality in the courts is that if the case can be submitted to a jury on

a complicated antitrust matter, then there are enormous costs and substantial sums may be paid even though there is not a meritorious case. So what we are really striving to do is to find an appropriate standard where we really recognize that meaningful case.

Mr. President, at the conclusion of my remarks, I ask unanimous consent that my views on S. 429 be included in the RECORD, because that will enable me to abbreviate my comments because other Senators are on the floor and I do wish to take a few minutes to discuss the issue with Senator HATCH.

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

(See exhibit 1.)

Mr. SPECTER. Let me then, Mr. President, at this point state the crux of the concern which I have about Monsanto and the crux of the concern which I have about Sharp, the concerns that I have about Senate Bill 429, and the amendment offered by Senator BROWN.

I think it would be appropriate for me to make it clear that I am not in support of the Brown amendment, even though there has been some representation made to the contrary.

Mr. President, in the Monsanto case, the following language appears:

> Something more than evidence of complaints is needed. There must be evidence that tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently.

I find it very difficult to see in a practical sense what a plaintiff can do to submit evidence to prove a negative, and even to exclude the possibility of a negative.

In common speech parlance, it is frequently said, "anything is possible." I had considered offering an amendment which would say to exclude the probability of independent action.

The Sharp case has the following language. I am simplifying it because of the brevity of time here:

> In sum, economic analysis supports the view—and no precedent opposes it—that a vertical restraint is not illegal per se unless it includes some agreement on price or price levels.

The difficulty with this language is that it has led courts to find no price fixing in a factual context where it seems to me the evidence was sufficient to get to a jury. Illustratively, the case of Toys 'R' Us versus R.H. Macy, where the U.S. District Court for the Southern District of New York found no evidence of a conspiracy to set prices at some level as required under the Sharp decision despite evidence that the defendants sought to maintain its keystone price, which was a phrase known throughout the clothing industry to show double the wholesale price.

Having recited these brief extracts from Monsanto and Sharp, this establishes my concern—and I have had some experience in the trial of these cases—that the standards of proof are unrealistically difficult. But as I have analyzed Senate bill 429—and there are amplifications of the reasons in the written portion which will be added—and as I analyze Senator BROWN'S amendment, I am not satisfied that the language in either the original bill or the amendment will clarify the law to preclude the submission of cases to juries where there really is not sufficiently evidence to take them to the jury because, in addition to the question about price, there are many other circumstances where a dealership may be terminated for valid reasons, such as failing to provide consumers with proper services, failing to provide appropriate warranties, failing to provide product information, or failing to comply with other contractual commitments to the manufacturer.

Those are circumstances where the manufacturer ought to have the freedom to terminate which are not related to price so that the focus of our attention has to be how do you bring the microscope right down to prices as the issue and sufficient proof.

I have consulted with a number of experts in the antitrust field to try to get language which would bridge and accommodate the interests discussed. I met on two occasions with the distinguished Assistant Attorney General, James Rill, the head of the Antitrust Division, to try to find language, and with the marvels of C-SPAN II, the considerable public interest in this issue, it maybe that lawyers around the country are listening to this debate, and can provide suggested language which would bridge this gap because I am vitally interested in finding an answer to meet the deficiencies which I see in Monsanto and Sharp. But I do not want to have a new law which is going to provide additional ambiguities which will cost a lot of money in court to test and have cases which will raise the jury issues submitted to juries, which is very expensive, and all of the expenses ultimately come back to the consumers of America.

So, if someone has a better idea, I again emphasize that I am interested, and with the fax machines and my telephone number is (202) 224-4254—some people have said, "You know what number" in a derisive way—I am asking for suggestions. My staff is going to love that, but we really are interested in getting some language.

EXHIBIT 1

While I am not satisfied with the current standard articulated by the Federal court decisions on what evidence is sufficient to constitute a jury question on resale price fixing, I do not believe that S. 429 established the proper standard. There is no doubt that price fixing is undesirable as a matter of public policy and is illegal under our present statutes. The difficulty arises in determining what evidence is sufficient to submit that issue to the jury. Aside from pricing, a retailer may be appropriately terminated for valid reasons such as failing to provide consumers with proper services, warranties and product information or failing to comply with other contractual commitments to the manufacturer.

As a threshold question, I believe that the legislative branch must be extremely careful in overturning judicial decisions which have been built up over years or even decades of carefully crafted case-by-case judgments. But, there are situations which require legislative clarification. and I agree with the sponsors of S. 429 that such clarification is necessary in the current context of existing Federal judicial decisions.

In order to establish a vertical price-fixing case, a plaintiff must show two things: (1) an agreement between a manufacturer and a complaining dealer to terminate a discounter and (2) that the agreement relates to price. The two Supreme Court decisions at issue in this bill sought to clarify the quantum of evidence necessary to meet these two prongs. *Monsanto Co.* v. *Spray-Rite Service Corp.*, 465 U.S. 752 (1984), attempted to set the standard for what constitutes evidence of an agreement, while *Business Electronics Corp.* v. *Sharp Electronics Corp.*, 485 U.S. 717 (1988), sought to define what constitutes an illegal agreement about resale price.

The unanimous Supreme Court decision in Monsanto addressed the quantum of evidence of agreement necessary to survive what is known as "summary judgment." Summary judgment under Rule 56 of the Federal Rules of Civil Procedure ensures that only cases where there are material facts in dispute will go to the jury. Because litigation costs are so high and defendants are frequently induced to settle an unmeritorious case because of litigation costs, summary judgment serves an important function in terminating unworthy cases where there is not sufficient evidence to go to a jury.

In Monsanto, The Supreme Court stated that "something more than evidence of complaints" by competitors about a terminated dealer's pricing was needed for a plaintiff to survive summary judgment. 465 U.S. at 764. In the case, the Court found the "something more" in evidence that, on at least two occasions after Spray-Rite was terminated. Monsanto advised price-cutting distributors that they would not receive adequate supplies if they did not maintain the suggested resale prices. After one of the distributors still did not comply, its parent company was informed of the situation and the parent company instructed its subsidiary to conform to the resale price. There was also a distributor newsletter which stated that "every effort will be made to maintain a minimum market price level." Id. at 765-66.

The concern about the Monsanto opinion is that it also suggests that the evidence of "something more" must "tend[] to exclude the possibility" that the supplier had acted independently. Id. at 764. This language suggests that plaintiffs must prove a negative, which may be unrealistic in many situations. Several lower courts have granted summary judgment to defendants in spite of evidence of "something more" precisely because of this language. See *Parkway Gallery Furniture* v. *Kittinger/Pennsylvania House Group, Inc.*, 878 F.2d 801, 806 and n. 4 (4th Cir. 1989) (evidence that defendant sought assurances from its dealers that they would comply with its new marketing policy); *The Jeanery, Inc.* v. *James Jeans, Inc.*, 849 F.2d 1148, 1158 (9th Cir. 1988) (manufacturer said he would "take care of things" when presented

with dealer's complaints about plaintiff's price-cutting).

Other courts, however, have relied more on what the Supreme Court did in Monsanto rather than what it said and have found similar evidence sufficient to meet the Monsanto standard. See *Helicopter Support System, Inc.* v. *Hughes Helicopter, Inc.*, 818 F.2d 1530, 1535–36 (11th Cir. 1987) (evidence that manufacturer notified the complaining dealer that "corrective action has been taken" and requested that the dealer notify it of any further problems, when combined with the dealer's "thank you," met the *Monsanto* standard); *McCabe's Furniture, Inc.* v. *La-Z-Boy Chair Co.*, 798 F.2d 323, 328 (8th Cir. 1986), cert. denied, 486 U.S. 1005 (1988) (evidence that manufacturer had reported to dealer that "the problem had been taken care of" sufficient to meet *Monsanto* standard).

S. 429, however, does not merely clarify *Monsanto* along these lines. As currently drafted, it would allow a case to go to a jury where there is evidence that a complaint by another retailer to the manufacturer was the "major cause" of the manufacturer's termination of the retailer. But retailers are constantly complaining about other retailers and, not surprisingly, their complaints about competitors usually concern price. Indeed, a retailer is usually able to offer discount prices precisely because he is not offering customer services. And, consequently, complaints about discounting frequently may lead to decisions to terminate because the retailer is offering consumers poor services which would justify termination.

Given the current language in the bill, a unilateral decision by a manufacturer to terminate a retailer for legitimate nonprice reasons would go to a jury. This is because the determination of whether a complaint constitutes the "major cause" of the termination is inherently fact-based and, thus, any court constructing this language would refuse to grant summary judgment where there was any complaint about "price competition" and thus where there was a dispute concerning a *material* fact. See Fed. R. Civ. P. 56(c) (Summary judgment is only granted where "there is no genuine issue as to any *material* fact" and thus "the moving party is entitled to judgment as a matter of law") (emphasis added).

This conclusion is further reinforced by last year's committee report on this bill which provides an infinitely expandable, "only illustrative" universe of types of direct and circumstantial evidence which would suffice to show that the complaint was the major cause of the termination.[1] Moreover, the language in Sec. 8(a)(2) to the effect that a court should not make inferences which are implausible does nothing to cure this problem. Given the fact-bound nature of the "major cause" inquiry, the existence of one complaint about price in the files of the manufacturer could lead to a plausible inference that the complaint was the "major cause" of the termination so as to make summary judgment virtually impossible.

The *Sharp* decision sought to draw a line between price vertical restraints—which are per se illegal—and nonprice restraints—which are judged under the "rule of reason" standard and are thus lawful unless they would affect market prices (a difficult proposition to prove). I agree with the proponents of this bill that Justice Scalia, in drawing this line in *Sharp*, erred in excluding too many agreements which should legitimately be considered under the per se standard. In fact, his requirement that the complaining retailer and the manufacturer, in addition to agreeing to terminate a discounter because of his price cutting, have also agreed to set resale prices at some level is too difficult a standard for plaintiffs. For example, in the case of *Toys "R" Us, Inc.* v. *R.H. Macy & Co.*, 728 F. Supp. 230 (S.D.N.Y. 1990), the court found no evidence of a conspiracy to set prices at some level as required under Sharp despite evidence that the defendant sought to maintain its "Keystone" price, a phrase known throughout the clothing industry to indicate "double the wholesale price." Consequently, the portion of the bill which overturns Sharp is not nearly as troublesome as the language overturning Monsanto, although possible refinements in that language could assist in reaching an overall compromise on the bill.

Although an agreement between a manufacturer and a retailer to terminate a discounter results in artificially high prices for consumers, manufacturers' requirements that retailers provide certain services at point-of-sale—particularly in the area of high-tech goods like computers—are equally beneficial to consumers. The bill as presently drafted could force manufacturers, fearful of the possibility of treble damage lawsuits, to no longer require retailers to provide consumers with proper services, warranties and product information. Consequently, contrary to the arguments of its proponents, I do not believe S. 429 as presently drafted is a pro-consumer bill.

My staff and I have worked extensively with Senators who are proponents of the bill and their staffs, opponents of the proposed legislation, and Assistant Attorney General James F. Rill of the Antitrust Division and his staff. I personally met with Assistant Attorney General Rill on two occasions and had a series of lengthy telephone conversations in an effort to work out the appropriate statutory language. My staff and I intend to continue to work with the parties in interest to try to structure appropriate legislation.

Mr. SPECTER. Mr. President, let me now come to the question which I would like to discuss with my distinguished colleague from Utah. This is, to put it bluntly, tough stuff. It is not easy to try to craft this. Senator HATCH and I have not discussed this in advance so that is why I am asking him to be willing to have a discussion. The two of us have a lot of discussions, both on the Judiciary Committee and off. But this is my concern. Where the Supreme Court in Monsanto said: "There must be evidence that tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently," how can a plaintiff prove the existence of a negative, that there is no collaboration and even exclude a possibility?

Mr. HATCH. I think it is a good question. As usual, the distinguished Senator from Pennsylvania is an expert in the law and has had very, very great experience in the law. I think that what the Senator has done is quote a paragraph that indicates you have to disprove a negative. The fact of the matter is Monsanto, is a case where the plaintiffs did recover because they were able to prove the positive that there was, in fact, not only a termination but an agreement on fixed pricing. And the $10.5 million treble damages of the case stood.

There was additional evidence that there was literally an agreement to fix prices. That included direct evidence that the manufacturer agreed to terminate price cutters. In that case, they were able to show it.

The Monsanto case also said, as I recall, that you can prove price fixing and an agreement or conspiracy to fix prices under the antitrust laws by direct or circumstantial evidence, which is precisely what they did.

I think the distinguished Senator raises a very crucial issue; that is, how can we best serve customers in cases where it may be difficult to prove that there was, in fact, an agreement or price fixing to begin with? My experience in the law has been that if we have a dealer come in who wants to be a plaintiff and we want to bring a suit because they have been terminated and they know of a complaint that was filed by a competitor. And it looks to them like they have been unfairly dealt with under the antitrust laws, that there is, in fact, an agreement and a conspirary to fix prices, that the way we have to do that is go in and try to find somebody within the organization of either the complainer or the manufacturer, find documents, letters, memoranda, and so forth through the discovery process, and try through inference and many times through circumstantial evidence to get a case that will go to the jury.

Mr. SPECTER. If I may interrupt my distinguished colleague just for the purpose of debating the issue, the difficulty in finding such documentary evidence is——

Mr. HATCH. It is difficult.

Mr. SPECTER. You do not have to be too sophisticated in the commercial business world not to put it in writing. When Senator HATCH referred to Monsanto and that there was a finding for the plaintiff, that is correct. But there was very substantial evidence in Monsanto. After Spray-Rite was terminated, Monsanto advised price-cutting distributors that they would not receive adequate supplies if they did not maintain the suggested resale prices. After one of the distributors still did not comply, its parent company was informed of the situation, and the parent company instructed its subsidiary to conform to the resale price, and there was also a distributor newsletter which stated that "every effort will be made to maintain a minimum market price level."

What Monsanto did was educate business people in ways not to get caught.

Mr. HATCH. With those documents, they were found out.

Mr. SPECTER. That is the point. The point is you are not going to find a contract made at high noon under seal.

[1] *See* S. Rept. No. 101-251, p. 14.

But where there are forms, and as Senator HATCH and I know very well, having been practicing attorneys, where in the language of the Supreme Court decision there has to be some evidence to at least tend to exclude the possibility of unilateral action, this phrase is seized upon in the trial courts across this country and it establishes a burden which is impossible.

Mr. HATCH. If the Senator will yield, I think the Senator points out a good point. I do not think the courts are going to require the plaintiffs to prove a negative. That is a good point. On the other hand, I do not know anybody that can make the case under current law that discounters are suffering or that they cannot bring these cases in legitimate ways and recover today or that the law is not working.

I acknowledge that the Senator has raised a point that may be important. But from my experience, the law is working as it currently stands under Monsanto, Sharp, Colgate, and Sylvania. Let me make this one point. These are very difficult cases.

The PRESIDING OFFICER. The time of Senator SPECTER is up.

Mr. HATCH. Mr. President, I ask unanimous consent that we have 1 more minute.

The PRESIDING OFFICER. The time is extended 1 more minute from the time of Senator THURMOND.

Mr. SPECTER. Mr. President, I ask unanimous consent that we be permitted to continue this exchange for 5 more minutes, because I have a brief reply.

Mr. THURMOND. Mr. President, the time has been apportioned, and unless we can be guaranteed our proper time, I could not agree.

Mr. SPECTER. I see a gesture on the other side indicating acquiescence.

Mr. THURMOND. I would agree, if we can work it out.

The PRESIDING OFFICER. Without objection, Senator SPECTER shall have 5 minutes under the time of the Senator from Ohio [Mr. METZENBAUM].

Mr. SPECTER. There was an audible call at the line of scrimmage.

Mr. THURMOND. We get 5 more minutes, if I understand?

The PRESIDING OFFICER. No. The time will not be charged against the Senator from South Carolina at all. Five minutes will be charged against the Senator from Ohio for this exchange.

Mr. SPECTER. Mr. President, in view of the limited time, let me pose the other question to Senator HATCH, if he would be agreeable to that. I see him nodding in the affirmative.

Let me come back to Sharp, and I think this discussion may be useful, if someone can provide us with some information.

Justice Scalia talked about the vertical price is not illegal per se, unless it includes some agreement on price or price levels. And, as my distinguished colleague knows, in the Toys 'R' Us case, a district court found no evidence of conspiracy to set prices at some level, citing the Sharp doctrine, even though there was evidence that the defendant sought to maintain a keystone price, which was known throughout the clothing industry as double the wholesale price. My question is: should the interpretation of Sharp in Toys 'R' Us not be changed, can we find the appropriate language to overturn it without creating more problems than solutions?

Mr. HATCH. Let me try to answer. I am not as familiar with that case. But judges can differ on various sets of facts. What little I recall about that is that there was a difference on the facts themselves.

If what the Senator is raising is correct—and I presume it is, knowing my friend from Pennsylvania—then that does raise an issue that is serious. I am not arguing that every case will come out the way the Senator from Pennsylvania, or I would decide it, reasonable people can differ. But terminated dealers are able to get a jury today. Let me say that in the Sharp case, Sharp addresses the question that even when an agreement to terminate a price-cutting dealer is shown, what must that agreement include before it is subjected to the per se rule, rather than being subjected to the rule of reason? Sharp says, basically, that you have to have an agreement or prices at some level. I do not see where that is a difficult standard to use.

Mr. SPECTER. But the problem is that it is interpreted by the courts not only in Toys 'R' Us, but in other cases. And when you talk about a keystone level, which is known in the industry as twice the wholesale price, the language of Sharp, which asks for some specific price or price level, is interpreted to eliminate plaintiff's day in court, where as a realistic matter, the price fixing has been established.

That is the problem I see. These cases just go too far. But it is very difficult when you start, legislatively, to change in case law. The history of the common law for centuries has been that these cases are built one on top of another, with extremely careful analysis by the courts. It may not always be right. We may not always agree, but when we seek the legislative change, we have to be very cautious. I know the Senator from Utah agrees with me on that point.

Mr. HATCH. I am going to review that Toys 'R' Us case. Let me just say this: Even if that is so, this particular bill clearly overreaches, and I think that is why both the Senator and I are against the bill.

In Sharp, the court said there was enough evidence to find a price agreement. The case was reversed because of the erroneous jury instruction.

Let me read that case the Senator is referring to, and I will work with the distinguished Senator to try and resolve in the future some of these problems. I have to say today, if we pass this particular bill that the distinguished Senator from Ohio is advocating, and we vote for cloture today and somehow or another that bill passes, we are talking about putting a tremendous dent in consumer rights in this country.

Mr. SPECTER. I ask this question: When we talk about cloture—this is an important point—why should we require the supermajority? On the current bill, S. 429, and the Brown amendment, my intention is to vote against it, unless we can solve the problems which deal with Monsanto and Sharp.

We are not dealing with freedom of speech, we are dealing with the commercial issue. There will be no more time for more debate, if cloture is invoked. Senator HATCH and I and Senator THURMOND are the only Senators on the floor. If we need more time to debate, I think we ought to take it. On the structure of requiring a 60-vote majority, I just have a problem, and I think it is worth a brief discussion because people may not understand when we talk about cloture, requiring 60 votes. And I intend, as I said earlier, to vote in favor of cloture, to let the Senate work its will in a majority context. I would be interested in my distinguished colleagues' reaction to that.

Mr. HATCH. Mr. President, I think the very fact that the Senator is raising these issues is going to be observed by the courts of this country, because he has a reputation in the law that cannot be ignored.

On the other hand, we have not been able to come up with a resolution of those issues thus far, during at least three Congresses, and I am not sure we can on the floor. I think by going ahead and invoking cloture, it seems to me what we are going to do is allow the passage of this bill, which is very difficult to understand. Some of our colleagues are voting for it because it has been promoted as a consumer bill when, in fact, it is anticonsumer. There is a lot of pressure by certain discounting retailers—not the majority, but certain of them—who have been very active for them to vote this way.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPECTER. I thank my colleague, and I thank the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the Brown amendment, in essence, does no more than shuffle words around. The basic problem with the amendment and with the Metzenbaum bill is that it fails to recognize that the primary fact which must be established in order to show a vertical price-fixing violation

under the Sherman Act, is the existence of an agreement to fix prices. The necessity to show that an agreement has been entered into, and that that agreement fixes prices, is the most basic fact in this whole debate, and it is continually ignored by those who have drafted this legislation and those who urge its adoption. As Mr. Rill has stated, "This amendment, while making cosmetic changes, would still permit findings of conspiracy and price fixing where no one has conspired and prices have not been fixed." There cannot be a vertical price-fixing violation under the Sherman Act unless there is an vertical agreement to fix prices. Both the Metzenbaum bill, and the Brown amendment, eliminate that requirement.

My distinguished colleague from Alabama, Senator HEFLIN, put it best the other day when he gave an example from criminal law to illustrate the point. Suppose I am found at the scene of a murder. On the ground is the victim, and next to the victim, is the weapon. Based on that evidence, am I guilty of murder? Of course not. My presence at the scene may be highly probative, but clearly more evidence than simply my presence would be required before I could be found guilty of murder.

The same is the case with establishing a price-fixing conspiracy. A complaint by a dealer about another dealer's pricing, even followed by termination, even if the termination were the major cause, may be probative of whether there is a price-fixing agreement, but standing alone, it simply is not enough. That is what Monsanto held, and that is why the Metzenbaum bill, and the Brown amendment, no matter what words they use, do not work. In both cases, the proposed legislation ignores the requirement of proving an agreement, and allows a jury to infer a conspiracy to fix prices based on inconclusive evidence.

Mr. President, S. 429 was defeated by the Judiciary Committee by a vote of 8 to 6. This is the third time this legislation has been before the Judiciary Committee, and each time, there have been fewer and fewer votes in support. Several years ago, it was reported favorably by voice vote. The second time, it narrowly won approval by a vote of 7 to 6. This last time, it was defeated. It goes without saying, Mr. President, that the more my distinguished colleagues study this bill, the more they understand that it is not sound antitrust legislation, and should not be enacted.

Again, I remind Senators that the head of the Antitrust Division in the Justice Department is strongly against this bill. And I have read his letter this afternoon. He is there enforcing antitrust and serving the people. He has no reason to do anything other than what is best for the consumer. That is why he is in the Antitrust Division. He takes the position this bill is unsound and should not pass.

The two Supreme Court cases which the Metzenbaum bill and the Brown amendment seek to overturn—the Monsanto and Sharp decisions—were both decided by overwhelming majorities. Monsanto was decided by a unanimous Court, with Justice White not participating. The decision in Sharp was 6 to 2, with Justice Kennedy not participating. Given these majorities, it does not appear that these decisions were the result of strong ideological differences as to antitrust law, the law of conspiracy, or the evidentiary requirements necessary to prove a conspiracy. On the contrary, the decisions are clear and straightforward on two issues: what kind of proof is necessary to prove a vertical price-fixing case; and, what kinds of agreements constitute vertical price-fixing agreements subject to the per se rule, rather than the rule of reason.

Mr. President, S. 429 and the Brown amendment will have a very real, and negative effect on American business. As I noted in my opening remarks on the motion to proceed to this legislation, S. 429 inhibits communication between manufacturers and their distributors, it interferes with the right of a manufacturer to unilaterally decide who will distribute its products, and it makes it difficult for manufacturers to require their distributors to provide product expertise and service.

Mr. President, this is very important because product expertise and service benefit the public. Unless the manufacturer can require the distributor to give proper service to the consumer, the consumer suffers, and that is the point that seems to be overlooked by people favoring this bill.

American business thrives on the free flow of information between manufacturers and consumers. Such communication informs manufacturers about consumer needs with respect to existing products, and provides insight into unmet consumer needs for future products. Both bills under consideration chill this communication by making communications between a retailer and a manufacturer the operative vehicle for presuming that the sender and the recipient were engaged in a price-fixing conspiracy. It thus weakens American business by unnecessarily creating fear that innocent and laudable behavior will subsequently be misconstrued in a court of law and exposed to costly treble damage penalties. An American business beset with such concerns is ill-equipped to compete in the global marketplace against foreign competitors.

Mr. President, these bills also interfere with the long established freedom of a manufacturer to decide unilaterally whether to distribute its product through a given dealer. This right is an essential part of our free enterprise system, and has a solid foundation in settled antitrust law. S. 429 and the Brown amendment allow an inference—I repeat, an inference—of an illegal conspiracy where a manufacturer has done no more than exercise this right, subjecting the manufacturer to treble damages. Finally, product expertise and product service directly benefit consumers. Manufacturers should be able to terminate distributors who do not provide such benefits, and should be able to enter into procompetitive distributorships to guarantee them. These bills could make this illegal.

This is a very important point, Mr. President, because the manufacturer wants to see that his distributor gives good service and this bill is going to prohibit that.

Of overriding concern, Mr. President, is that these results will occur against a backdrop of little, if any, proof that there is a need for this legislation in order to preserve the ability of consumers to buy at the lowest possible price, or from discounters. On the contrary, the fact of the matter is, that notwithstanding the Monsanto and Sharp decisions, consumers have an almost unlimited amount of choice in the marketplace, and low priced, discount stores are thriving as never before, many at the expense of full service retailers.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. THURMOND. I will quit, Mr. President. Thank you very much.

The time has expired now on both sides, I understand, until——

The PRESIDING OFFICER. There are approximately 13 minutes and some odd seconds remaining to the Senator from Ohio. The time between 4:30 and 6 will once again be equally divided between the Senator from South Carolina and the Senator from Ohio.

Mr. THURMOND. Mr. President, if my time is up I want to be sure when we come back at 4:30 we will have our proper time then. If there is no objection I can go on until Senator METZENBAUM comes back. As I understand it, that would be agreeable.

The PRESIDING OFFICER. Yes, it will take consent to do that if consent can be granted. Does the Senator so request?

Mr. THURMOND. Until Senator METZENBAUM comes in, or another person who wants to speak on his side comes in. If you notify me, I will immediately stop so they can take the floor.

The PRESIDING OFFICER. Without objection, the Chair will recognize the Senator from South Carolina under those terms.

The Senator from South Carolina is recognized.

Mr. THURMOND. Thank you, Mr. President.

In its 30th annual survey of the discount industry, published in June 1990, Discount Merchandiser, a discount trade publication, noted that dollar volume for the discount industry for the 1989 calendar year reached over $160 billion. This was a new record, and represented an increase of $13.1 billion, or 8.8 percent, over the previous year. The publication also noted that "the state of the industry as measured by the barometer of dollars and cents reveals a strong potential for continued overall growth." The effect of the discount industry on other retailers was also cited. "In one way or another, other retailers cannot help but measure their pricing standards against those of the discounters. * * * One retail expert's survey shows that 49 percent of the items consumers buy are price-slashed at their department store. The influence of discounting is like the Big Bang. The effect still continues."

In terms of sales, Wal-Mart and K mart, two leading discount companies, both reported annual sales in excess of $30 billion. According to recent news accounts, Wal-Mart reported annual sales for 1990 of $32.6 billion, while K mart reported annual sales of $32.07 billion. Both numbers represent substantial increases over 1989 annual sales, which were reported by Discount Merchandiser to be $20.9 billion and $24.4 billion respectively. In other words, despite the Monsanto and Sharp decisions, Wal-Mart and other discount stores continue to experience explosive growth.

It has been said that if this bill passes, it will put the discounters out of business. The discounters are making more money every year, as shown by these statistics.

Mr. President, I would now like to spend a few minutes giving some background on S. 429, and describing the apparent reasons for its creation.

The original impetus for S. 429 was to overrule the Supreme Court's 1984 decision in Monsanto versus Spray-Rite Service Corp. In that decision, which, as I have already indicated, was decided by a unanimous vote, the Supreme Court held that a conspiracy to set vertical prices, in violation of section 1 of the Sherman Act, is not established by proof that a manufacturer terminated a distributor following, or even in response to, price complaints by other dealers. The Court held that, "[s]omething more than evidence of price complaints is needed. There must be evidence which tends to exclude the possibility that the manufacturer and non-terminated distributors were acting independently." The Court stressed that, "it is of considerable importance that independent action by the manufacturer, and concerted action on nonprice restrictions, be distinguished from price-fixing agreements, since under present law the latter are subject to per se treatment and treble damages."

The proponents of S. 429 have argued that the evidentiary standard established by Monsanto is so difficult, that it is virtually impossible for a dealer termination case to reach the jury. Such an argument simply has no validity. In Monsanto itself, the Court found more than enough evidence to support the existence of a price-fixing agreement and termination of Spray-Rite pursuant to the agreement.

Spray-Rite was an authorized distributor of Monsanto herbicides from 1957 to 1968. In 1968, after Monsanto declined to renew Spray-Rite's distributorship, Spray-Rite brought an action against Monsanto under section 1 of the Sherman Act claiming that it was terminated pursuant to a conspiracy between Monsanto and some of its distributors to fix the resale prices of Monsanto herbicides. The jury found for Spray-Rite and awarded $3.5 million in damages before trebling. On appeal, the court of appeals affirmed, and stated that, "proof of termination following competitor complaints is sufficient to support an inference of concerted action."

The Supreme Court reversed the appellate holding, but found that Spray-Rite presented enough additional evidence to prove that it had been the victim of an illegal price fixing agreement. The Court found that there was direct evidence of resale price maintenance agreements from testimony by a Monsanto district manager that on at least two occasions after Spray-Rite was terminated, Monsanto advised price cutting distributors that they would not receive adequate supplies if they did not maintain the suggested resale prices. After one of the distributors still did not comply, its parent company was informed of the situation and the parent instructed its subsidiary to conform to the resale price. There was also a distributor newsletter, which the Court described as a "more ambiguous example", which stated that "every effort will be made to maintain a minimum market price level."

The Court also found that there was ample evidence to support an inference that Spray-Rite had been terminated pursuant to the price fixing agreements. In a meeting between Spray-Rite and Monsanto following the termination, one of the first things the Monsanto official referred to was the many complaints it had received concerning Spray-Rite's prices. In addition, there was evidence that Spray-Rite had never been informed of the alleged criteria which led to its termination, and that on several occasions from 1965 to 1966, Spray-Right had been approached by Monsanto officials, informed of complaints from other distributors, and asked to maintain its prices. Finally, Spray-Rite testified that Monsanto made explicit threats to terminate if Spray-Rite did not raise its prices.

Some claim that the language in Monsanto is ambiguous and has engendered considerable confusion in the lower courts concerning the application of evidentiary standards in vertical price fixing cases. Such is not the case, however. Monsanto clearly articulates the appropriate evidentiary standard applicable to dealer termination cases. If some lower courts have applied the Monsanto standards incorrectly in particular cases, the more appropriate way to correct the situation is through the judicial process, and not through legislation like S. 429, which is itself ambiguous and confusing.

Mr. President, if they want something corrected, they should do it through the courts and not through legislation, because that is not the proper channel.

In stark contrast to the fact that this legislation is not needed to clear up any confusing or ambiguous evidentiary standard in vertical price fixing cases, is the reality that S. 429 will wreak havoc with long established antitrust principles and will seriously undermine, if not effectively repeal, the longstanding Colgate doctrine and the law of conspiracy.

In United States versus Colgate & Co., the Supreme Court made clear that,

> In the absence of any purpose to create or maintain a monopoly, the [Sherman] act does not restrict the long recognized right of trader or manufacturer * * * freely to exercise his own independent discretion as to parties with whom he will deal.

In Monsanto, the Court underscored this point. In its effort to balance the right of a manufacturer to deal independently with whomever it wishes, and the right of a distributor to be free from illegal conspiracies, the Court stressed that,

> There must be evidence which tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently.

Because S. 429 sanctions the use of ambiguous evidence to provide the existence of a conspiracy, the line between independent and concerted activity will be unavoidably blurred, and independent, lawful activity will inevitably be condemned.

S. 429 also undermines a long list of antitrust and other cases dealing with conspiracy. In American Tobacco Co. versus United States, the Court defined a conspiracy as "a unity of purpose or a common design and understanding, or meeting of minds in an unlawful arrangement." The conspiracy can be proven either through an explicit agreement or an implicit understanding, but in any event it is necessary to prove that there was a "meeting of minds in an unlawful arrangement." S. 429 allows a jury to infer a conspiracy

based on evidence which falls far short of the American Tobacco standard, and seriously jeopardizes the traditional law of conspiracy.

The following example is a good illustration of the difficulty which S. 429 presents. Suppose a small manufacturer of a high technology product, I will call it the "M Modem," sells this modem both to a full-service retailer and to a discounter. Suppose also, that the full service retailer has taken a real interest in selling the M Modem and provides valuable services in connection with the resale of such product. The discounter, on the other hand, sells a variety of modems competitive with the M Modem, and has little interest in pushing the M Modem, providing only limited services in connection with the sale of such product. The full service retailer eventually comes to the manufacturer and states that, while he would like to continue selling the M Modem, he may not be able to do so because he is continually undercut by the discounter, who is free riding on his services. Facing the possibility that it will lose the full service retailer as an extremely valuable dealer if it continues selling to the discounter, the manufacturer decides to terminate the discounter. No prices have been fixed, and no agreement has been entered into. Yet, since the conversation with the full service retailer could be viewed as an implied request to terminate the discounter, which was the major cause of the discounter's termination, the manufacturer could be found under S. 429 to have engaged in per se unlawful resale price fixing.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will stand in recess until the hour of 4:30 p.m.

Thereupon, at 3:01 p.m., the Senate recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. FORD].

CONSUMER PROTECTION AGAINST PRICE-FIXING ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending business is the Brown amendment No. 90. The Senator from Alabama.

Mr. HEFLIN. How long does the Senator from Iowa wish to speak?

Mr. GRASSLEY. I think I told the Senator from South Carolina that it would take me about 18 to 20 minutes.

Mr. HEFLIN. I think I can get through in 5.

Mr. GRASSLEY. I thank the Senator.

Mr. HEFLIN. Mr. President, this issue is very complicated with language, with matters pertaining to Supreme Court decisions, with language like per se rule, like the rule of reason, like the issue pertaining to maximum price and minimum price, and a lot of different language that gets confusing and is complicated to the average person. But when you get down to it, this bill really is about circumstantial evidence.

Most people know something about circumstantial evidence. They have heard about the fact that maybe somebody is seen close to a cookie jar. Sometimes, on circumstantial evidence, I think of a homicide case where there is a deceased body, there is a gun close to the deceased body and the accused is somewhere in the vicinity, maybe 100 yards. None of us would say that that is enough evidence to charge a man, or that is enough evidence to go to a jury.

Basically, the Supreme Court in Monsanto in regards to this matter says there has to be more than just a complaint and a termination of a retailer's relationship with his distributor or manufacturer. The Supreme Court might say in a case involving a homicide that you have to show the fingerprints of the accused on the gun before you could charge a person or you could go to the jury.

Basically, we are talking about circumstantial evidence that is necessary to charge or to go to a jury or to withstand a summary judgment or to withstand a judgment notwithstanding the verdict, or a directed verdict, or other things of that nature.

Now, what the Supreme Court in the Monsanto case said, basically, was that there had to be additional evidence other than just the complaint and the termination. If we just have the complaint and termination, there could be many reasons why the termination occurred. The retailer who got terminated might be lazy. He might have his service department operating very ineffectively, and so on.

And so really the question is whether or not you are going to require certain evidentiary standards pertaining to circumstantial evidence to be efficient to bring a case and to allow the case to go to the jury.

To me, when we look at this matter, it is confused with consumer rights and everything else. But it really comes down to what degree of proof is necessary to go to a jury. That is what this bill is about. This bill would open the floodgates and you would not have to have sufficient proof, in my judgment, from a legal basis to justify bringing the lawsuit or any submission to the jury.

Cases over the years have been pretty much the same. Monsanto does not reverse anything. There is a Colgate case that goes back earlier and Monsanto follows that case. We are getting into an area where we attempt to define and micromanage the courts on matters pertaining to the quantum of proof, the sufficiency of evidence. That is best left to the courts.

If a person does not understand this, then where does he think we ought to be as the Senate and the Congress trying to say what exactly is the degree of circumstantial evidence, whether there ought to be fingerprints also found on the gun or whether or not there ought to be other evidence which would connect the accused with the crime. That is basically what we are talking about in this instance.

If there ever were consumer judges, they are Justice Marshall and Justice Brennan, who voted for the Monsanto case. They also voted for the Sharp case. I do not think you would say those Justices would be anticonsumer.

We are standing in the same position; two very liberal, proconsumer jurists have already looked at this and come to the position that there ought to be some additional circumstantial evidence before a case goes to the jury.

That is what I think it is about.

I further note that at the outset of this debate the proponents of this bill were only able to get the initial votes to invoke cloture on the motion to proceed by stating their willingness to accept the pending amendment. I find that this amendment makes no improvements to this legislation and even creates some affirmative harm. I will be addressing some of the specifics of that amendment later in this speech, but I want to first spend some time discussing why there is no need for any legislation at all.

The rationale behind this bill is that the U.S. Supreme Court has made a mistake in two of its opinions in how to intepret the antitrust laws. These cases, namely the Monsanto and Sharp opinions, are good law and do not warrant this undeserved attention by the U.S. Congress.

The Monsanto opinion was a decision of a unanimous Supreme Court. Joining with the majority in outlining the evidentiary standards necessary for a vertical price-fixing case to reach a jury were Justices Brennan and Marshall. As I have previously noted, these distinguished jurists have never been known as having anticonsumer orientation to say the least. However, they agreed with the majority in outlining these antitrust standards when one business brings a lawsuit against another business. The view of the Court balanced the various competing interests, took into account the historical development of the antitrust laws, and articulated a proper and workable standard for establishing when a vertical price-fixing case should reach a jury.

In reaching its decision in Monsanto the Court recognized that, "There must be direct or circumstantial evidence that reasonably tends to prove

that the manufacturer and others had a conscious commitment to a common scheme designed to achieve an unlawful objective." In practical terms, the Court was saying that merely the fact that there exists a retailer who was making complaints to a distributor and the fact that the distributor later terminated a competing retailer, does not make for a violation of the antitrust law without some evidence to the fact that there was an illegal conspiracy between the complaining retailer and the distributor to cut out the competition.

In addition to the Monsanto opinion, this legislation seeks to overturn the Supreme Court's 6-2 decision in the Sharp case. Again ruling with the majority in this case were Justices Brennan and Marshall. The Sharp decision is a case where the Supreme Court has provided guidance to the lower courts as to the proper threshold burdens necessary to show that an activity is per se illegal under the antitrust laws. The Court noted that in order to use this very high standard there must have been some evidence of an agreement as to price or price levels between the parties who are being accused of an antitrust violation, to support a finding that there was such an agreement as a prerequisite for submission to the jury. This opinion again shows the necessary balancing of competing business interests which was recognized by the Court.

Besides the wisdom and the overwhelming majorities which ruled in favor of these opinions, there is another reason why this legislation should not be enacted.

The entire field of business communications, which this legislation seeks to effect, has undergone significant changes and developments over the years. To enact this legislation will have the inevitable effect of chilling business communications thereby harm resulting improvements designed to help both consumers and business.

Before concluding, I want to briefly discuss the proposed amendment. I call it an amendment because to call it a compromise would simply be wrong. This amendment is not a compromise with the administration who have already indicated they will veto this bill. This amendment is not a compromise with the business community who are the very parties which both bring antitrust lawsuits and who are forced to defend antitrust lawsuits. Further, after hearing the reluctant views of the proponents of the underlying bill trying to muster the willpower to agreement to any changes, I suggest that this may not even be much of a compromise in their minds.

I know that Senators BROWN and SPECTER have devoted substantial time and attention to this proposal, however it still falls short. The evidentiary standards laid out in this amendment regarding the Monsanto case, still fall short of the Supreme Court's recognition that there must be some proof, either circumstantial or direct, of an actual agreement to cut out competition before an antitrust lawsuit can be proven. The language of this amendment speaks in terms of "implied acquiescence" or "impliedly threatening" in order to show a vertical price-fixing agreement. However, what those standards fail to achieve is establishing an evidentiary standard which will continue to mandate a showing of concerted action between the parties alleged to have entered an illegal price-fixing agreement, I appreciate the efforts to which my colleagues have gone, but I must still argue that their standard still falls short of the mark.

I want to conclude my remarks by reminding my colleagues of the age-old adage which clearly applies to this bill—if it ain't broke, don't fix it. The antitrust laws are not broken and don't need to be fixed.

I urge my colleagues to join with me in defeating this legislation.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. THURMOND. Mr. President, I yield 20 minutes to the able Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 20 minutes.

Mr. GRASSLEY. Mr. President, the history of this legislation is very interesting and this history may also suggest a compromise solution, one which will protect retail competition without the danger of transforming every dealer termination into a search for treble damages and also for attorneys fees.

Back in the 100th Congress, the Senator from Ohio [Mr. METZENBAUM], the Senator from Arizona [Mr. DECONCINI] and myself, and even a few others, worked very hard to produce a bill then that was numbered S. 430, and the title at that time was the Retail Competition Enforcement Act. This bill had an important, albeit modest, goal to codify the per se rule against vertical price fixing and to change the quantum proof needed to be offered by a terminated dealer/plaintiff to survive a manufacturer/defendant motion for summary judgment.

I was pleased to work on and cosponsor that compromise bill. That bill enjoyed wide support among discount retailers, and consumers. It even had the support of the manufacturers and the business community. We had a consensus. Obviously, that is a far cry from where we are today.

We were on our way to passage and enactment back in the 100th Congress when the Supreme Court Sharp decision came down. This case held that a decision by a manufacturer to terminate a discounter will be judged under the rule of reason unless there is some kind of an understanding on price.

The Supreme Court opinion in that Sharp case did not specify what evidence is required, but it is noteworthy that the opinion affirmed a fifth circuit decision that found it sufficient for liability if the manufacturer and the surviving dealer, and I quote, "expressly or impliedly agree to set the price at some level though not a specific one." That is really all that Sharp stands for, though it is sometimes hard to recall given all the harsh rhetoric that we hear about the end of discounting in America.

But, Mr. President, the sky is not falling. Drive down the street and you will see discounters flourishing everywhere, and if you have the facts to show an illegal price conspiracy, a discounter can still win a vertical price-fixing case.

It is simply an exaggeration to say that a plaintiff cannot today win a dealer termination case. What is true is that without some evidence of an understanding on resale prices or price levels, a dealer termination is not appropriate for per se treatment.

After Sharp, a terminated plaintiff need not show an ironclad agreement to set prices or even a price range. The illegal agreement can instead be implied by the facts uncovered during discovery. Indeed, the same evidence which shows the illegal conspiracy to terminate a dealer can also be used to show the agreement on price or price levels.

Thus Sharp does not require proof of two separate agreements as is often alleged. Sharp can be overcome in the appropriate case. In fact, as long as a plaintiff can get to a jury that jury may still find a conspiracy. This is why I continue to believe that the Monsanto case is the only one necessary or appropriate for legislative modification.

Mr. President, I would like to explain that and why. You see, denying that price was a motive for a termination, and denying that there was an agreement on price levels—usually those two go hand in hand—the manufacturer will claim to act on his own, or for legitimate nonprice reasons like maintaining service levels. The terminated dealer on the other hand will argue that the real motive was an agreement to fix or maintain prices. The jury that decides that the manufacturer is not telling the truth about the stated nonprice reasons probably will also believe the other testimony or will not believe the other testimony that it did not intend to set a price range.

So, Mr. President, I am much more comfortable leaving this question up to the jury than I am with the U.S. Senate deciding this question for the jury in advance.

I might also suggest that Sharp did not upset the established rule that agreements to maintain or stabilize

prices as well as to set them are per se illegal. Thus terminated dealers can still win resale price maintenance cases but to do so they must be diligent in their search for evidence of price concerns. They must uncover evidence that the stated nonprice reasons for the termination are mere pretext.

Mr. President, I might mention here, and do this parenthetically, that the views of the Senator from Ohio [Mr. METZENBAUM] in the committee report seem to support what I just said. He writes at page 21 that "When a competitor is eliminated pursuant to a vertical agreement solely because of its pricing policies, the impact on competition and consumer welfare is clear."

I emphasize the word "solely" because this is consistent with the uncovering of pretext evidence that I just mentioned. Unfortunately, the statutory language of the Senator from Ohio as well as the language of the pending amendment do not speak in the language of solely or sole causes. Rather, it is much more ambiguous. It not only changes the evidentiary rule laid out in Monsanto, a move I continue to want to support, but its overruling of Sharp turns virtually every dealer termination into a spin of the antitrust wheel of treble damage liability. This I cannot support.

As I have stated before, I am troubled by certain post-Sharp cases such as the Jeanery case and the Toys 'R' Us case raised by the Senator from Pennsylvania and others. In fact, I spoke out against these two cases 2 years ago in the committee report on this very bill. If I could be sure we were simply voting to change the result in these cases, I would support S. 429, or the pending amendment, but we are not doing that here.

I say of course we are not. Rather we are making a major as well as controversial change in the law that will simply catch too many blameless, unwary suppliers and dealers in the treble damages web.

The amendment before us blurs the careful distinction drawn in the Colgate case between unlawful concerted activities and legitimate unilateral conduct by manufacturers or suppliers. I hope my colleagues were listening to the senior Senator from Utah when he very clearly made this point, because he is right on the mark with this key point.

The Colgate doctrine that a manufacturer is free to announce real sale prices or contract terms and enforce adherence to those prices or terms by terminating noncompliant distributors or dealers or by refusing to deal with distributors or dealers who violate those prices or terms is almost as venerable as the per se rule itself. This rule dates all the way back to the year 1919, and I see no reason why we should weaken it.

A manufacturer's decision to terminate or refuse to continue to supply a distributor because the manufacturer independently concludes that the distributor's pricing or other behavior does not meet the manufacturer's objectives has never been a per se violation of the antitrust laws unless it is the product of an illegal conspiracy to fix prices.

In contrast, an expressed or implied agreement between a manufacturer and his dealers or distributors to fix resale prices or price levels has long been considered a per se violation of the Sherman Act. This is the real holding in Sharp, and as such it is not terribly remarkable. Perhaps that is why Justice Scalia's 6 to 2 opinion for the Court was embraced by both so-called conservatives and liberals.

This is simply not a case where ideology matters.

Mr. President, let me illustrate, then, my concern about the blurring of the line between unilateral and concerted conduct with some real world examples.

In the real world of retailing, manufacturers necessarily have to rely on information from their distributor networks to help ensure that other dealers comply with price and nonprice contractual requirements. A rival full-price retailer may often complain to a manufacturer—the complaint may be about a lot of things, and some legitimate—for example, that another retailer is not living up to the terms of the contract and, thus, is undercutting the competitor's retail price. What if the manufacturer acts independently or unilaterally to terminate the noncomplying retailer? The sponsors of this amendment try to assure us that this action is protected by Colgate and specifically by section 4 of this amendment.

But what if the complaining retailer—perhaps one unskilled in antitrust hairsplitting—utters a smoking gun phrase during a communication, suggesting that the manufacturer simply take care of the discounter, or says something that may be benign but is later interpreted as being some sort of ultimatum? Here the pending amendment says that if the retailer is subsequently terminated, he will automatically win treble damages, as well as attorney fees.

Mr. President, how about this scenario: What if, alternatively, a full-price retailer, knowing he is in competition with discounters, asks his manufacturer for an exclusive sales territory instead? And what if the manufacturer agrees, resulting in the termination of the supply to the discounter?

Well, Mr. President, as I read the pending amendment, this is permissible under the bill, because new subsection 8(a)(1)(D) seeks to protect vertical territorial restraints—even where they are motivated by a discounter's pricing policies.

So what has this amendment done? It has unwittingly encouraged the spread of exclusive territory arrangements as a subterfuge to reduce price competition. This is hardly a proconsumer development in the evolution of this legislation.

Indeed, a particularly devastating byproduct to enactment of this amendment might well be a rise in vertical integration by manufacturers—company stores, if you will. These stores will lack the independence and creative enterprise that now is so typical among small business retailers. This would be a terrible development for consumers, as well as for small businesses. But it is a real solution for wary manufacturers.

Do you want to risk this bad, long-term result, simply to change the result in a couple of cases? I do not think it is worth the risk to consumer choice or to small business.

Mr. President, as these examples show—and there are dozens more I could show that I might mention to this body—this amendment will bring on potentially massive liability for those not familiar with antitrust nuances. We ought not to intentionally create a trap for the unwary, or impose treble damages as a result of some kind of word game, and we are in that sort of a game.

Confusion, ambiguity, obfuscation are, I realize, good for the profits of the antitrust bar, both plaintiffs, as well as defense. But I sincerely doubt that it is a good development for people trying to make good business judgments. And I know that it is not a good development for America's consumers, who will ultimately, at the end of the line, pay the tab for all of the litigation fun and games that I think are involved in this legislation, if we do not dramatically change it.

I yield the floor.

The PRESIDING OFFICER. For the information of Senators, the Senator from South Carolina has 21 minutes; the Senator from Ohio has 45 minutes.

Mr. METZENBAUM. Mr. President, I yield 7 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, in 1911, the U.S. Supreme Court determined that vertical price fixing—agreements among different sellers along the distribution chain to maintain prices—is a per se, or automatic, violation of Federal antitrust laws. The benefits of that decision to consumers are obvious. It encourages price competition—the heart of a free market economy.

In the last decade, however, the per se rule has come under attack by both the executive and judicial branches of the Federal Government. The Department of Justice shifted from its former position and actively worked fundamentally to alter or overturn the per

se rule. Congress repeatedly has responded by prohibiting the Department of Justice from spending funds to advance that position. At the same time, however, the Supreme Court has restricted the application of the per se rule to the degree that this once-powerful legal doctrine has little meaning today.

It is time to reaffirm our commitment to the American consumer by adopting legislation once again effectively to outlaw vertical price fixing.

S. 429 will codify and strengthen the principles underlying the original per se rule. It will clarify that Federal antitrust laws prohibit not only manufacturers and distributors from mandating prices to retailers, but also prohibit a powerful retailer from dictating to whom its suppliers may sell. In today's highly competitive market, manufacturers increasingly are being pressured by full-price retailers to terminate or limit sales of competing product lines to discounters.

Full-service retailers and discount warehouses fill different free market niches. Each should be permitted to operate without interference from the other. In a nation whose greatest strength is diversity, manufacturers have learned that one size does not fit all. The same lessons hold true for the distribution industry as well.

In the past two decades, the manufacturing sector of our economy has undergone a tremendous and positive change. In the face of increased competition from home and abroad, American manufacturers are being forced to tailor their products to the ever-changing demands of consumers. The buying public knows what it wants to buy and the price it is willing to pay. Manufacturers and advertising agencies no longer can shape the tastes of the American consumer to fit the commodities offered. As a result, each of us is able to purchase a broader range of better goods at more competitive prices.

In a similar fashion, the American consumer is more value-conscious than in the past. The high-flying 1980's—a time when nothing was too good and no price was too high—are over. The 1990's are characterized by a far more pragmatic attitude, which, for many Americans, is necessitated by their starting families in a slowing economy. Recent financial pressures have been compounded in many families and communities by the conflict in the Middle East and by military cutbacks.

This value consciousness cuts across all economic, social and geographic lines. A perfect example is Costco, a Washington-based chain of discount warehouses, a form of business that has seen steady growth in recent years. It is not uncommon to see brand-new Cadillacs, Mercedes, and BMW's parked next to battered and rusted hulks barely able to run. Businessmen clad in fresh suits and ties roam the aisles with painters, mechanics, and janitors wearing telltale signs of their professions. These customers and others are willing to sacrifice a degree of service, setting and other amenities in return for lower prices.

Discount warehouses do not appeal to everyone for all purposes, of course. You get only what you pay for. Most people still prefer at some time or another the comfort and convenience of shopping at full-service retail stores—and are perfectly willing to pay the additional expense. As a result of the increased competition from discount warehouses, catalog showrooms and other retailers, however, the quality of service at many stores has improved markedly. I find that gratifying.

Just as domestic manufacturers consistently have called for trade barriers to protect them from value-priced imports, full-service retailers likewise demand the right contractually to eliminate their lower priced competitors. The principles are the same; only the players have changed.

During my 12 years as attorney general for the State of Washington, one of my principal responsibilities was to protect the public against anticompetitive practices. That was a protective and vital part of that job. Fair competition is the life and hope of the free market society. It clearly has spurred modern industry to provide better goods and services and better value for your money.

By taking choice out of the hands of the American consumer, vertical price fixing drains the buying power primarily from lower- and middle-income families and senior citizens on fixed budgets. In these times when every penny counts—and when does it not—the needs and wishes of the consumer should be paramount. That interest is best served by the passage of S. 429.

The PRESIDING OFFICER. Who yields time?

The Senator from Ohio.

Mr. METZENBAUM. I yield to the Senator from New Hampshire 15 minutes.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from New Hampshire is recognized.

Mr. RUDMAN. I thank my friend from Ohio and thank the Chair.

Mr. President, first let's just comment on the excellent presentation by the distinguished Senator from Washington [Mr. GORTON]. I think he hit quite clearly the legal questions facing us today.

Mr. President, I really wonder why this has become such a contentious issue. It has taught me once again that powerful lobbies representing a very narrow base of America have enormous clout in the U.S. Congress.

The only people that seem to be opposed to this are those manufacturing companies and some huge conventional retail distributors that kind of like things the way they are. Since the decisions in Monsanto and Sharp, I guess if I were in their shoes I would like things the way they are.

But the American consumer, the small business man and woman, people like the American Association of Retired Persons, the National Council of Senior Citizens, the Consumers Union—which I would add parenthetically rarely endorses legislation—and many other groups, including 46 of the 50 State attorneys general, have endorsed this legislation.

Let me just spend a few moments in pointing out in the simplest of terms why this legislation is good for the consumer and why it is not the complex legal issue it has been made out to be on this floor.

This is not a very complicated issue. Let me start by clearing up what I guess is a popular misconception. Universally adopted unilateral price fixing is legal in America. Many people do not understand that. Under the present law, if a manufacturer says "I manufacture shoes and they are wonderful shoes; if you wish to sell those shoes you must get $175 a pair and if you do not sell them for $175 then I will not let you sell my shoes" and everybody is held to that standard, that is legal.

There is much confusion here. I have heard statements here on the floor by people who evidently do not understand that. That is fine.

Further, there are all sorts of standards which can be set, standards as to advertising; service, if it is a service product; certainly stocking of inventories; if the shoe manufacturers say you have to carry 100 dozen of each pair in three colors, that is OK.

What the Sherman Act never allowed was vertical agreements on pricing, and it comes about like this.

Let us take that same shoe manufacturer who has this policy and he is selling his shoes around the country, but the fact is that a number of people are not observing his suggested retail price and they are selling these shoes for, let us say, $140 a pair which is, of course, as the Senator from Washington pointed out, very good for people trying to save money and raising families. They would like to buy good products, name brand products, at minimal prices.

Let us assume the manufacturer says: "I am selling a lot of shoes. Since I am getting my price for the shoes, I do not care if these discounters out here are selling this pair for $35 less."

Now comes along a huge department store and it says to that manufacturer, "In my area of the country, John Smith, down the street, is selling the shoes for $140, and I am selling 20,000 pair a year, and unless you enforce that against John Smith, I am going to stop selling your product." And the manufacturer brings pressure on John Smith who says: "I have lower overhead; I have a different class of clien-

tele. I like selling your shoes. People come and buy them by the hundreds. I want to sell them at $140."

The manufacturer says, "Unless you raise it to $175 I am going to take it away from you." That is the only reason. There is in fact a conspiracy between the manufacturer and the large retailer to prevent that from happening and it is carried out and it is terminated. That, until Monsanto and Sharp cases, was resale price maintenance and against the law.

Today it is not.

It is very interesting that the Monsanto case and the Sharp case changed what the antitrust bar believed to be the law up until that time, roughly 50 years.

I would say to my colleagues on this side of the aisle, with all due respect to my friend from Ohio, that the theory of antitrust came under a great Republican President, Theodore Roosevelt, who believed in free markets, in free competition, in the rights of small businesses, and the rights of the American consumers. Somehow I say to friends on this side of the aisle, we have been a bit corrupted lately when one looks at the rollcall vote. It seems to me if anybody in this Chamber ought to support it, it ought to be Republicans who sit on my side of the aisle.

The Senator from Ohio made a very interesting point the other day, and it is worth repeating. It is one I only know of in general terms, but he talked about it specifically, and it is in the May 6 CONGRESSIONAL RECORD. Let me just read verbatim what the Senator from Ohio [Mr. METZENBAUM] said about the Belk case, which is just a case in point and really wipes away all of this fancy legal rhetoric.

I enjoy flights of fancy legal rhetoric. My friend from Washington was a former State attorney general. The occupant of the Chair, the distinguished Senator from Connecticut [Mr. LIEBERMAN] was attorney general of his State and, as you know, I was attorney general of mine. We all enjoy flights of fancy legal rhetoric. But that is a great way to confuse and to confound. This is not very confusing, and the Senator from Ohio fixed on a case which just hits on point. Let me read you what he said on the floor a few days ago.

It was a case involving Garment District, Inc. versus Belk Stores, Belk being a large conventional retailer, Garment being a discounter. Here is the quote:

> Take, for example, the case of Garment District, Inc. versus Belk Stores Services, Inc., decided in 1936, in which the manufacturer received repeated claims from Belk, its full-price retailer, about Garment, a competing discount retailer. The court found that Belk, in fact, pressured the manufacturer "in order to eliminate a discount competitor," and that Garment was "terminated because of the pressure exerted by Belk."

This is a classic Sherman antitrust case.

There was even a letter from the manufacturer to Belk—talking about smoking guns, which the Senator from Iowa was talking about a few moments ago in opposing this bill—there was even a letter from the manufacturer to Belk acknowledging the manufacturer's decision to terminate and thanking Belk for "bringing this problem to my attention," according to the words of the letter.

The court, relying on Monsanto, held this case should not go to a jury and upheld the directed verdict for the defendant.

It is hard to see how the court could prevent the jury from considering this case. But that is a classic example of how lower courts are interpreting Monsanto.

What did the Monsanto case say? I have read it a number of times. I have talked to learned people who read it and I will make a statement as to what I believe it means. I think there is much support for what I am about to say.

It helped in the case that the plaintiff had to virtually have a written agreement to fix prices to avoid summary dismissal—in layman's terms, in order to get to the jury. Even to get to the jury you had to have a written agreement or some strong indication, a recording, documentary evidence, whatever.

This is insurmountable for anyone who has ever tried any kind of a case. It is not a standard we have in the criminal law or in any other part of the civil law I am aware of, but that is what they said in Monsanto and it has been almost impossible to win a case under that standard.

Let us go on to the next case. That was a case on standards. Let us talk about Business Electronics Corp. versus Sharp Electronics Corp.

In that case, the court held that unless an agreement, even if one is found, specifically mentions certain price levels, no per se price-fixing restraint can be found. The decision makes no sense. It allows people to conspire all they want to so long as they do not write it down on paper.

So what we have done with this legislation is that we looked at Monsanto and we looked at Sharp, and we tried to put the law back where it was for 50 years. Now we have gone a step beyond that. There have been allegations made by the opponents of this—the administration; the Justice Department—that somehow we are creating a presumption of a conspiracy. Well, I do not think we did that.

But Senator BROWN of Colorado came to Senator METZENBAUM and to this Senator and said: "I think we can clarify this to make the evidentiary standards even tighter to make sure that that could not be conceived of by anyone." I believe I am correct, I say to my friend from Ohio, that we have accepted that and that is part of the amendment that we would offer; is that correct?

Mr. METZENBAUM. We have indicated that we are prepared to accept it. There has been some objection to it, but we are prepared to accept it after the cloture vote.

Mr. RUDMAN. So after the cloture vote, if we are successful, it would be our intention to incorporate the Brown amendment which makes the bill crystal clear, if it was not already.

So that really is what this is all about. This is about saying to American consumers that we will give you the opportunity to buy brand-name products, quality products, many American-made products, which I think is important, at the lowest price that a retailer believes he can sell them to you and still make a profit.

That is what this is all about. That is why the Consumers Union, the AARP, and the others have endorsed this legislation.

Finally, Mr. President, let me just deal with a few items of mythology. I would say that the position paper I read from the Justice Department, I will classify politely as mythology. It lays forth a number of myths which this legislation definitely can rebut on its face. Let me just go through about three or four of them.

Myth No. 1: They have said that S. 429 could also render certain nonprice distribution agreements per se illegal, even though such agreements should be considered, instead, under the antitrust "rule of reason." (Statement of Position, May 2, 1991).

Mr. President, they know and we know on the plain face of this bill that S. 429 does not affect nonprice agreements in any way. The administration has made a statement about a section of the bill which makes illegal an agreement to "set, change, or maintain the resale price" of a product, "whether or not a specific price or price level is agreed upon."

Obviously, this section refers to price restraints, not to nonprice restraints, and it is crystal clear. How can anyone seriously argue the proposition that price-fixing conspiracies are acceptable as long as the conspirators do not write down a specific price?

Myth No. 2: Manufacturers rely on feedback from their distributors to supply the goods and services that consumers desire and that S. 429 could hinder this important exchange of information. (Thornburgh letter, April 30, 1991).

Well, Mr. President and my colleagues, that, on its face, is absurd. The only thing under this legislation that manufacturers and distributors could not talk about is the prices being charged by competitors. Period. And

they know that at the Justice Department.

Myth No. 3: They claim in their position paper that the bill could do great harm in cases alleging unlawful resale price maintenance agreements by allowing a presumption of conspiracy from evidence that is equally consistent with unilateral decisionmaking.

All S. 429 will do is to permit a plaintiff to present to a jury circumstantial or, if you wish, inferential evidence from which criminal activity can be inferred.

The Justice Department and the U.S. attorneys around the country do this every day of the week in courts all over this country, as to State prosecutors and State attorneys general.

Mr. Rill testified—Mr. Rill, incidentally, is the head of the Antitrust Division in Justice—he said:

> The varying facts attending business conduct must drive the conclusion as to whether an agreement legitimately may be inferred on the basis of circumstantial evidence. No one fact is determinative.

We agree. But under the Justice Department position, the jury would never get to hear the evidence.

The same rules of evidence ought to apply for businesses engaging in antitrust conspiracies as exist for individual Americans who participate in garden-variety conspiracies in criminal and civil cases.

Mr. President, let me end where I started. This is not a very complex matter. There is an old saying amongst lawyers that I am sure the distinguished occupant of the Chair is familiar with. It goes something like this:

> If you don't have the facts, pound the law. If you don't have the law, pound the facts. If you have neither, pound the table.

What we have been hearing for the last day around here is a lot of table pounding. There is nothing in this legislation that will penalize a manufacturer who legitimately wants to make sure that his product is being properly sold at a price that he wishes to maintain so long as he does not engage in a conspiracy with a third party to the detriment of the American consumer.

That is what this bill is all about. It is no more complicated than that. I hope the Senate will vote cloture, and I thank the Chair.

Mr. METZENBAUM. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. RUDMAN. I am pleased to yield.

Mr. METZENBAUM. The Senator from New Hampshire spoke about the fact that President Roosevelt had been a Republican leader with respect to the whole issue of antitrust enforcement. Was he aware of the fact that John Sherman, of the Sherman antitrust law, was also a Republican?

Mr. RUDMAN. I thank my friend from Ohio for reminding me of that. I would only say the heritage of my party is strong in the area of consumer rights, and I am delighted that the other side has now joined us.

Mr. METZENBAUM. Mr. President, I yield 8 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO] is recognized.

Mr. D'AMATO. Mr. President, let me ask a question. How many of us would be willing to go to our constituents and say that he or she would like to see our constituents pay higher prices for goods or services? I doubt if there would be very many of us. But in effect, that is what some of our colleagues are suggesting by opposing this legislation.

This bill grants protection to the buying public by guaranteeing that they will be given the opportunity to buy products at competitively based prices. Unfortunately, there currently exists the ability on the part of unscrupulous manufacturers and retailers to implicitly and, yes, to some extent, explicitly set prices on goods and services.

Every business should be allowed to determine with whom they do business. However, when the obvious and apparent motive behind discontinuation of one's business relationship is due to anticompetitive pricing, it is of concern to Congress.

In two key decisions—the 1984 Monsanto versus Spray Rite and the 1988 Sharp versus Business Electronics—the Supreme Court severely increased the evidentiary burdens for antitrust suits. In Monsanto, the Court ruled that a complaining discounter or retailer must show direct evidence that a manufacturer and another retailer had conspicuously decided to maintain a certain price level.

Under the Sharp decision, the Court went one further by saying that an agreement between a retailer and a supplier to terminate the contract of another retailer would be per se illegal only if it could be proven that a specific price was set between the two.

Mr. President, that is absolutely and totally impossible in most cases, even when there has been a conspiracy. That kind of burden of evidentiary proof makes it almost impossible to prove where there has been price fixing. And increasingly, the opportunity exists to pressure retailers to either fall into line or have their product yanked out from under them. Why are the companies engaging in such practices? Who are these companies? Well, more and more it seems it is our friends, the Japanese.

Many believe that as the Japanese do more business in the United States, they have been picking up on the practice of retail price maintenance. However, what most Americans do not know is that price maintenance is almost a way of life in Japan. And they are starting to export their brand of it here too.

As the Japanese become intertwined with our economy, American firms, eager to do business with successful Japanese companies are met with a rude awakening—the Japanese really do not want to do business with you. Why? Because many Japanese business operations revolve extensively around other Japanese businesses through a system of interlocking shareholders and directors. The net result of such domination exerts substantial influence over everything from supply to sales. This method of operation is known in Japan as keiretsu. We have another name for it. We call it cartels—which have been illegal in this country for over 100 years. The end result of this practice is that American firms have very little opportunity to compete effectively with Japanese businesses—even if the American firm can do it for less.

In the United States, there is growing concern that keiretsu is starting to occur in America at Japanese-owned plants. This is one Japanese export that we certainly do not need. The companies either rule out American suppliers altogether, or give them so much business that they become too reliant on the Japanese company. In the latter case, the company eventually can dictate terms—including prices—to the American firm—and they will submit because their business is overwhelmingly tied into the Japanese company.

T. Boone Pickens learned the hard way that you can not buck the Japanese cartel and compete in Japan. Toyota taught him the rules of the road. The secret to the Japanese economic miracle is simple—lock Americans out of Japanese markets while eliminating competitors in the United States. One result—during the last 2 years Japan exported more than $11 billion in auto parts while allowing only 640 million dollars' worth of United States parts into Japan.

At the retail level, many Japanese companies have set in place suggested retail prices. While suggesting a retail price for a product is not illegal, these prices are usually backed up with a threat of product withdrawal if a retailer does not agree to sell at the stated level. This was alleged in the recent Nintendo settlement.

Prior to that settlement, the FTC charged that Nintendo deliberately set a minimum price for its game board while threatening any retailer with discontinuation if they did not follow Nintendo's pricing. If you are a retailer, and the maker of the world's most popular game tells you to either shape up or ship out, you have a major decision to make. Do I silently acquiesce and continue to make money, or do I report it and lose a highly profitable Nintendo product?

Some complained and loud enough that the Federal Trade Commission and various States decided to investigate. They found a gross violation of antitrust law and have forced Nintendo to offer up to $25 million in rebates.

This is not the first Japanese company to agree to settlements. In March of this year, Mitsubishi paid a $8 million settlement for overcharging on 250,000 television sets sold in the United States. In 1989, Panasonic settled for $16 million for price fixing of audio and stereo products, and in 1986, Minolta settled for $7 million for a dispute involving two camera lines.

It would be amazing to note that these companies probably did not feel that what they were doing was wrong. Indeed, under current law, it would be hard to prove. But, as the electronics industry in our Nation moves toward total market domination by Japan, what is to stop them from entering into collusive agreements between not only their retailers but with one another as well? I do not want to say that it is only Japanese companies engaging in retail price maintenance, but recent experience has brought focus to how pervasive price fixing could become without steps to combat it.

What the issue before us boils down to is simple fair play. Do we allow the opportunity for any discount retailer to have access to a product, or do we continue to turn a blind eye as companies increasingly stipulate what price a certain commodity will command? We need commonsense legislation that says to anyone considering price fixing that it is not going to be that easy. This bill before us does just that.

The American consumer will continue to suffer if prices soar unchecked due not to market sources, but instead, to the malicious greed of collusive retailers and manufacturers. Indeed, according to the Federal Trade Commission, vertical price fixing forces consumers to pay an additional 10 to 23 percent. We have an opportunity to stop this inequity with the passage of this legislation.

The PRESIDING OFFICER. Who yields time? The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield 10 minutes to the able Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND] is recognized for 10 minutes.

Mr. BOND. Mr. President, I thank the distinguished Senator from South Carolina.

Mr. President, I have come to the floor today to speak in opposition to S. 429, a bill which carries the extremely misleading title "Consumer Protection Against Price Fixing Act of 1991." In fact, this bill will do little or nothing to protect consumers against price fixing. It is worth noting that price fixing is illegal under existing law. There is no defense to it. And it carries a penalty of triple damages.

I might note the examples cited here on the floor by my colleague from New York are instances where price fixing has been found to exist and where the remedies have been applied. The Monsanto case, which is often discussed, was a case in which an improper agreement was found.

What this bill would do simply is decrease communication between manufacturers and their suppliers. It will cause an explosion of antitrust cases before the courts. For that reason I think a more appropriate and better title for the bill would be The Lawyers Relief Act of 1991.

I apologize to my colleagues for not having been able to be present on Monday when we debated the motion to proceed on the bill, but pressing business in my State kept me away from Washington. I would, however, take a moment to discuss the procedure under which this bill has come before us today. This is the third time in the 4½ years I have been in the Senate that this bill or one substantially similar to it—has come before this body. Each time in the past we have properly elected not to pass it.

This year the bill has come to us after being rejected on a sound 8 to 6 vote by the Judiciary Committee. I am not a great Senate historian or scholar of Senate procedure and rules like many of my more senior colleagues in this body, but it seems pretty clear to me that the committee process was established to weed out the good from the bad—to save the Senate from wasting valuable time on misguided proposals.

This bill before us today was soundly rejected by the members of the Judiciary Committee and it is before us today solely due to an agreement by a few Members of the last Congress. It is inconceivable to me that this body should have to spend its precious time debating a bill that did not even have the support to get out of committee, solely because it was pushed out by agreements within the committee.

We have a tremendous amount of important work to do this year. We have before us major proposals on parental leave, civil rights and campaign finance, not to mention the appropriations bills and major authorizations that we have yet to address. I express my concern over the fact that we are wasting the time of 99 Senators today discussing a bill that should never have made it to the floor. I hope we can dispose of it quickly by sustaining the continued discussion of it and not invoking cloture.

As several of my colleagues have already discussed, this bill seeks to do three things. First, it would overturn the Supreme Court's unanimous decision in Monsanto versus Spray-Rite Service Corp. Second, it would overturn the Court's decision in Business Electronics Corp. versus Sharp Electronics Corp. And third, it would codify and most likely expand the per se rule of illegality for vertical price fixing. The impact of these changes would be negative for consumers, negative for American business and negative for our economy as a whole.

Let me focus my remarks on the impact of overturning Monsanto. In the Monsanto case, Monsanto refused to renew its distribution agreement with Spray-Rite, a wholesale distributor of agricultural chemicals and herbicides. Spray-Rite brought suit in Federal district court charging that Monsanto had conspired with some of its other distributors to fix the price of Monsanto's products, and that Monsanto had terminated its contract with Spray-Rite in furtherance of the conspiracy and did in fact terminate. The Supreme Court found that there was sufficient evidence that Monsanto had conspired to fix prices and, therefore, ruled in favor of Spray-Rite, awarding the company $10.5 million in damages. The Court, however, went on to point out the important distinction between concerted action to set prices, which is, of course, per se unlawful, and action on nonprice restrictions which is judged by the rule of reason. So the Court drew a very careful distinction between an agreement on price and agreements on other areas of distribution.

The Court said that permitting a price-fixing agreement to be inferred from the existence of complaints from other distributors, or even from the fact that termination came about in response to complaints, could deter or penalize perfectly legitimate conduct. Therefore, the Court said, the correct standard to use in these cases is that there must be evidence that tends to exclude the possibility that the manufacturer and the nonterminated distributors were acting independently. There must be more than simply evidence of complaints from a competing dealer, and a subsequent termination of the dealer about whom the complaint was made. Simply stated, for there to be an illegal price fixing, per se illegal conspiracy, there must be an agreement, not just a complaint from a dealer.

The proponents of this bill argue that the standard set forth by the Court is too harsh and that it must, therefore, be overturned.

They would erect a standard that if a plaintiff can produce sufficient evidence from which a trier of the fact can reasonably conclude that a price-related communication was the major cause of a termination of another dealer, then the plaintiff would be entitled to have the trier of fact consider whether the supplier and the complaining dealer engaged in a vertical price-fixing conspiracy.

The language of the bill muddles this issue even further by stating that the competing dealer need only make an implied request or demand to the supplier regarding the terminated dealer, a very broad umbrella to come under.

As one who spent some time in the practice of antitrust law, I assure my colleagues, in my view, the proposed standard will open the floodgates of litigation. The impact on many companies, especially manufacturers who sell their products through dealers, would be enormous. It is a fact of business that competing dealers will complain about each other's business practices: A competitor is not providing adequate service, is not advertising property, is selling outside its distribution area, for example.

I cannot imagine how many such complaints a large manufacturer might have from a nationwide network of dealers. Companies that immediately come to mind are huge: Ford, Chrysler, IBM, Xerox, for example. However, the companies that would be most affected by this legislation are the smaller manufacturers who do a major part, if not all, of their business through dealers.

These dealers are locked in fierce competition, as they should be. That is how the system works and that is what makes it work so well. It is simply common sense that in the regular course of business some of the fiercely competing dealers are going to complain to the manufacturer. It is also common sense that in the regular course of business a manufacturer is going to terminate some dealers for one reason or another; perhaps because the dealer is not doing a proper job of display. Certainly, until this legislation has been presented, there is no reason to think that they could not do so.

I will turn briefly to the underlying rationale for the bill; that unless we pass the bill the discount industry will be forced out of business. Mr. President, I am a person who shops at full-price retail stores and I shop at discount stores a lot. Stores like Wal-Mart are essential to residents of small towns like my hometown. Throughout our State, many people shop in those discount stores. They want to be able to get the prices available there. I think they should have that.

But it is essential for use to understand that we are not debating whether we want a discount industry in this country or not. We have one. It is a good thing. We are not debating whether or not we want our constituents to save $20 billion per year. They do, and we want them to. But what we are debating is whether or not we want to ease the standards of evidence in antitrust cases and flood the courts with unworthy litigation in the name of antitrust.

The discount industry is healthy. Since the Supreme Court's 1984 Monsanto decision, the bill's proponents would have us understand that the decision spelled the end of the discount industry. We have now had 7 years to test it. There is no question that the discount industry has prospered. Earlier this year, Wal-Mart became the largest retailer in the country. Its sales have grown over the past 10 years from $2.4 billion to $32.6 billion. K mart has also similar expanding sales.

According to Discount Merchandiser magazine, volume for the entire discount industry in 1989, the last year for which figures were available, was $160 billion, a new record, an 8.8-percent increase over the previous year. That sounds to me like an industry that is healthy and growing.

The clout that discount stores have in the marketplace and their ability to attract suppliers can be illustrated by a few items that have appeared in the press recently. For example, a November 12, 1990, story in Forbes notes that Burlington Coat Factory, a discount chain, stocks goods from 1,000 coat manufacturers and notes that "manufacturers are more eager than ever to do business" with Burlington. In another article in Discount Merchandiser, the company's chairman is quoted as saying he has no problems getting merchandise from manufacturers. In fact he says, "they are knocking on our doors."

I would simply say to my colleagues that these are not the words and numbers you see from a failing industry. And let me just add again that I am extremely pleased to see that because I believe a healthy discount industry is important not only to the consumers in my State, but to our economy as a whole.

In conclusion, I simply urge my colleagues to consider the facts on this issue, not just the rhetoric. We all are in favor of consumers—we are all consumers ourselves, as is everyone of our constituents. But this bill is not a consumers bill, it is a lawyers bill. And I feel confident that if you asked any of the people in your State, the majority would say they do not want to see us passing bills to increase lawsuits.

I urge my colleagues to reject this misguided bill and not support cloture and allow the Senate to move on to more pressing and responsible matters.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 4 minutes to the Senator from Wisconsin.

Mr. KOHL. Thank you, Mr. President, I want to briefly explain why I support the legislation introduced by Senator METZENBAUM, why I endorse the substitute offered by Senator BROWN and why I believe it is crucial that we invoke cloture.

Some of you know that I was a retailer before I came to the Senate. My family owned a chain of supermarkets and department stores in the Midwest, and I was the CEO. Our business started with a single grocery store and grew to more than a hundred food and department store outlets.

During this time, I learned that price competition is the backbone of our retail economy. For business, it spurs innovation, development, growth, and profit. And for consumers, it creates a myriad of shopping options: Americans can find a wider selection of goods at lower prices than any other people in the world.

When I was in business, I saw this competition from both sides. As a retailer, I sometimes undersold my competitors. But sometimes they undersold me. I appreciated this competition then, and I still appreciate it—even when I buy a pair of reading glasses at Wal-Mart.

But I have also experienced firsthand the kind of pressure that some manufacturers exert to keep prices high. On several occasions, my own company lost lines of merchandise because we tried to sell at a price lower than what the manufacturer—and our rival retailers—wanted. The sad truth is that illegal price fixing does exist in the real world, and that recent legal developments may undermine our competitive balance.

First, the executive branch has been far too lax in enforcing Federal antitrust laws. For more than 75 years, resale price maintenance has been per se illegal—and for a simple reason: When a manufacturer conspires to require its distributors to charge a fixed price, it raises costs for consumers.

Yet despite this widely held view, the Justice Department has virtually abandoned public enforcement of the RPM prohibition. It has not brought a single vertical price-fixing case since 1980. Even more troubling, the Department actively intervened on behalf of a number of defendant-manufacturers charged with vertical price fixing.

I believe that we would not be debating this bill today if the Justice Department had moved vigorously to combat vertical price fixing. Instead, it has been comatose. And that, as much as anything else, has necessitated this legislation.

Second, because there is so little public enforcement of the RPM prohibition, we have to look more toward private efforts to combat price fixing. In Monsanto, the Supreme Court established a difficult evidentiary standard for what plaintiffs must show to have their RPM cases heard by a jury. And in Sharp, the Court said that it would find violations only where conspirators set a specific price level.

It has always been difficult to win antitrust cases that aren't automatic violations. But combined with these

decisions, unscrupulous manufacturers may have a green light to drop discounters—and violate the law.

Of course, the vast majority of suppliers has no interest in fixing prices. But this bill—particularly as Senator BROWN would amend it—would not allow manufacturers to be punished for their own unilateral pricing and marketing decisions. More than that, by making it easier to prove vertical price fixing, the measure makes it less likely that an honest producer will be caught between a rock and a hard place.

Mr. President, I do not suggest that this is a perfect piece of legislation. In the committee last year, I added an amendment to make the evidentiary standard clearer and less needlessly complex. But I do believe that S. 429—even as amended—will make a positive contribution to our economy and to our prosperity. And that we will not be doing our job unless we move to a debate on the merits.

I want to commend Senator METZENBAUM for his diligent work on behalf of this crucial legislation. I urge my colleagues to support it and to vote for cloture.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 5 minutes to the Senator from Colorado.

Mr. BROWN. Mr. President, I thank the distinguished Senator from Ohio. I appreciate this opportunity to share with this body my concerns about this measure.

Mr. President, upon the first review in the Judiciary Committee, a number of major concerns were raised about the issue. I, along with my colleagues, reviewed the bill. I joined in voting against this measure, and I also voted against bringing it to the floor.

Since that time, in working with the sponsors of the bill, they have agreed to accept the amendment. Should this motion of cloture be agreed to, they have agreed to accept the amendment we offer.

Mr. President, this amendment is really what we have to face. In looking at the concerns that were expressed about this, we contacted the major industry groups that were concerned, we contacted the administration through the Department of Justice, and we reviewed in detail every single concern they have. I, myself, came to public service after being in business and specifically being a corporate counsel for a Fortune 500 company. And being a businessman whose job it was to set up a national distributing network, I believe I have some understanding of the basic issues from the business side.

The amendment that will be considered by this body is not antibusiness. It has been described that way. But, Mr. President, let me assure my colleagues that that is not the case. We have addressed every major concern. There has been discussion of the Monsanto case. The language that is in the amendment is basically a codification of the rules of Monsanto.

Let me repeat that. This does not destroy the Monsanto case. It is basically a codification. If there are concerns that this does indeed destroy it, I hope those people will come forward and be specific about it. We have researched it, looked at it, and reviewed the cases. The fact is, this is basically a codification.

Second, with regard to Sharp, does it change Sharp? Yes, it does. Let me suggest how it changes Sharp. It addresses specifically the Toys 'R' Us case. That is the change in this bill. I hope the Members of this body who look at the details of the Sharp decision, who review it, will come to us and tell us what is wrong in this measure. I believe every Member of this body who will review the details of the Toys 'R' Us case will reveal the sales discounters who are saving people money, who are competing. I believe they will come and say this is a wise change. It is not a frivolous change. It is a small change, but it is a change that I believe is very much in the spirit of competition.

Mr. President, I think many Members who are going to vote on this cloture motion are concerned that somehow we might do harm to legitimate business interests. As one who has some background in this area, let me assure you that is not the case. What is more important, I believe it is particularly valuable to a competitive enterprise system that this measure pass.

It is not just that we have dealt fairly with the issues. It is not just that it promotes competition. I think it stands at the fiber and the fabric of why America is a key competitor in this world. If you look at our competitiveness in manufacturing, and that is normally the way we judge how competitive America is, we found that many countries have emulated our great success, and their level of competitiveness, efficiency, and work productivity are approaching that level of America.

But there is an area where this Nation stands head and shoulders above any competitor in the world. That, interestingly, is an area that is dramatically larger than manufacturing. That is in the distribution sector, in the commercial sector. Our country is dramatically more efficient.

Let me suggest to you why. I believe it is because this country has been concerned about encouraging and stimulating competition. While other countries have believed in cartels, other countries have allowed monopolistic practices, America has said competition is the way we want to go. It shows through in a shining light. This country is the most productive, the most efficient in its retailing and distributing sector of any nation on Earth. It comes directly and distinctly from our commitment to competition.

To sum it up, Mr. President, the fact is this measure as amended is a small step but it is a step forward in promoting competition. It is not destructive to business interests. I believe it is responsible legislation.

When people come to us and say the way to deal with an issue is to simply kill it, that our responsibilities are as legislators not to deal with an issue but to stonewall it, I believe we have a responsibility to look into that issue. I believe the reason taxpayers pay us to come here is to examine those issues and try to come up with the best rules and legislation we can.

The real issue on which we will vote is whether or not we want to stonewall this issue rather than deal with it. I hope this body will speak loudly and clearly that we want to deal with this issue.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 4 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. COCHRAN].

Mr. COCHRAN. Mr. President, I thank the distinguished senior Republican member of the Judiciary Committee for yielding this time to me.

Mr. President, I think it is important for us to keep in perspective the vote we will be casting in a few minutes. This is not a vote, as I understand it, on the merits of the bill, necessarily. It is a vote on a cloture motion, a vote to cut off debate.

I am going to vote against cutting off debate because I believe this issue is so complex and so subject to misconstruction and misunderstanding that the Senate ought not rush to pass it.

First of all, the Judiciary Committee, after hearing testimony and reviewing this issue for the last few years, is very closely divided on the issue as to whether or not this bill is appropriate for the Senate to pass. A majority of the committee has voted against passing this bill.

Given the fact constituencies are confused as to the exact reason for pushing the legislation, I am suggesting, too, that even as to some Members of Congress and Senate there is confusion about the effects of this bill. I have received cards and letters from constituents, phone calls from retailers, urging me to vote one way or the other on this bill and citing reasons which are irrelevant to the actual purpose of this legislation.

This legislation is aimed at a standard of proof. This legislation tries to amend in effect the burden of going forward with certain kinds of evidence in order to establish that illegal price fix-

ing has occurred in a relationship between a manufacturer and a retailer.

I do not know of any more complicated part of the law than antitrust, Mr. President. It seems to me the Senate's interest as an institution would be well served to more carefully and fully consider these issues.

As an example, one person called and said, "I do not want you to vote for this bill because, if you do, manufacturers are going to get to tell me what to charge for a product."

That is not what is at issue. that is not either legalized or prohibited in this legislation. We are talking about situations which involve nonprice agreements just as well as price agreements between manufacturers and suppliers and retailers.

For example, there is one electronics manufacturer in my State that wrote me when this issue was first before the Senate several years ago explaining to me the problem this would put him in as a manufacturer of electronic equipment; if he could not require the dealer to provide some service and information to customers, he was going to be serving those consumers in a very poor way. Part of his sales depend upon the followup and the service provided by the retailer. And so part of this requirement for being able to sell his equipment is that this service is provided. That is an issue, Mr. President, which could be interpreted adversely to my constituent if this bill is passed. That is just an example, and I hope the Senate will carefully consider the others as reasons to vote against this cloture motion.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I believe I have 8 minutes remaining. I yielding 3. I had 11.

I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator has approximately 6½ minutes remaining.

Mr. THURMOND. What is that?

The PRESIDING OFFICER. The Senator has 6½ minutes remaining.

Mr. THURMOND. That is right, 7 minutes.

Mr. President, today I received another letter from Mr. James F. Rill, Assistant Attorney General, who is the chief of the Antitrust Division. This is the man who protects the consumers in this country. This is the man who prevents combinations and who sees that we have fair trade. I want to read this letter:

> You have requested a brief summary of antitrust law regarding agreements that set minimum resale prices. The law in this area is clear. A manufacturer may not agree with its dealers as to the minimum prices at which goods will be resold. Such agreements are per se unlawful; No proof beyond the agreement itself need be offered. For example, if a maker of clothing and a department store or other retail outlet agreed that the manufacturer's goods could be sold at no less than a certain price, the per se rule would apply.

In other words, be illegal.

> An agreement setting minimum resale prices need not be in writing in order to be held unlawful. Such an agreement may be found on the basis of a variety of evidence. For example, in the 1984 Monsanto case, which upheld a finding of a resale price maintenance agreement, there was evidence that the manufacturer had approached its dealers with the advice that they would not receive new supplies if they did not maintain prices and had complained to the parent company of a distributor, which then informed the manufacturer that it would charge the suggested price. Monsanto and other cases demonstrate that plaintiffs with sufficient evidence of actual agreements that set minimum resale prices can succeed under existing antitrust law.

As is the case with antitrust and other law generally, no one factual formula exists for finding or inferring an unlawful resale price maintenance agreement. Rather, all of the direct and circumstantial evidence is put in context and sound evidentiary legal principles are then applied. When those circumstances reveal the existence of an actual agreement that sets minimum resale prices or price levels, regardless of how formulated or how or whether explicitly expressed, an antitrust violation has occurred.

In other words, Mr. Rill is looking after the consumers of this country. He is making sure that we have competition. I want to be sure that was clear.

Mr. President, I would like to conclude my remarks by repeating a point I made in my opening statement, which, in my view, is so important that it bears repetition. The antitrust laws, and the Sherman Act in particular, work well because they have been drafted broadly, rather than as a list of proscribed activities. The authors of the Sherman Act intended to be a general statute, to be amplified as necessary through judicial reasoning, and by experience over time. Senator Sherman himself, remarked that, "It is difficult to define in legal language the precise line between lawful and unlawful combinations. This must be left for the courts to determine in each particular case."

Statutory rules phrased in terms of specific practices, rather than in terms of competitive purpose or effect, lack the flexibility needed for optimum antitrust enforcement. Sound antitrust rules are simply not amenable to fixed, detailed, articulation. Not every court decision is well conceived, and even some decisions that are correct when issued, appear later to be based on weak findings and logic. The common law process can correct this. Legislation along the lines of S. 429 raises the specter of far more serious problems, which would be far more difficult to correct.

Mr. President, I urge my colleagues, in considering how to vote on both the Metzenbaum bill and the Brown amendment, to carefully consider the impact of S. 429, especially the harm it does to American business and to the antitrust laws, and to weigh this harm against the failure by the proponents to show any legitimate need for this legislation. Clearly, both bills should be soundly defeated. I urge my colleagues to vote no on the motion to invoke cloture.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, my understanding is the Senator from Colorado wishes to insert some material in the RECORD. I yield to him such time as necessary to do that not to exceed a minute.

Mr. BROWN. Mr. President, I ask unanimous consent to insert in the RECORD a side-by-side analysis of our amendment.

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

SIDE-BY-SIDE ANALYSIS

S. 429's core problems	Core aspects of the compromise amendment
Page 3, lines 5–6. The references to "implied requests or demands" or "threats to discontinue an existing business arrangement" are overbroad. Thousands of such "implied" requests or threats are made in the business community everyday. For example, a communication about a non-price vertical restraint, e.g., an implied termination threat concerning invasion of an exclusive territory, could well form the basis of a price fixing conspiracy case under this bill.	Page 3, lines 5–6: This change ensures that only express or reasonably implied requests or demands will be considered under this bill.

SIDE-BY-SIDE ANALYSIS—Continued

S. 429's core problems	Core aspects of the compromise amendment
At the same time, many requests or demands can be reasonably inferred from the tenor of the request or demand. For example, a retailer may simply complain to a manufacturer about a discounter and then state something like, "It's him or me, you decide.", reasonably implying but not expressly stating that he was requesting the manufacturer to terminate the discounter. Accordingly, we deleted the reference to "threats" and instead referred to "express or reasonably implied" requests or demands. The term "reasonable" is intended to be an objective test, based on all the circumstances of the communication.	
In stark contrast to well-settled principles of antitrust law and the law of conspiracy, the bill requires no showing at the summary judgment stage of the lawsuit that the manufacturer and the full price retailer conspired to fix prices. Rather, the bill specifies only that the conspiracy must be proven at trial. Thus, a manufacturer could conceivably have to defend at trial charges of vertical price fixing without the discounter ever having had to establish any conspiracy whatsoever.	Page 3, line 12 to Page 4, line 8: This new section fulfills the key antitrust requirement that there be some evidence of agreement with the discounter's request or demand, or purposeful concerted activity on the manufacturer's part. It codifies several post-Monsanto cases which found such evidence sufficient to survive summary judgment, and overrules those post-*Monsanto* cases which found such evidence insufficient to survive summary judgment. This new language further allows the discounter to survive summary judgment by showing evidence that the manufacturer had threatened others with termination or had exhorted dealers to avoid price competition or had invited dealer complaints about price. These coercive tactics demonstrate that the manufacturer was acting in a purposeful manner and are thus indirect evidence of agreement or conspiracy. This alternative requirement is derived from examples of circumstantial evidence of conspiracy found in last year's House Report, H.R. Rep. No. 101-438 at p. 35 (Table of Illustrative Circumstantial Evidence). A further provision, subparagraph (D), makes it clear that this alternative showing of evidence of other coercive tactics cannot be met by evidence that the manufacturer was terminating others as part of a decision to alter its distribution policy by adopting exclusive distributor outlets or vertical location, customer or territorial clauses. Such unilateral activity, protected by the Colgate Doctrine, simply does not demonstrate the type of purposeful illegal activity suggstive of a price-fixing conspiracy. Page 4, lines 9-12: This addition makes explicit that the court must consider evidence in rebuttal that the manufacturer terminated the discounter for actual, bona fide non-price reasons such as providing poor customer services, inadequate warranties or dirty showrooms. The use of the phrase "actual, bona fide" is designed to address concerns that a non-price justification not be pretextual. A showing by the manufacturer of actual, bona fide non-price reasons will be sufficient to disprove that the request or demand was the "major cause" of the termination or refusal to continue to supply. Upon such a showing, summary judgment should be granted. Page 5, lines 6-10: This addition would explicitly adopt a rule of reason standard for maximum, vertical price-fixing agreements. The current common law treatment of maximum resale price agreements as per se, illegal has been roundly criticized by scholars ranging from Judge Robert Bork to Georgetown Law School Professor Robert Pitofsky. Maximum resale price agreements can prevent price gouging by retailers and allow the benefits of price discounts and reductions by manufacturers to be passed on to consumers without diversion or undue windfall to middlemen. Thus, this change is a completely pro-consumer provision which will directly benefit consumers by ensuring that they receive the discounted prices manufacturers want to offer them.
Page 5, lines 13-16: The phrase, "because of that purchaser's pricing policies", is vague and ambiguous. Moreover, courts historically have had difficulty defining what standard Congress intends when it uses "because of" language. The phrase "pricing policies" is also vague and ambiguous.	Page 5, lines 13-16: These changes delete the phrase, "because of that purchaser's pricing policies", and instead incorporate the same standard of "major cause" present in paragraph (a) of new Section 8. The new language also refers to "discount pricing" as a more precise term than the somewhat amorphous reference to "pricing policies" contained in the current version of the bill.

SIDE-BY-SIDE ANALYSIS—Continued

S. 429's core problems	Core aspects of the compromise amendment
Page 6, lines 1–2: Section 5 of the bill leaves unclear whether all forms of vertical non-price restraints, or only those non-price restraints mentioned in that section, are to be subject to rule of reason analysis.	Page 6, lines 1–2: Opponents of the bill have criticized this provision in the current bill because, by limiting the rule of reason standard to vertical location clauses or vertical territorial restraints, it implies that the bill will alter application of the rule of reason standard to other non-price vertical restraints. Because certain non-price vertical restraints sometimes fall under the per se standard, e.g., tie-in arrangements, a blanket statement to the effect that the rule of reason standard should apply to all non-price vertical restraints would undermine those court decisions. Consequently, a phrase has been added to Section 5 stating that nothing in this bill shall affect "the existing state of law with respect to other types of non-price vertical restraints. Thus, this addition makes clear that this bill is not intended to undermine present case law concerning application of the rule of reason standard in certain types of vertical non-price restraints.

SECTION-BY-SECTION ANALYSIS OF PROPOSED CHANGES TO S. 429

(1) Page 3, line 2. The word "sufficient" is both redundant and confusing as it is part of language defining what constitutes "sufficient evidence" necessary to survive pretrial dismissal. The word is therefore deleted.

(2) Page 3, lines 5–6. As presently worded, the bill's references to "implied requests or demands" or "threats to discontinue an existing business arrangement" are far too overboard. There are literally thousands of such "implied" requests or threats made in the business community every day. For example, a communication about a non-price vertical restraint, e.g., a communication concerning invasion of an exclusive territory, could, under this bill, form the basis of a price fixing conspiracy case. At the same time, many requests or demands can be reasonably inferred from the tenor of the request or demand. For example, a retailer may simply complain to a manufacturer about a discounter and then state something like "it's him or me, you decide," reasonably implying but not expressly stating that he was requesting the manufacturer to terminate the discounter. Accordingly, we deleted the reference to "threats" and instead referred to "express or reasonably implied" requests or demands. The term "reasonable" is intended to be an objective test, based on all the circumstances of the communication.

(3) From Page 3, line 12 to Page 4, line 8. This new section is designed to fulfill the requirement which is key to this area of antitrust law that there be some evidence of agreement with the complaining retailer's request or demand or purposeful concerted activity on the part of the defendant. This prong requires evidence either that the defendant have indicated express or implied acquiescence to the request or demand or that the defendant have threatened others with termination if they did not maintain resale prices (or threatened the claimant in addition to the actual termination at issue).

In effect, this section is designed to codify several post-Monsanto cases which found such evidence sufficient to survive summary judgment. See *Helicopter Support Systems, Inc.* v. *Hughes Helicopter, Inc.*, 818 F.2d 1530, 1535–36 (11th Cir. 1987) (evidence that manufacturer notified the complaining dealer that "corrective action has been taken" and requested that the dealer notify it of any further problems, when combined with the dealer's "thank you," met the Monsanto standard); *McCabe's Furniture, Inc.* v. *La-Z-Boy Chair Co.*, 798 F.2d 323, 328 (8th Cir. 1986), cert. denied, 486 U.S. 1005 (1988) (evidence that manufacturer had reported to dealer that "the problem had been taken care of" sufficient to meet Monsanto standard). It is also designed to overrule those post-Monsanto decisions which found such evidence insufficient to survive summary judgment. See *The Jeanery, Inc.* v. *James Jeans, Inc.*, 849 F.2d 1148, 1158 (9th Cir. 1988) (manufacturer said he would "take care of things" when presented with dealer's complaints about plaintiff's price-cutting).

As an alternative to evidence of acquiescence, the new language further allows plaintiff to survive summary judgment by showing evidence that the defendant had threatened others with termination or had exhorted dealers to avoid price competition or had invited dealer complaints about price. These coercive tactics demonstrate that the defendant was acting in a purposeful fashion and are thus indirect evidence of agreement, combination or conspiracy. This alternative requirement is derived from examples of circumstantial evidence found in last year's House Report, H.R. Rep. No. 101–438 at p. 35 (Table of Illustrative Circumstantial Evidence).

A further provision, subparagraph (D), makes it clear that this alternative showing of evidence of other coercive tactics by the defendant cannot be met by evidence that the manufacturer was terminating others as part of a decision to alter its distribution policy by adopting exclusive distributor outlets or vertical location, customer or territorial clauses. Such unilateral actions taken pursuant to a policy, lawful under *United States* v. *Colgate & Co.*, 250 U.S. 300 (1919), simply does not demonstrate the type of purposeful illegal activity suggestive of a price-fixing conspiracy, combination or agreement.

(4) Page 4, lines 9–12. This addition makes explicit that the court must consider evidence in rebuttal that the manufacturer terminated the plaintiff for actual, bona fide non-price business reasons such as providing poor customer services, inadequate warranties or dirty showrooms. The use of the phrase "actual, bona fide" is designed to address concerns that a non-price justification not be pretextual. A showing by the defendant of actual, bona fide non-price reasons will be sufficient to disprove that the request or demand was the "major cause" of the termination or refusal to continue to supply such that the defendant should be granted summary judgment.

(5) Page 4, lines 20–21; Page 5, line 12. The first addition is merely technical and is designed to parallel the provision on page 2 of the bill that this Act is meant to apply to actions brought by the United States or by a State attorney general as well as actions brought by private parties and the Federal Trade Commission. A second change is also technical and is meant only to parallel paragraph(a)'s language regarding refusals to supply that it only applies to refusals to continue to supply the claimant.

(6) Page 5, lines 6–10. This addition would explicitly adopt a rule of reason standard for maximum vertical price-fixing arrangements. The Supreme Court decision in *Albrecht* v. *Herald Co.*, 390 U.S. 145 (1968), which held that maximum price-fixing agreements are per se illegal, has been roundly criticized by scholars ranging from Judge Robert Bork to Georgetown Law School Professor Robert Pitofsky. Maximum resale price agreements can prevent price gouging by retailers and allow the benefits of price discounts and reductions by manufacturers to be passed on to consumers without diversion or undue windfall to middlemen. Indeed, without maximum price restrictions, there is no way manufacturers can assure that consumers are receiving the discounts they wish to offer them. This change is thus a completely pro-consumer provision which will directly benefit consumers by ensuring that they receive the discounted prices manufacturers want to offer them.

(7) Page 5, lines 13–16. These changes delete the phrase "because of that purchaser's pricing policies" and instead incorporates the same standard of "major cause" present in paragraph (a) of new Section 8. Courts have had some difficulty in defining what standard Congress intends when it uses "because of" language. For example, Title VII's phrase "because of race . . ." left the Supreme Court in considerable disagreement as to what standard of proof that phrase implied. See *Price Waterhouse* v. *Hopkins*, 109 S. Ct. 1775, 1785–1786 (1989). Thus, we felt it important to explicitly set forth in a standard of causation in the bill itself. As far as the best standard of causation to use, cases before Sharp had split over plaintiff's ultimate burden at trial as to whether the agreement concerned price and was thus *per se* illegal. In *Cernuto, Inc.* v. *United Cabinet Corp.*, 595 F. 2d 164, 170 (3d Cir. 1979), the Third Circuit had opined in dicta that the plaintiff had to show that the manufacturer was *solely* motivated by price factors in terminating the plaintiff. *Zidell Explorations, Inc.* v. *Conval Int'l. Ltd.*, 719 F.2d 1465, 1471 (9th Cir. 1983), disagreed with this standard and instead held that the *per se* rule would only apply to cases in which the supplier's primary motivation for its decision to terminate a retailer was price. Because "major cause" is the standard set forth in paragraph (a) for showing that the request or demand led to the termination, that standard was used here as well.

The new language also refers to "discount pricing" as a more precise term than the somewhat amorphous reference to "pricing

policies" contained in the current version of the bill.

(8) Page 6, lines 1-2. Opponents of the bill have criticized this provision because, by limiting the rule of reason standard to vertical location clauses or vertical territorial restraints, it implies that the bill will alter application of the rule of reason standard to other non-price vertical restraints. Because certain non-price vertical restraints sometimes fall under the *per se* standard, for example "tie-in" arrangements, a blanket statement to the effect that the rule of reason standard should apply to all non-price vertical restraints would undermine those court decisions. Consequently, a phrase has been added to Section 5 stating that nothing in this Act shall affect "the existing state of law with respect to other types of non-price vertical restraints" therefore making clear that this Act is not intended to undermine present case law on application of the rule of reason standard in certain types of vertical non-price restraints.

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

The PRESIDING OFFICER. The Chair advises the Senator that the time of the quorum call will be charged to the Senator from Ohio unless he asks unanimous consent to do otherwise.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the quorum call be charged equally to both sides.

Mr. THURMOND. Mr. President, I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, are we in a quorum call? We are not.

The PRESIDING OFFICER. Who yields time?

The Chair advises the managers of the bill that if no one yields time, the time will be charged equally to both sides.

Mr. THURMOND. Mr. President, I object to charging any time to us for a quorum.

The PRESIDING OFFICER. Objection is noted. The Senator's objection is noted.

Mr. METZENBAUM. Mr. President, is it not the fact that, notwithstanding the fact it is noted, the time will be charged to each of the parties respectively?

The PRESIDING OFFICER. The Senator from Ohio is correct.

Mr. THURMOND. Mr. President, how much time do I have? And I yielded myself 5 minutes and reserved the rest. How much did I have before I yielded 5 minutes? I understood I had 8 or 7 minutes.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that the Senator had 7 minutes remaining. He used 6 minutes. So the Senator has 1 minute remaining.

Mr. THURMOND. He should have called to my hand in 5 minutes. I told him I yielded myself 5 minutes. He did not call my hand on it. That is his responsibility.

Mr. METZENBAUM. Mr. President, if the Senator from South Carolina needs an additional minute, he may have it off my time.

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

Mr. THURMOND. Mr. President, I will just take about a minute then.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. THURMOND. Mr. President, in closing, I just want to say this, that this bill will reverse two Supreme Court decisions. The United States Members of the Supreme Court certainly thought they were doing, I think, what is best for the people of this country. I do not think they would have handed down those decisions if they had not thought so.

The bill is not about protecting consumers from resale price fixing. The resale price fixing is clearly illegal under the Sherman Act. The Attorney General of the United States who is to protect the consumers of this country, who is to present and who is to see that the law is enforced, is against this bill. He has written a strong decision here against it. The man in charge of the antitrust division, is chief of the Antitrust Division in the Justice Department, is against this bill. He thinks it is against consumers.

This idea about it will save consumers a lot of money—these experts are the Attorney General and the antitrust law chief who say that this is not in the best interests of the consumers.

I want to say that a lot of the institutions here are against it. The American Textile Manufacturers Institute is against it. The National Association of Manufacturers is against it. The Chamber of Commerce is against it. The American Paper Institute is against it. A wide array of antitrust experts are against it. The American Bar Association is against it. All of these organizations are interested in the consumer.

Mr. President, I just want to say that in my opinion President Bush would not permit his Government to foster a law and advocate a law that is against the consumers of this country. I have more confidence in President Bush than to feel he would do that. I have more confidence in the people of his administration than to feel he would do that.

Mr. President, I hope that this bill will be defeated and that cloture will not be voted.

Mr. LAUTENBERG. Mr. President, I rise to express my strong support of this legislation, which would provide important protections for consumers who shop at discount stores.

The fundamental goal of this bill, Mr. President, is straightforward: It's designed to protect competition. Its purpose is to ensure that prices for goods are set by a competitive free market, not by price-fixing conspirators.

Mr. President, over the past several years, consumers have benefited from a growing number of discount retailers. These stores sell a variety of brand name products at prices that are often far below those of standard retail outlets. The savings are particularly important for the elderly and others who must survive on limited or fixed incomes.

Mr. President, the continued availability of a broad selection of consumer goods at discount prices is threatened by vertical price fixing. Typically, vertical price fixing occurs when a higher priced distributor is facing unwanted competition from another distributor offering the same merchandise at lower prices. Instead of competing with the discounter by lowering prices, improving service, or through other legitimate means, the higher priced retailer then pressures the manufacturer to eliminate the competition, either by forcing the discounter to raise prices, or terminating the discounter altogether. Since the higher priced retailer is often larger and more important to the manufacturer than the discounter, the manufacturer agrees.

The result of these anticompetitive agreements is that the discounter is denied a fair chance to compete and consumers are denied the benefits of that price competition.

Terminated discounters now find themselves in a very difficult position. Proving the existence of a vertical price-fixing conspiracy is not easy. Direct evidence is often unavailable. In addition, the courts have established difficult standards for plaintiffs to overcome.

For example, under current judicially created standards, as interpreted by many legal experts, a plaintiff must not only establish an agreement to restrict price competition, but an agreement to set a specific price. Thus, if a manufacturer terminates the contract of a discounter because of a demand to do so from a competing retailer that is based on concern about the discounter's lower prices, but no specific fixed price was agreed upon, the terminated discounter may have little practical recourse.

This bill would change these evidentiary standards in a manner designed to provide more fairness to discounters and other plaintiffs who seek to establish the existence of a vertical price-fixing conspiracy.

Mr. President, I appreciate that some in the business community believe that this legislation could lead to excessive litigation. I believe this is unlikely.

For example, some argue that this bill would subject manufacturers to liability if they terminate a contract with a retailer for legitimate business reasons, such as the retailer's poor service record or inappropriate displays of a product.

As a former businessman, I believe strongly that a manufacturer should have the right to terminate distributors for such legitimate business reasons. This is particularly important in the case of high technology products that require expert, quality service.

I, therefore, want to emphasize that this bill does not impede the ability of manufacturers to terminate dealers for legitimate business reasons. So long as manufacturers act in a unilateral, lawful manner, they would remain free to terminate discounters. The bill effectively proscribes only one basis for termination: vertical price fixing.

I commend Senator METZENBAUM for his leadership on this legislation, and urge my colleagues to support the bill.

Mr. BIDEN. Mr. President, I rise in support of S. 429, the Consumer Protection Against Price-Fixing Act of 1991.

I am a cosponsor of S. 429, and I have been a strong proponent of its enactment since it was first introduced. I stand behind the legislation for one principle reason: I believe in free and open competition—and that means competition at every level of the product distribution chain.

I believe that price competition at the retail level among brand products and between brand products leads to the greatest number of choices and the lowest possible prices for consumers.

Retailers should be able to compete with one another openly and aggressively—without undue or unfair impediments imposed by manufacturers and suppliers.

S. 429 is an important clarification of antitrust law in the area of vertical price-fixing conspiracies. This clarification is necessary because of two recent Supreme Court decisions.

First, in 1984, the Court ruled in the Monsanto case that a discounter who was terminated in response to price-related complaints by a competitor dealer must present evidence that tends to exclude the possibility that the manufacturer had acted independently in order to avoid early dismissal of his case—in order to avoid what the lawyers call summary judgment.

In my view, this requirement is too severe. Under S. 429, a plaintiff will need only to show that complaints about his pricing policies were the major cause of his termination. He will not have to prove a negative, if you will, by showing that the manufacturer did not act independently. I believe that this is a necessary and appropriate clarification of the law.

Second, the bill would overturn the Sharp decision. There, the Supreme Court said that a plaintiff must show that conspiring parties had agreed on a price or price level for the relevant goods in order for the agreement to be per se illegal.

As a result of this ruling, discounting retailers who are terminated for their pricing policies have found it almost impossible to prove a vertical price-fixing conspiracy. I believe that the Sharp decision is a radical departure from prior resale price maintenance case law, and that it should be overturned.

Finally, the bill restates—plainly and unequivocally—that vertical price fixing is per se illegal under the antitrust laws. In codifying this absolute prohibition, Congress will make clear that efforts to qualify or dilute the per se rule are contrary to sound antitrust policy.

I want to commend Senator METZENBAUM and Senator BROWN for their efforts at developing compromise language that will result, hopefully, in Senate passage of this proconsumer bill. Senator BROWN's amendment imposes a tougher evidentiary standard on plaintiffs than that proposed by the original bill. Nonetheless, Senator METZENBAUM has indicated he will accept the Brown amendment in the interest of compromise. It is important we work together to find a proconsumer approach that a consensus will support, and I am pleased to see this compromise before us.

Now what do the opponents of this bill say?

They argue that competition solely on the manufacturing level is ultimately better for the consumer than competition on both the manufacturing and the retail level. They also say that the bill will constrain manufacturers in how they choose to market their products.

But as the bill makes amply clear, that would only be true under the legislation if the manufacturer chooses to market his product by restraining price competition between competing dealers. I believe that preventing that type of behavior by manufacturers is wise antitrust policy.

If a manufacturer acts to prevent price competition, he should be subject to the antitrust laws, and he should be subject to the per se standard. On the other hand, if a manufacturer chooses to change his marketing or distribution strategy for reasons other than restraining price competition, he should be able to. And the bill allows for exactly that.

Let me read from the Judiciary Committee's report, page 19, footnote 3:

"In cases where there were multiple causes for a termination or refusal to supply, a court need not find that the threat or demand to curtail or eliminate price competition was the sole cause of the termination or refusal to supply. The court would have to find that the request, demand or threat was the major cause.

Major causation would not automatically be established simply because a threat or demand was a link in a chain of events that led to termination or a refusal to supply. Where the weight of the evidence shows that other deficiencies by the dealer, such as maintaining a dirty showroom or failure to provide service were the reason for the termination or refusal to supply, a trier of fact could not conclude reasonably that "major" causation existed and the bill would not apply."

Opponents of the bill overreach when they claim that the bill would force manufacturers to allow dealers to sell their goods on whatever terms the dealer chooses.

What they really want is free reign by manufacturers to terminate discounters for their pricing policies. That may be good for some manufacturers, but it is not good for any consumer.

In closing, I believe—and consumers believe—that this bill is about fostering free and open competition among retailers. I commend Senator METZENBAUM for his diligence and hard work over the years in pursuit of this legislation, and I urge my colleagues to support it.

Mr. LIEBERMAN. Mr. President, I rise today in support of S. 429, the Consumer Protection Against Price-Fixing Act of 1991. I hope today we can bring to a close a battle that has been raging since 1988, when the Supreme Court decided the case of Business Electronics Corp. versus Sharp Electronics Corp. I fought that ruling at that time as one of 42 State attorneys general to oppose the position taken by the Supreme Court in Sharp. I believe that today we should heed the advice of 48 attorneys general, representing 46 States, the District of Columbia, and the Virgin Islands, and pass S. 429.

S. 429 is a good bill, Mr. President, not just because it is proconsumer—or prodiscounter—but because it is procompetition. This bill makes clear that the antitrust laws outlaw price fixing in any form, whether the price fixing is practiced between competitors or between a distributor and its retailers. Price fixing in any form stifles competition. By artificially raising prices, price fixing not only robs consumers, but it also removes the rod of vigorous price competition that spurs firms to become more efficient.

Some have argued that vertical price fixing—price fixing by a manufacturer trying to impose higher resale prices on retailers—is proconsumer because it encourages better customer service. I submit this argument is just plain wrong. The best way for a manufacturer to get a retailer to deliver better customer service is to put it in the contract.

Manufacturers or upstream distributors can and do require certain types of displays, point of sale information, or warranties. S. 429 preserves the ability to impose nonprice standards in a dealership agreement: What S. 429 bars is vertical price fixing.

Of course, if the only issue was whether vertical price fixing should be declared illegal, we would not be here today debating S. 429. The real issue is not whether vertical price fixing should be illegal—it is under current antitrust law—or, to quote New York

Attorney General Bob Abrams, "whether or not illegal vertical price-fixing exists: its endemic." As General Abrams aptly put it, "The real issue is whether or not antitrust enforcers have the tools to find and prosecute these conspiracies." Under current law, as former FTC Commissioner Terry Calvani has said, a corporate officer would have to have "an IQ two points lower than a carrot" to be caught price fixing. S. 429 clears the prosecutorial road of judge-made obstacles that stymie State law enforcement efforts.

If this were an omnibus crime bill and we were presented with an amendment to strengthen criminal law enforcement—antitrust violations are crimes—supported by the attorneys general of 46 of 50 States, we would no doubt be falling all over ourselves to enact that measure. We would do so with good reason: Our State attorneys general know from experience what artificial barriers stand in the way of effective law enforcement.

Mr. President, the time has come for this body to stand up for tough law enforcement in this area of vertical price fixing.

We can do so by promptly passing S. 429. I urge my colleagues to support S. 429.

Mr. BRADLEY. Mr. President, I rise today in support of legislation to ensure that customers get clothes, toys, and other goods at fair prices and that stores will be free to set prices and discounts. The ability to set prices in response to consumer needs is a cornerstone of the free market and America's antitrust laws. I am also a supporter of the compromise which was reached to accommodate some of the concerns that were raised about this legislation.

Some retailers have been able to stop manufacturers from selling their products to discount stores by threatening not to sell the manufacturer's products in their full price stores. This practice is clearly counter to the intent of laws protecting consumers from price fixing, and this legislation clarifies the standards under which the courts can prevent firms from unfairly setting prices.

For example, in the 1984 Monsanto case, the Court found that although there was adequate evidence in this case that a supplier had illegally terminated the plaintiff—a discounter—at the request of a competing dealer, the case raised questions about the standards of evidence that a plaintiff must submit to reach a jury trial.

In 1975, Congress made changes in the fair trade laws that ended the practice of setting minimum prices for consumer goods. The discount stores that now flourish around the country and have saved consumers billions of dollars were the direct result of these changes.

Mr. President, opponents of this measure have said that it will damage the ability of manufacturers to offer warranties and service contracts. In fact, it only offers consumers a choice between full service and lower prices. I do not believe that this choice should be made for consumers—either by the Government or by manufacturers and high-priced retailers.

I was an original cosponsor of last year's legislation, and was proud to cosponsor S. 429. I commend my colleagues on the Judiciary Committee for their hard work on this important issue and I urge all my colleagues to give this legislation their support.

Mr. SHELBY. Mr. President, I rise today in support of S. 429, the Consumer Protection Against Price-Fixing Act of 1991—a bill to benefit American consumers by encouraging the widest possible selection of goods and services at the lowest prices. This legislation is expected to save American consumers $20 billion a year, and it does so without raising taxes or increasing the Federal deficit.

Simply stated, S. 429 would restore the 80-year-old principle that resale price maintenance agreements are a restraint of trade and are automatically unlawful. An example of a resale price maintenance agreement is a binding understanding between a manufacturer and retailers requiring the retailers not to sell the manufacturer's goods below a specified price. These agreements reduce competition and increase the cost of goods and services to American consumers by forcing discounters out of the marketplace.

In the landmark case, *Dr. Miles Medical Co.* v. *John D. Parks & Sons Co.*, 220 U.S. 373 (1911), the Supreme Court held that resale price maintenance agreements are per se illegal under the Sherman Antitrust Act. Recent Supreme Court descisions, however, have threatened the holding in Miles. Two major cases, *Monsanto Co.* v. *Spray-Rite Corp.*, 465 U.S. 752 (1984), and *Business Electronics Corp.* v. *Sharp Electronics Corp.*, 108 S. Ct. 1515 (1988), have narrowed the circumstances in which a court or jury can find resale price fixing.

In the Monsanto case, the per se rule was not overturned; however, the Court held that there must be evidence that "tends to exclude" the possibility that the supplier acted independently. In other words, there must be direct or circumstantial evidence that tends to prove that a supplier and a nonterminated dealer had a conscious commitment to terminate a competing dealer to curtail price competition.

Before Monsanto, a plaintiff had to show only one level of price fixing. For example, manufacturer Motorola, and retailer Hecht Co., agree to terminate a business relationship with discounter Kmart. Monsanto held that "something more" than the one level of price fixing must be shown; however, Monsanto did not say what the "something more" should be, and left this issue unresolved. Consequently, lower courts have problems applying the correct standards of proof in vetical price fixing cases.

The Sharp case followed Monsanto and decided what the "something more" was. The "something more" was that the plaintiff discounter had to show the existence of a second level after showing the first level of price fixing where the manufacturer and the retailer agree to terminate a discounter to curtail competition.

The second level basically consists of discussions between a manufacturer and a retailer to effect a specific price or price level. If neither price nor price level is discussed, Sharp's holding would preclude a discounter from prevailing in a vertical price-fixing case.

For example, retailer Hecht Co. says to manufacturer Motorola that discounter Kmart is selling too cheaply and hurting his business. Retailer Hecht Co. tells manufacturer Motorola to stop selling to discounter Kmart. Retailer Hecht Co. has 20 stores and discounter Kmart has only two. The manufacturer subsequently terminates the discounter. Sharp would hold that the discounter's termination was not per se illegal because no price or price level was discussed.

The Sharp decision was even more detrimental than Monsanto because the Supreme Court modified the per se rule. In Sharp, the Court ruled that in order to find a per se illegal price-fixing agreement, that must be a second agreement on a specific price or price level to be charged by the remaining retailer following termination of the discounter.

Sharp was the precedent for *Toys 'R' Us, Inc.* v. *R.H. Macy and Co., Inc.*, (S.D.N.Y. 1990). In this case, two children's swimwear manufacturers terminated their account with Kids 'R' Us, a subsidiary of Toys 'R' Us, that sells discount children's clothing. Macy's had pressured the manufacturers to terminate the account, so it could continue to sell the identical swimwear at a much higher price. The court ruled against Toys 'R' Us because there was no showing of a second agreement setting prices or price levels as required by Sharp.

Monsanto and Sharp effectively stifle competition and increase the price of brand-name consumer goods. Discounters are driven from the marketplace and have little recourse against suppliers and remaining dealers who have conspired against them for selling cheaply. The real losers however, are the low- and middle-income Americans and those on fixed incomes who depend on discount stores to help them make ends meet.

Congress must intervene again to keep competition in the marketplace. I say again because this is not a new issue for Congress. In 1975, Congress repealed the fair trade laws which al-

lowed States to permit retail price maintenance. Two Department of Justice studies in 1969 and 1975 respectively, documented the harm caused to consumers by vertical price fixing. In the first study, Justice Department data indicated that consumers would save $1.2 billion a year if fair trade laws were eliminated. The second study estimated that prices of consumer goods in States allowing vertical price fixing were 18 to 25 percent higher than in States prohibiting the practice.

Congress must continue to work to protect consumer welfare by ensuring vigorous price competition in the marketplace with passage of S. 429. The bill has three components. First, it would codify the well-established principle that resale price-fixing agreements are per se unlawful. Second, it would clarify the evidentiary standard for jury consideration of certain vertical price fixing cases. Specifically, the bill would require a plaintiff to show that:

A dealer made a request, demand or threat to a manufacturer that the supplier take steps to curtail or eliminate price competition;

Because of such request, demand or threat, the supplier terminated or refused to continue to supply goods to a competitor of the dealer; and

The request, demand or threat is the major cause of termination or refusal to continue to supply.

Finally, the bill would make clear that an agreement between a manufacturer and a retailer to terminate another retailer in order to eliminate price competition is illegal, whether or not a specific price or price level is agreed upon. This would overrule the Sharp decision.

S. 429 does not affect a manufacturer's unilateral action to terminate a dealer who is violating the terms of the contract. For example, if the terms of a contract between a manufacturer and a dealer call for a full showing of an item and the dealer fails to display the item, the manufacturer has the right to terminate the relationship.

Additionally, S. 429 does not affect agreements between manufacturers and retailers that do not involve price, such as service and warranty agreements. Thus, under the proposed legislation, manufacturers may still terminate a relationship with a retailer who does not live up to a service or warranty agreement.

S. 429 has been endorsed by so many groups who are concerned about the welfare of consumers—groups that believe consumers should have the opportunity to choose where they shop. I am especially pleased that S. 429 has been endorsed almost unanimously by the National Association of Attorneys General. Forty-eight of the fifty attorneys general have endorsed the legislation. This support is significant since the members of this group are charged with enforcing the laws of their States. Attorneys general must be sensitive to the concerns of consumers regarding the decline in the activity of discount retail stores and the resulting increase in prices. The attorneys general believe that the courts have gone too far in protecting the rights of manufacturers versus the rights of consumers. They want Congress to enact legislation to restore aggressive price competition to the marketplace.

Mr. President, I think that we have allowed our colleagues from the Chicago school to hold up this legislation for too long. We know that although higher prices may ensure better service, many American citizens with middle and low incomes cannot pay the higher prices for the luxury of more service. These hardworking individuals still want to be able to purchase goods and services.

We also know that manufacturers and dealers are still entering into resale price maintenance agreements. Just last month, the Federal Trade Commission [FTC] announced that Nintendo of America Inc., the giant of the video-game market and producers of Super Mario Brothers I & II, Teenage Mutant Ninja Turtles, and Ducktales to name a few, had entered into an agreement with some dealers and intimidated others to set minimum prices for the company's consoles. Now you understand why the Nintendo game pack cost $99.95 everywhere you went whether you were shopping at Toys 'R' Us, Kiddie City, Kay Bee Toys, or Juvenile Sales. It is also interesting to note that the case against Nintendo is only the second retail price-fixing case brought by the FTC in a decade.

I urge you to support this proconsumer legislation because more competition is always better than less competition. During this period of fiscal austerity, people should have the opportunity to get the most for their money. I also urge you to support this legislation because it should increase consumer confidence in our economy which is so badly needed to lessen the impact of the deepening recession in which we find ourselves.

Mr. ROTH. Mr. President, we have been debating resale price maintenance for 5 years in this body. While it appears to me that antitrust law could be improved to address certain problems facing discounters, S. 429, like its predecessors, fails to be an appropriate remedy.

Antitrust law is statutory law, not constitutional law. In enacting the Sherman Act in 1890 and the Clayton Act in 1914 with later amendments, Congress created a skeleton which has been fleshed out by scores of court decisions. Since these decisions are cases of statutory construction, it is well within our powers to do whatever is necessary to correct any errors in antitrust policy.

S. 429 raises the question of what kind of rule should govern a product's chain of distribution. In 1911 the Supreme Court held in Dr. Miles that it is a per se antitrust violation for a supplier of goods and the recipient of goods to agree on the resale price at which the recipient sells his goods. In 1977 the Court held in GTE Sylvania that the supplier has greater freedom regarding nonprice vertical restraints. Nonprice vertical restraints are to be judged under a rule of season, that is, all relevant factors are to be taken into account in determining whether the restraint is anticompetitive.

What the Supreme Court did in GTE Sylvania is to create a rebuttable presumption that a manufacturer in serious competition with other manufacturers can be trusted to take necessary and creative steps to maximize its own profits. Normally, this means offering the best products and the lowest prices.

In contrast to the treatment accorded vertical restraints, the Supreme Court has always frowned on horizontal restraints; that is, anticompetitive conduct of one competitor directed at another in the same level of distribution. The difficult question is what should be the law in a mixed vertical-horizontal situation when competitor A tries to use a common supplier to inflict harm on competitor B.

Since the law has—correctly, I believe—treated horizontal restraints harshly and vertical restraints more generously, what should be the rule? Recent decisions by the Federal courts, including the Supreme Court, have sought to protect the manufacturer's and supplier's right to regulate distribution of their products. This result, in legal terms, is consonant with the statutory requirement—rather difficult in this context—that there be an agreement between competitor A and the common supplier to restrain the trade of competitor B.

In the Sharp Electronics case, decided in May 1988, by the Supreme Court, competitor A was annoyed with the discounting practices of competitor B. So A went to the common supplier of A and B and threatened to quit distributing the common product unless B was terminated. The supplier, of course, had chosen both A and B to distribute its products. But now it was being economically coerced into dropping one of its two chosen dealers. When it dropped B, B sued, alleging as agreement between A and the supplier to fix prices in violation of Dr. Miles.

B found the Supreme Court unreceptive. The Supreme Court did not believe that the facts presented fit with the allegation of vertical price fixing. I must say that I agree. I can well understand why B—the discounter—felt aggrieved. But I equally understand why the supplier should not be held liable, except in a situation

where he has clearly agreed to fix prices in violation of Dr. Miles.

The problem is that the current state of antitrust law focuses attention on which of two victims should bear the loss. While it is right to defend the supplier against liability in such situations, it is wrong to leave the other victim without a remedy.

Fortunately, as I said earlier, antitrust law is not constitutional law. Congress has a free hand to set the law straight.

S. 429, however, is not the answer for several reasons. First, it tries to place the onus of liability on the supplier—generally, an innocent victim. Second, it is expressly crafted to allow the jury to infer an agreement to fix prices in violation of Dr. Miles when the facts are merely that the supplier reasonably reacted to economic coercion. While a discussion of the fine points of S. 429 could get fairly arcane, it appears that S. 429 seeks to circumvent the statutory requirement for an agreement by allowing natural jury prejudices, inherent in any situation where a local discounter sues a large out-of-State manufacturer, to overcome the lack of agreement.

In short, S. 429 uses the wrong means to achieve the wrong end. Yet, it seems well-intentioned. If, in fact, there are retailers who are trying to undercut discount retailers' ability to compete and who have the market power to use economic coercion against a common manufacturer or supplier, Congress should act. But the discounter should be protected not by imposing liability on the coerced party but by imposing liability against the wrongdoer and only the wrongdoer.

The wrongdoer is, in effect, interfering with an advantageous economic relationship enjoyed equally by the discounter and the manufacturer or supplier. The wrongdoer, in seeking to cause the termination of the discounter, is depriving the manufacturer/supplier of its choice to use the discounter to market its products. Once this is recognized, it is clear that S. 429 would work a grave injustice.

In lieu of S. 429, antitrust law should be amended to create a new cause of action to allow the terminated discounter to recover against the competing retailer that caused the termination. When the termination—or failure to renew a contractual relationship—would not have occurred but for the threats or coercion of X, then X should be liable in treble damages to the terminated discounter.

S. 429 has two distinct problems. It is too weak a remedy from the discounter's viewpoint. It is too strong a remedy from the suppliers' viewpoint.

From the viewpoint of the discounters, the problem today is trying to fit the facts into a theory that generally doesn't work. In fact, terminations are generally unilateral. Section 1 of the Sherman Act, however, requires concerted action to establish a violation. S. 429 does not eliminate this requirement. It does not, by its terms, change substantive law. But there can be no effective remedy unless such a change is made. My proposal would do away with the requirement to prove concerted action or an agreement. In my opinion, you will not be able to provide effective relief for discounters until you face the reality that unilateral coercion by a competing retailer with market power followed by a unilateral decision by the supplier to terminate is difficult to equate with an agreement by the two parties to fix prices.

What S. 429 says is when the law doesn't work, let's make sure that the jury gets to decide the issue, since juries do not stop for legal niceties. The problem with providing juries with the opportunity to bend the law is that while juries may appreciate the wrong done to the discounter, they may be less understanding and less informed about the manufacturer or supplier that is the defendant in the case before them.

Present antitrust law accords such defendants the right to select and the right to terminate their dealers. This tenet of antitrust law is, in my opinion, correct. It is not only good antitrust law but a principle of economic liberty whose stamp is specially American.

In its misguided attempt to help discounters, S. 429 throws its dragnet over good and bad alike. If the defendant is a wrongdoer, S. 429 provides some remedy. If the defendant has done no wrong, S. 429 still provides a sanction. And that, of course, is the problem. It would ensnare the manufacturer or supplier that is unilaterally—not in concert—exercising its right to pick and choose its retailers.

In truth, manufacturers and suppliers that choose discounters to market their goods have little reason to terminate discounters because they are discounters. It is those in competition with discounters who wish to charge higher prices that have an interest in having discounters terminated. The culprit is not so likely to be the manufacturer or supplier that wants to have discounters sell its goods as it is the competitor-retailer that buys so much from the manufacturer or supplier that it can threaten to terminate itself unless the discounter is terminated.

In short, if we can trust our economic instincts, the troublemaker is not likely to be the manufacturer or supplier or even the mom-and-pop retailer. It is likely to be the big high-priced retailer who has market power and thus some control over the manufacturer and supplier.

S. 429 would allow suit to be brought against the competing retailer, it is true. But the plaintiff is still required to prove that the retailer and supplier agreed to fix prices and that, as a result of that agreement, the discounter was terminated. In contrast, my proposal would require the plaintiff to prove only what probably happened: that a high-priced retailer with market power coerced the supplier to terminate the discounter.

In addition, my proposal would have the merit of absolving the manufacturer and supplier from liability where the only fault was being coerced by a high-priced retailer with market power. S. 429, in contrast, would subject such manufacturer or supplier to the hazards of jury sentiment, allowing juries to infer vertical price fixing conspiracies from evidence of coercion to terminate. As I said before, S. 429 would, in practice, interfere with the recognized right of manufactures and suppliers to pick and choose their retailers.

My proposal, unlike S. 429, would not necessarily cause terminations to decline. My proposal would honor the teaching of GTE Sylvania by allowing the manufacturer/supplier to regulate the marketing of its products. Where a retailer fails to satisfy marketing requirements of the manufacturer/supplier, termination could ensue without fear of treble-damage reprisal. And that's how it should be. But if the termination is not the idea of the manufacturer/supplier but of a competing retailer, it would not offend GTE Sylvania to impose liability on such retailer, and it would allow the terminated party to recover against a wrongdoer rather than against a victim.

I commend this proposal to the attention of my colleagues. I believe that it would provide the appropriate resolution to this 5-year-long debate. This has been a lengthy and vigorous debate because both sides share the truth. Discounters may need statutory help. But S. 429 is not the answer. Nor is S. 429 with the Brown amendment, which merely fine-tunes the underlying bill.

I recognize that significant changes in antitrust law do not occur without the most thorough deliberation, discussion, and debate. It would be foolish for me to offer my proposal and ask for a vote today. That's not how antitrust statutes are written. I would hope that both sides would give this proposal some thought. It may be a basis on which the champions of discounters and the defenders of Colgate and GTE Sylvania can come together. I, myself, am partial to both sides.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio has 2 minutes remaining.

Mr. METZENBAUM. Mr. President, has the Senator from South Carolina used up all his time?

The PRESIDING OFFICER. The Senator from South Carolina has used all of his time.

Mr. METZENBAUM. Mr. President, I yield back the remainder of my time.

CLOTURE MOTION

The PRESIDING OFFICER. All time has been yielded back.

If there is no objection, the hour of 6 p.m. having arrived, under the previous order, the clerk will now report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 429, a bill to amend the Sherman Act regarding retail competition:

Herb Kohl, D.K. Inouye, J. Lieberman, Carl Levin, Claiborne Pell, Paul Simon, Alan Cranston, Bob Graham, Chuck Robb, Howard Metzenbaum, Bill Bradley, Tom Harkin, J.J. Exon, Slade Gorton, Warren B. Rudman, Alfonse D'Amato.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on S. 429, a bill to amend the Sherman Act regarding retail competition, shall be brought to a close?

The yeas and nays are required. The clerk, will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The yeas and nays resulted—yeas 63, nays 35, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—63

Adams	Domenici	Lieberman
Akaka	Exon	Metzenbaum
Baucus	Ford	Mitchell
Bentsen	Fowler	Moynihan
Biden	Glenn	Murkowski
Bingaman	Gore	Nunn
Bradley	Gorton	Pell
Breaux	Graham	Reid
Brown	Harkin	Riegle
Bryan	Hatfield	Robb
Bumpers	Hollings	Rockefeller
Burdick	Inouye	Rudman
Byrd	Jeffords	Sanford
Chafee	Kassebaum	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
Cranston	Kerry	Simon
D'Amato	Kohl	Specter
Daschle	Lautenberg	Warner
DeConcini	Leahy	Wellstone
Dodd	Levin	Wirth

NAYS—35

Bond	Cochran	Dole
Boren	Craig	Durenberger
Burns	Danforth	Garn
Coats	Dixon	Gramm
Grassley	Mack	Seymour
Hatch	McCain	Simpson
Heflin	McConnell	Smith
Helms	Mikulski	Stevens
Johnston	Nickles	Symms
Kasten	Packwood	Thurmond
Lott	Pressler	Wallop
Lugar	Roth	

NOT VOTING—1

Pryor

The PRESIDING OFFICER (Mr. KOHL). On this vote, the yeas are 63, the nays are 35. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, the Senator from South Carolina [Mr. THURMOND] is recognized to offer an amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, if I might have the attention of the distinguished Senator from South Carolina, the former chairman of the Judiciary Committee, and the Republican leader? And, if I might through the Chair inquire, in view of the current status of this measure, whether the chairman and the leader anticipate that we might be able to complete action on this bill tomorrow, in timely fashion? And, if that is the case, then it would be my intention not to have any further action on the measure this evening.

Mr. DOLE. If the leader will yield, I have spoken with the distinguished Senator from South Carolina. He can speak for himself. It is my understanding that we probably can finish this at a fairly early time tomorrow. But I am certain the Senator from South Carolina could state whatever he thinks can be done.

Mr. THURMOND. Mr. President, I think it is clear how the Senate stands, and I do not want to put the Members in a position of having to wait here another day or two. I think it can be finished tomorrow.

Mr. MITCHELL. Mr. President, I thank my colleagues.

Mr. THURMOND. If the leader wishes to take it up early, if some of them want to get away, I think it is all right.

Mr. MITCHELL. I thank my colleagues very much, and the distinguished leader.

Accordingly, there will be no further rollcall votes this evening and we will return to this measure tomorrow in the expectation, based upon these assurances, that we will complete action on the measure tomorrow. And I will, during the morning tomorrow, be meeting with the distinguished Republican leader to consult on what measures the Senate will consider following disposition of this matter and the schedule for the next several days. And I hope to have an announcement in that regard sometime later during the day tomorrow.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MITCHELL. Mr. President, I would like to remind Members of the Senate that at 10:30 tomorrow morning, the newly appointed Senator from Pennsylvania, HARRIS WOFFORD, will be sworn in here in the Senate Chamber. I encourage as many of my colleagues as can do so to be present for that proceeding. It is my hope that we will, either shortly before that or shortly after, depending upon the convenience of the managers, be back on the bill and as previously stated be able to complete action during the day tomorrow.

Mr. President, I want to yield to the distinguished Republican leader to make certain he has no further comment?

Mr. DOLE. No.

MORNING BUSINESS

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1013 and S. 1014 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. I thank the Chair.

(The remarks of Mr. PELL pertaining to the introduction of S. 1016 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

YOUNG WRITER BRINGS HONOR TO MONTANA

Mr. BAUCUS. Mr. President, the beauty and bounty of Montana's blue ribbon trout streams have attracted people from around the world to try their hand at catching the wily trout. Indeed, people have come by wader and by boat, by torn up sneakers and by the latest in fishing apparel by L.L. Bean, to stalk the trout in Montana's rivers, high mountain streams, and lakes.

Few people understand the call of the trout or why so many Montanans would endure scorching dry heat, mosquitoes, and deer flies while floating or standing in a river for hours, rarely

breaking concentration—all for the sake of catching a fish.

It is a hard thing to explain to these uninitiated onlookers. But the draw is real.

I first learned to appreciate the rigors and skill of fishing as a boy growing up on my folks' ranch near Helena, MT. Though I seemed to catch precious few fish with my boyhood lures, I nevertheless caught the allure of fishing.

And in the time since then, I have recognized a few things—not the least of which is that the miles of line cast for trout over the years in such rivers as the Madison, Rock Creek, and the Big Hole are inversely proportional to the lengthy yarns spun about the fish that got away.

Indeed, I have never really quite been able to figure out why so many fish get away.

Well, Mr. President, during this past recess, a story by Seth Bloom provided me with at least part of the answer. Seth is a third grade writer in Corvallis, MT, who recently won the 1990-91 National Young Writer's Contest for his insightful story about how the rainbow trout got its rainbow.

According to Seth's account, the rainbow trout did not always have a rainbow. In fact, it used to get away from the otter because it was ugly and gray and hard to see beneath the water. It was the otter who devised a plan to make the fish more visible by sewing part of a rainbow down both sides. Unfortunately for the otter, however, the newly outfitted rainbow trout was still too fast to catch.

But at least I know now why I had a difficult time catching the ugly gray trout I could not see.

Mr. President, I encourage you and all my colleagues to read Seth's award-winning story about the rainbow trout. Montana has enjoyed a rich literary tradition marked by authors like A.B. Guthrie, Norman Maclean, and Dorothy Johnson. And even the tall tales and anecdotes of Charlie Russell.

I hope that aspiring young writers like Seth will carry on this tradition of Montana stories and folklore with the same expertise and vigor of the authors before them.

I ask unanimous consent that the full text of Seth Bloom's story be printed in the RECORD along with the articles about his accomplishment, which appeared in the Ravalli Republic on April 12 and the Bitterroot View on April 13.

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

HOW THE RAINBOW TROUT GOT ITS RAINBOW

(By Seth Bloom)

Once the rainbow trout was only an ugly gray trout. This was back in the days when rainbows touched the earth at both ends and each end had a pot of gold. Not one pot was bigger than the other.

The otter loved to eat fish and the trout was so camouflaged he was hard to catch. The otter hated this. The trout didn't like his appearance either. He wanted a bright colorful coat like his cousin the salmon. The otter knew this so he tried to think of a way to get the fish brighter and easier to catch.

After a while he thought of a plan. He called the trout over to his house for tea. As they were talking the otter told the trout that he thought there was a way to get him a new coat. After the otter had explained part of his plan, the trout agreed. Just then it started raining.

"We won't have to wait very long now," said the trout.

Soon it stopped raining. A brilliant rainbow appeared in the east.

"Well, come on," said the otter. "This is what we were waiting for."

They headed for the nearest end of the rainbow.

When they got there they found a pot of gold.

The otter said, "You can have this pot. I will take the other one."

Then the fish took a scissors and climbed a tree right by the rainbow. He cut off as much of the rainbow as he could.

Then they went to the other end of the rainbow. The otter took the second pot of gold and gave the fish some scissors and a ladder.

"Now you climb up and cut off some more of the rainbow while I hold the ladder," he said to the trout.

The fish did as the otter told him. Then they went home.

All that night the fish sewed the pieces of rainbow into a very well-fitting suit.

The next day he went to show the otter.

The otter said, "Those are fine clothes. Why don't you take the scraps and make some more for your friends. I don't need one myself." So the trout did.

This was what the otter's plan had been. He had planned to make all the gray fish brightly colored. When he did they would be easier to see and catch.

But it didn't quite work the way he had planned because the trout moved fast and looked like rays of sunlight on the water. And the trout were no easier to catch than before.

[From the Ravalli Republic, Apr. 12, 1991]

CORVALLIS WRITER WINS NATIONAL RECOGNITION

Corvallis third grader, Seth Bloom, is the only Montana winner among the 100 finalists in the 1990-91 Young Writer's Contest sponsored by the Ronald McDonald Children's Charities.

In recognition of this award, Bloom and other contestant winners will have their original poems, stories and essays published in the 1991 Rainbow Collection. In addition, each winner's entry also will appear in America On My Mind, a publication to be produced by Falcon Press of Helena, and each winner's school will receive a $250 cash prize donated by McDonald charities and Falcon Press.

"Congratulations to Seth Bloom. This is quite an honor and we are pleased to have Montana represented by such a creative piece of writing," said Montana Governor Stan Stephens after receiving notification from the Young Writer's Contest Foundation. Another Corvallis student, Kasey Smith, was included in last year's publication. She was a second grader at the time. Bloom commented that the Corvalis Class of 2,000 is already making an impact.

Bloom's story, "How the Rainbow Trout Got Its Rainbow," involves an otter who wants to eat a fish. The fish overhears the otter's plan and cuts down a piece of rainbow to disguise itself.

A panel of literary specialist selected the winning compositions from 18,000 poems, essays and short stories submitted by students from all 50 states and U.S. territories; and from Department of Defense and American community schools abroad.

[From the Bitterroot View, Apr. 13, 1991]

HAMILTON YOUNGSTER WINS YOUNG WRITER'S CONTEST

HELENA.—Fourth-grade student-author Seth Bloom of Hamilton has been selected as a winner in the 1990-1991 Young Writer's Contest, Gov. Stan Stephens has announced.

Bloom's story, "How the Rainbow Trout Got Its Rainbow," is among about a hundred original writings by students from around the world that were selected.

In recognition of this award, Bloom and the others will have their poems, stories and essays published in the 1991 Rainbow Collection, an anthology of writings by contest winners, which is financed by the McDonald Children's Charities.

In addition, each winner's entry also will appear in American on My Mind, a publication to be produced by Falcon Press of Helena. Each winner's school will receive a $250 cash prize.

"Congratulations to Seth Bloom. This is quite an honor and we are pleased to have Montana represented by such a creative piece of writing," Stephens said.

The Young Writers contest attracted 18,000 entries from students in all 50 states, the District of Columbia, Guam, Puerto Rico, Mexico, Nigeria and from Americans attending Department of Defense and American Community schools around the world.

Bloom is the son of Dr. Marshall and Tonia Bloom of Hamilton.

Montana's 1989-90 Young Writer's Contest winner also was from the Bitterroot Valley. That was Kasey Smith of Corvallis.

NATIONAL NURSES WEEK

Mr. BYRD. Mr. President, this week, Americans are celebrating "National Nurses Week." National Nurses Week is a time to pay special recognition to the Nation's 2 million registered nurses—men and women—who care for Americans every day by providing high quality, cost-effective care.

Mr. President, in conjunction with the 1991 celebration of National Nurses Week, the American Nurses Association, and the State Nurses Associations sponsored a nationwide "search for excellence" on behalf of the nursing profession. In my State of West Virginia, Jane Trail, head nurse of the hemodialysis unit at the Veterans Affairs Medical Center in Beckley, WV, was chosen as the "Search for Excellence" winner by the West Virginia Nurses Association. Among her many accomplishments, Miss Trail was instrumental in establishing the renal clinic at the Beckley VA Medical Center. This outstanding women is to be congratulated for the skilled and compassionate care given to her patients,

who must deal with the restrictions and lifestyle changes of renal failure.

In the days before hospitals, modern-day prescriptions, and patient monitors, nurses administered to the sick by watching at their bedside, dressing their wounds, and soothing patients' fevers. Those early-day nurses did not wear white uniforms, and neither do all the nurses of today. Today's nurse is very much dedicated to the health care needs of all Americans. Today's nurses serve in hospitals and hospices, military services, and veterans institutions, community clinics, and patient homes. They open independent practices and they work in schools and industry.

Today, because of nursing research, patient care has significantly improved. And today's nurse educators ensure that tomorrow's practitioners understand and implement both the science and the art of high-quality nursing practice.

This year, the theme for National Nurses Week is "Nurses Care for America." The nursing profession is an integral part of America's health care system and can be counted on to help us recuperate from illness or injury, help us cope and live with conditions that arise from trauma or disease, and help us prevent illnesses and maintain our good health. Nurses, indeed, care for America.

In this time of rising health-care costs and reductions in health-care services, the demand for nursing services is greater than ever before. The nursing profession has been a strong supporter of efforts to improve access to health-care services and enhance the quality of the Nation's health. We in Congress look forward to working with the nursing profession as we try to improve the Nation's health-care system.

During National Nurses Week, I hope that Americans everywhere will take the time to acknowledge the efforts of our Nation's nurses by participating in the many celebrations planned by the American Nurses Association throughout the country.

FOOD SALES TO THE SOVIET UNION

Mr. EXON. Mr. President, I rise to address the appropriate response to the Soviet request for grain credit.

The Soviet Union is a critical market for American farmers. Our Nation learned a valuable lesson in the 1970's when it found that using food as a weapon was a counterproductive measure which did not foster reform in the Soviet Union and unfairly punished the American farmer.

America can not afford to make the same mistake again.

Chaos in the Soviet Union, famine in the Soviet Union, unrest in the Soviet Union does not advance the forces of reform.

Former Minister Eduard Shevardnadze, who I met with about a month ago, warned that out of chaos could come the forces of dictatorship.

Given the economic situation in the Soviet Union, I understand the President's concerns about the credit worthiness of the Soviet Union. This difficulty is by no means insurmountable.

Last week, I sent the President a letter outlining my proposal for a "food for oil" arrangement between the U.S. and the U.S.S.R. I raised this proposal with the Soviet Ministers of Oil and Gas and Agriculture and received a warm response.

In short, barter is the key to opening the door to the Soviet market. It is the only realistic means to overcome the Soviet Union's lack of hard currency. In the short term, food credit could be secured with future soviet oil production or for that matter, any other valuable commodity such as gold, minerals or metals. Over the long term, I believe a food for oil agreement between the U.S. and the U.S.S.R. makes a great deal of sense.

Mr. President I ask unanimous consent that the text of my letter to the President be printed in the RECORD. The letter gives more detail to my proposal and is self-explanatory.

I urge my colleagues to support an appropriate grain credit resolution and give serious consideration to supporting a long-term food for oil arrangement with the Soviet Union.

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

U.S. SENATE,
Washington, DC, May 1, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I read yesterday with great interest your comments about granting agriculture credits to the Soviet Union and that nation's credit worthiness. I ask that you give serious consideration to an idea which may provide the answer to your present dilemma. Simply put, the idea is food for oil.

As you well know, the Soviet Union represents a significant export market for America's food producers. The potential loss of this important market would have a devastating effect on American grain prices.

Having recently visited the Soviet Union, I understand your concerns about that nation's economic situation. The Soviet transition to a market economy has been an unsteady journey of half steps toward reform. In spite of several recent poor economic decisions, the Soviet Union remains a nation rich in natural resources.

You know that I have been a long time advocate of barter and countertrade as a means to expand U.S. exports. Barter and countertrade (the exchange of goods for goods) and other nontraditional means of finance can facilitate trade where there is a shortage of hard currency. The United States Congress went on record in support of using barter and countertrade to expand exports when it approved legislation I offered as part of the 1988 trade bill to create the Office of Barter in the United States Department of Commerce.

On September 12, and November 30, 1990, I wrote to you about investigating a "food for oil" arrangement with the Soviet Union. When I was in the Soviet Union, I explained this concept to Mr. Leonid Filmanov, the Soviet Minister of Oil and Gas and Mr. Vyacheslav Chernoivanov, the Soviet Minister of Agriculture. They were most receptive to the idea.

The Soviet Union holds the world's largest reserves of oil. The United States has a great supply of food and agriculture products and a need to diversify its supply of oil. In the new world order, these strengths and needs should be paired to advance the interests of both nations.

In the immediate term, new loans to the Soviet Union could be secured with future oil production. Over the long term, I urge your administration to explore an agreement with the Soviet Union which would facilitate the exchange of energy production technology and U.S. food for oil.

I have enclosed for your consideration transcriptions of the notes from my meetings with the Soviet Prime Minister of Oil and Gas and the Soviet Minister of Agriculture. Given your background in the oil and gas industry, I am certain that you will see that there are great energy resources in the Soviet Union which are untapped and in many cases simply wasted. I am convinced that a bit of creative thinking and yankee ingenuity can unlock the value of these and other resources to secure additional American food sales as well as a more productive relationship between our two nations.

Hunger in the Soviet Union is a real possibility. Several reports indicate that there will be poor harvest in the Soviet Union this year. Given the tension I observed in the Soviet Union, food shortages could unleash a series of reactions and emotions within the Soviet Union which could further undermine the road to reform. As I have long said, a hungry bear is a very dangerous thing.

Over the long term, the Soviet market provides a rich opportunity for the American farmer. The development of this market now will provide dividends in the future. Given the drastic cuts in farm programs over the last several years, our nation can not afford to let an important export opportunity like this slip from our grasp.

I ask that you give careful consideration to this suggestion. Simply put, a food for oil arrangement makes sense. I welcome an opportunity to work with you on this very important matter.

Best wishes.

Cordially,

JIM EXON,
U.S. Senator.

OBSERVATIONS ON THE SOVIET UNION

Mr. EXON. Mr. President, last month, I was privileged to represent the Senate Armed Services Committee as part of an official delegation to the Soviet Union and Eastern Europe headed by the chairman of the Senate Intelligence Committee Senator BOREN. This is the second of my reports on that interesting and enlightening trip. My earlier report focused on Eastern Europe. Today, I would like to discuss the political situation in the Soviet Union.

Our delegation arrived in Moscow on March 27, the eve of a major showdown

between Soviet President Gorbachev and Russian President Boris Yeltsin. Upon arriving in Moscow, the delegation sensed a chilling tension in the air.

The current political landscape of the Soviet Union cannot be sketched in black and white terms. The situation is complex with several forces pulling at the political leadership of the nation. While the delegation was in Latvia, one of the Baltic Republics seeking freedom from the Soviet Union, we met Senator Mavriks Vulfsons, of the Latvian Parliament. He provided the delegation with a succinct summation of the nation's turmoil. When asked about Soviet politics, he prefaced his answers with the comment that "you must understand, this is the Soviet Union. Things are very complicated."

While the Gorbachev-Yeltsin controversy occupied center stage, it was obvious that there are several forces simultaneously at work in the Soviet Union including democratic forces, a restless labor movement, nationalist and secessionist movements, and the military industrial complex, the Communist Party and the Government bureaucracy all trying to define the new Soviet Union.

During our visit, political observers, including Eduard Shevardnadze, painted a portrait of President Gorbachev as that of a man alone. The Soviet President had alienated his early allies, the reformers and intellectuals and was in what appeared to be an uncomfortable alliance with the political hardliners, including the military and the KGB. The open question during our visit was whether Gorbachev was using this alliance as a means of survival or whether Gorbachev himself was being manipulated by the Soviet right wing.

Since 1919, the Communist Party and its ideology has been the glue that has held the vast Soviet Nation of diverse republics together. That glue is rapidly disintegrating. Communism has been discredited. The Soviet people have lost faith in the party. It presently appears that the Soviet Union lacks a coherent belief system. Unlike the new democracies of Eastern Europe where economic reforms have been real and dramatic, the movement from a command economy toward a market economy in the Soviet Union, has been thus far insufficient to engender the confidence, hope or support of the people. During the early phases of perestroika, the Soviet people were grateful to Gorbachev for glasnost. Today, the painful economic reforms have failed to convert the economy to efficiency and have turned the man on the street against Gorbachev. With the freedoms of glasnost citizens are able to voice their frustrations and they are.

With the exception of Boris Yeltsin, at this point, there appears to be no clear challenger or alternative to Gorbachev. The Communist Party presently has the advantage of organization and history. The delegation met with eloquent representatives of the reform movement including former Minister Schevardnadze, Leningrad Mayor Sobchak and representatives of the Baltic Republics. While both Schevardnadze and Sobchak have a commanding presence and a high level of respect, it is fair to say that the democratic alternative has not yet been organized. There is presently no coherent democratic platform, agenda, or leadership. Boris Yeltsin, the President of the Russian Republic, the Soviet Union's largest and most important republic is popular with the man on the street, but does not seem to be taken seriously by some of the reform leaders, intellectuals and United States analysts.

I believe that it would be a serious mistake, however, to underestimate Yeltsin's political skills. Upon our arrival to Moscow, Russian hardliners were preparing for a no-confidence vote to oust Yeltsin from the Russian Republic Presidency. Not only did Yeltsin prevent any such vote, he emerged from the Parliamentary session with enhanced powers to rule by decree until a new President is directly elected by the Russian people in June. It is widely expected that Boris Yeltsin will overwhelmingly win the popular vote. With a popular mandate from the Russian Republic, Yeltsin could gain a political authority superior to that of Gorbachev who serves with a vote of the Soviet Parliament. Most recently, Yeltsin was able to gain Republic control of the coal mines in Russia and there is speculation that similar transfers of authority from the center to the republics are forthcoming in other areas. While scholars are still examining the new all union treaty, early indications are that Yeltsin scored a significant breakthrough and is in part a testament to the political skills of both Yeltsin and Gorbachev.

While the new all union treaty may mark a cooling off period in the Gorbachev-Yeltsin drama, the tug of war between Gorbachev and Yeltsin is potentially dangerous. The delegation heard speculation that hardliners hope that each will politically destroy the other, leaving the military and party hierarchy to pick up the pieces and rule the Soviet Union with a much more repressive hand.

The vivid manifestation of the dangers of the Gorbachev-Yeltsin rivalry played out before the delegation's eyes on March 28 when Yeltsin forces organized a massive demonstration in central Moscow in defiance of a 3-week ban on demonstrations imposed by Gorbachev's central government. Part of the demonstration took place in front of the delegation's hotel.

On the evening of our arrival, Soviet authorities sealed off access to Red Square in anticipation of the Yeltsin demonstration. Throughout the day, Soviet troops were deployed into central Moscow in what Eduard Shevardnadze described in a meeting with the delegation as the largest deployment of troops into Moscow since the Second World War. Throughout the day, the delegation observed truckloads of troops stationed throughout the city. The tension in the city was palpable.

Upon the completion of an afternoon meeting with the Minister of Atomic Energy, Christopher McLean of my staff and our interpreter were unable to return to our hotel by car. It was necessary to make our way through several concentric rings of Soviet troops to return to the hotel. The military forces secured the central city and were allowing people to leave but very few to enter. Thanks to our interpreter we were able to negotiate our way back to the area of the hotel.

When the demonstration commenced, police armed with plexiglass shields and night clubs stood as a three-sided barrier to the demonstrators. Military personnel and trucks were positioned behind the police. The police methodically closed their ranks and pushed the demonstrators out of the main square. Members of the delegation observed about six to eight individuals pulled out of the demonstration and roughed up by plain clothed authorities as the demonstrators were brought to yellow Moscow-style paddy wagons.

Surprisingly, both police and demonstrators exhibited a degree of restraint and discipline. As officers banged their clubs against their shields a growing thunder filled the snowy night air. With the sound, the police closed their ranks to push the demonstrators out of the square, onto the terrace of the Bolshoi Ballet and out of the area.

The massive show of military force to the Yeltsin demonstration represented perhaps a warning as well as a response to the banned demonstration. The deployment provided an illustration of the fears of dictatorship outlined for the delegation by former Foreign Minister Eduard Shevardnadze. Given the building tension prior to the demonstration, a miscalculation on either side could have been disastrous. Emotions were high and danger was in the air. Fortunately, tragedy was averted. As soon as the demonstration ended, the troops evaporated out of central Moscow. I observed caravans of troops rapidly exiting the city. By midnight, there was little evidence of the confrontation. The next day, business seemingly returned to normal. Red Square was open to visitors. Most troops had left the city and several of the officials we met with that day had observed a noticeable but perhaps temporary release of pressure.

The very fact that the demonstration took place in defiance of the Gorbachev

ban and in spite of the military presence, represented a strong show of force for Yeltsin and a testament to the level of frustration felt by many citizens.

ECONOMIC REFORM

The demonstration was in part a reflection of growing discontent with Soviet economic reforms which have been very painful to the average Soviet worker. The Communist system created a wage and price structure which bore no relation to reality. As long as the Communist system could remain closed and economically isolated between the central Soviet Union Government and its client states, the system could function and deliver basic necessities to the people.

The Soviet economy cannot remain closed in the modern world. The Communist economic system destroys individual initiative and creativity. The corruption of the Communist Party has engendered disdain from the Soviet citizenry and the glorious democratic revolutions in Eastern Europe, and Central America have disrupted the Communist international trading system.

The Soviet economy is on the edge of collapse. Reforms have been half measures which deliver only the painful half of the economic equation. The delegation arrived in the Soviet Union days before the imposition of massive price increases. We observed long lines in front of Soviet department stores as shoppers engaged in panic buying to beat the price increases. While the new prices will more closely resemble market prices, they were created by central planners and not market forces. To compensate workers for increased prices, supplementary pay packets were distributed to workers, although not enough to fully cover price increases. The price reform may marginally reduce the Soviet budget deficit. It is unlikely that absent more aggressive market reforms on the supply side and on private ownership rights that more goods will become available.

Unlike in Poland, Czechoslovakia, and Hungary, where economic reforms have been far more thorough, the reforms in the Soviet Union have not generated much faith among the people that there will be any long run benefits in exchange for short-term pain. Sooner or later, the Soviet Union must come to the realization that to be successful, the Soviet Union must forcefully address private ownership, freeing the factors of production from central planning on the supply and demand side and the convertability of the Soviet currency.

UNITED STATES-SOVIET RELATIONSHIP

It is clear that President Gorbachev's political future ebbs and flows on a rapidly changing sea. While Gorbachev has been a leader who the United States has been able to work with, American policy with regard to the Soviet Union should not be based solely on the political survival of one personality. Treaties, trade agreements, and exchange programs are between nations, not individual presidents. Our policy toward the Soviet Union should attempt to look beyond the horizon and beyond President Gorbachev. Our policies should also be cognizant of the political authority of Soviet Republics. In the future, it is clear that individual republics will come to wield more authority than the past.

As the representative of the Senate Armed Services Committee, I frequently raised my concern in meetings with Soviet political and government officials, including Aleksey Obuknov, the Deputy Foreign Minister that with the present glitch in the implementation of the Conventional Forces Europe [CFE] Treaty, the United States Senate will have difficulty placing its confidence in a START Treaty if it cannot have confidence in the CFE Treaty. I found United States Ambassador Matlock surprisingly optimistic about the chances of resolving CFE and START differences, and found the Soviets somewhat more fixed in their positions than portrayed by the United States Ambassador. In this regard, I believe that the delegation delivered an important and clear message to Soviet policymakers about the Senate's unease regarding the current complications on the CFE Treaty. Since our return, I have noticed some encouraging steps by the Soviets to resolve some of these concerns but believe that there is still a long journey toward a resolution to current difficulties over CFE and START.

America must continue to exercise caution in dealing with the Soviet Union and be certain that Soviet Government actions match the words of Soviet political leaders. President Reagan appropriately adopted as a motto for United States-Soviet military relations, "Trust but Verify." Overall, I was somewhat encouraged that from reformers and hardliners alike, there was no evidence of an interest in returning to the bad old days of the cold war.

America should make it clear that our Nation welcomes and supports the movement toward a free society and free market in the Soviet Union. It is in the interest of the United States, the Soviet Union, and the world that the United States/U.S.S.R. relationship continues to improve. Our delegation was encouraged at several stops, even from critics of President Gorbachev that regardless of who leads the Soviet Union that both the United States and the Soviet Union must continue to maintain good relations.

In this regard, positive political reforms within the Soviet Union certainly make the path toward even closer U.S./U.S.S.R. relations much smoother. I am pleased to report that there was surprisingly frank and seemingly accurate reporting of the demonstration witnessed by the delegation on the English service of Radio Moscow, an obvious new found religious freedom, and a previously unknown level of political debate within the Soviet Union. In addition, there is no doubt that the actions, or more accurately, the inactions of the Soviet Union during the liberation of Eastern Europe represented a turning point in world history. But just as Soviet restraint in Eastern Europe made better relations with the West possible, the Soviets must be made to understand if they return to oppression in dealing with the Baltics those warming relations could just as rapidly cool.

The Soviet Union is undergoing a profound identity crisis. The nation is attempting to transform its society, political system and economy simultaneously. In many regards, the very act of transformation represents an ideological victory for the values which America and the free world hold dear. After visiting the Soviet Union, I expect that the road to a reformed Soviet Union will be filled with bumps, twists and turns. I must report that I was pleased to hear Chairman Polozkov, of the Russian Communist Party, one of the recognized hardliners, tell our delegation that the party accepts a market economy as the final stage of reform. His caveat was that the reform must be gradual.

Since our return, there appears to be a new accommodation between Gorbachev and Yeltsin. In addition, the republics and the central government seem to be making progress in defining their relationship to each other under a new union treaty. Until this critical relationship and ownership rights throughout the Soviet Union are defined, full scale Western participation in the Soviet economy is unlikely. The present battle of laws between the central government and the republics makes it difficult, if not impossible, for business to risk investment or even know with whom in the Soviet Union to deal.

In conclusion Mr. President, it is a fascinating time. There is great hope that this time of transition can facilitate a more productive relationship between the United States and the Soviet Union. There is also a risk that the pains of transition within the Soviet Union, will resurrect a nostalgia for the old Communist order. America has provided a shining example for the Soviet Union and the world that the path to a better life is the path marked democracy and freedom.

Having discussed some of my observations about the political situation in the Soviet Union, I will describe in my next address areas where I believe that the United States and the Soviet Union can and should cooperate.

THE ROLE OF KGB CAPT. VIKTOR OREKHOV

Mr. MOYNIHAN. Mr. President, the Long Island Jewish World recently published a most remarkable article by Natan Shcharansky, the courageous Soviet Jewish dissident who now lives in Jerusalem. Mr. Shcharansky relates the crucial role of KGB Capt. Viktor Orekhov who risked his life to help warn the activists of plans to infiltrate their network and vitiate their campaign for religious freedom. This previously unidentified Soviet secret police officer was subsequently arrested and sent to prison for 8 years.

When a stunned Soviet Jewish leader asked Captain Orekhov why he helped them he replied "I am afraid my children will be ashamed of me." Certainly, Victor Orekhov's children, and all of us who value human freedom and integrity, have good reason to be proud of this brave man and his exceptional actions.

I ask unanimous consent that Natan Shcharansky's article about Victor Orekhov be printed in the RECORD at this time.

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

[From the Jewish World, Apr. 19–25, 1991]

EVEN IN THE KGB, THERE WAS AT LEAST ONE DISSIDENT

(By Natan Shcharansky)

JERUSALEM.—If you have followed the Soviet press during the glasnost years and watched the Communist empire fall apart, it is difficult to be surprised by anything. Looking through the Russian papers the other day, I wasn't expecting any surprises—but when I came across a picture of Victor Orekhov, accompanied by an interview, my heart jumped. It was hours before I could return to my routine. The man and his name have haunted me for 15 years.

I never saw KGB Capt. Viktor Orekhov, and until that day I could not even say for sure that he existed at all. Nonetheless, I thought about him more often than I did about many others whom I knew much better. Somewhere in the bottom of my heart, I had always hoped that Orekhov was a flesh-and-blood person, not merely a creation of the KGB's evil genius.

At the end of 1976, just as a new wave of KGB oppression began, Moscow refusenik Mark Morozov came to us with sensational news: a senior KGB officer, whose name he naturally could not reveal, had decided to inform us of future actions against dissidents. Our reaction was almost unanimous—we believed it was a KGB provocation. But information about future arrests and searches soon began to reach us, and the information proved correct.

Morozov arrived one night, in December 1976, at the house of Zionist leader Vladimir Slepak with a warning: during the next few hours, Slepak's house would be searched. The search took place, and continued for almost 24 hours. We Jewish activists were not inclined to hide our activities, so the KGB took hundreds of different documents, mainly copies of our public statements, from Slepak's house.

But they did not find our notes on material help to Jews in various cities, so the warning saved tens, if not hundreds, of people from long, hard and potentially dangerous interrogations. Morozov's source continued to warn us of anticipated searches, and the leaders of the Moscow-Helsinki group, Yuri Orlov and Alexander Ginsburg, knew of their arrests in advance. Later, the same anonymous source revealed Orlov's sentence long before the trial began.

My turn came in March 1977. One night I received an urgent call from Morozov. My tails—the KGB men who followed me regularly, literally hanging on my shoulders in the last days before my arrest—came up to Morozov's apartment with me and remained by his door. Inside, Mark informed me that my arrest was imminent, and that a Jewish activist close to me was a KGB informer. He also said the KGB succeeded in taping a number of my conversations with foreign journalists by bugging my parka.

I left Morozov's house and grabbed a taxi. One of my tails came up to the driver and warned him: "We are from the criminal police, and we are following your car. Drive slowly and do not try to escape." This was clearly a new stage in KGB efforts to increase psychological pressure on me, and I decided Morozov's information was just part of the plan to frighten and demoralize me.

Several days later, however, an article appeared in the government-run *Isvestia*, signed by Sanya Lipavsky, a close comrade-in-arms of us refuseniks. Lipavsky, it turned out, was a longtime KGB informer: the article carried the gravest accusations against us. The article made it clear that we could not escape the worst. It also confirmed that, inside the great monolith that was the KGB, there was one person who dared try to help us.

Some years later, in prison, I met Mark Morozov. He told me the name of our KGB insider—Capt. Viktor Orekhov. In the year after my arrest, Orekhov continued to keep the dissidents informed, until he himself was taken into custody. Morozov was also arrested, and agreed to give testimony in return for an easy sentence in exile.

But Morozov violated the agreement by going public with his case. The KGB did not forgive him, and Mark was sentenced to eight years in prison. He was in poor health, and died in 1986 in the political prison at Chistopol. At the same time, we now know, Viktor Orekhov was finishing his own eight-year sentence in a special prison for former KGB and police officers. In the interview I saw, Orekhov, now in Moscow, told his interviewer his reasons for betraying the KGB and described in detail his methods of operation.

The KGB captains who interrogated us and sent us to prison have long ago become majors and colonels; the colonels have become generals. During the glasnost years, they have been actively involved in crafting a new party line, creating a new image for the KGB: "An institute of moderate and enlightened people who were always trying to neutralize the extremes of party bureaucrats." But the only KGB officer who dared to help us became what he inevitably had to become: a dissident himself.

Once, in response to Morozov's questions about why he helped us, Viktor Orekhov said, "I am afraid my children will be ashamed of me." Our world would greatly improve if all of us worried how our children would feel about us.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,244th day that Terry Anderson has been held captive in Lebanon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 258. An act to correct an error in the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990;

H.J. Res. 194. Joint resolution designating May 12, 1991, as "Infant Mortality Awareness Day"; and

H.J. Res. 214. Joint resolution recognizing the Astronauts Memorial at the John F. Kennedy Space Center as the national memorial to astronauts who die in the line of duty.

The enrolled bill S. 258 and House Joint Resolution 194 were subsequently signed by the Acting President pro tempore [Mr. SHELBY].

The enrolled joint resolution, H.J. Res. 214, was subsequently signed by the Vice President.

At 4:41 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 904. An act to direct the Secretary of the Interior to prepare a national historic landmark theme study on African American History; and

H.R. 1143. An act to authorize a study of nationally significant places in American labor history.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 904. An act to direct the Secretary of the Interior to prepare a national historic landmark theme study on African American History; to the Committee on Energy and Natural Resources.

H.R. 1143. An act to authorize a study of nationally significant places in American labor history; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill, received from the House of Representatives for concurrence on May 6, 1991, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1455. An act to authorize appropriations for fiscal year 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 8, 1991, he had presented to the President of the United States the following enrolled bill:

S. 258. A bill to correct an error in the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-1074. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1075. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of Interior, transmitting, pursuant to law, a report on certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1076. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of Interior, transmitting, pursuant to law, a report on certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1077. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on expenditures and enforcement actions during the fourth quarter of fiscal year 1990; to the Committee on Energy and Natural Resources.

EC-1078. A communication from the Chairman of the United States Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the annual report for fiscal year 1990; to the Committee on Environment and Public Works.

EC-1079. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, copies of prospectuses; to the Committee on Environment and Public Works.

EC-1080. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "State Revolving Fund Interim Report to Congress"; to the Committee on Environment and Public Works.

EC-1081. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the fiscal year 1990 annual report; to the Committee on Environment and Public Works.

EC-1082. A communication from the Inspector General of the Department of the Interior, transmitting, pursuant to law, a copy of the audit report entitled "Accounting for Reimbursable Expenditures of the Environmental Protection Agency Superfund Money, Water Resources Division, U.S. Geological Survey"; to the Committee on Environment and Public Works.

EC-1083. A communication from the Inspector General of the Department of Interior, transmitting, pursuant to law, a final audit report entitled "Accounting for reimbursable Expenditures of Environmental Protection Agency Superfund Money for Fiscal Years 1987, 1988, and 1989, Bureau of Mines"; to the Committee on Environment and Public Works.

EC-1084. A communication from the Acting Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on abnormal occurances at licensed nuclear facilities for the fourth calender quarter of 1990; to the Committee on Environment and Public Works.

EC-1085. A communication from the President of the United States, transmitting, pursuant to law, reporting changes in the Generalized System of Preferences; to the Committee on Finance.

EC-1086. A communication from the Acting Chairman of the United States International Trade Commission, transmitting, pursuant to law, the sixty-fifty quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC-1087. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on a study to develop a strategy for quality review and assurance for the Medicare program; to the Committee on Finance.

EC-1088. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, certain certifications required under the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1990; to the Committee on Foreign Relations.

EC-1089. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the status of secondment with the United Nations by the Soviet Union and Soviet-bloc member nations for calendar year 1989; to the Committee on Foreign Relations.

EC-1090. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a certain report prepared by the Federal Bureau of Investigation; to the Committee on Foreign Relations.

EC-1091. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, a report on Women in Development for Fiscal Year 1989 through Fiscal Year 1990; to the Committee on Foreign Relations.

EC-1092. A communication from the Director of the Information Security Oversight Office, transmitting, pursuant to law, the annual report of the Office for 1990; to the Committee on Governmental Affairs.

EC-1093. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1990; to the Committee on Governmental Affairs.

EC-1094. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office in March 1991; to the Committee on Governmental Affairs.

EC-1095. A communication from the Co-Chairman of the Franklin Delano Roosevelt Memorial Commission, pursuant to law, a report on the audit activities of the Commission for fiscal year 1990; to the Committee on Governmental Affairs.

EC-1096. A communication from the Special Counsel, United States Office of Special Counsel, transmitting a draft of proposed legislation to extend authorization of appropriations for the U.S. Office of Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

EC-1097. A communication from the Vice President of the Farm Credit Bank of Spokane (Human Resources and Planning), transmitting, pursuant to law, the annual report for calendar year 1989 for the Twelfth District Farm Credit Retirement Plan and Thrift Plan; to the Committee on Government Affairs.

EC-1098. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit—Congressional Award Foundation Financial Statements for 1989"; to the Committee on Governmental Affairs.

EC-1099. A communication from the Acting Secretary of the Postal Rate Commission, transmitting, pursuant to law, a revised page of a notice issued on March 28, 1991; to the Committee on Governmental Affairs.

EC-1100. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, adjusted National Credit Union Administration pay schedules; to the Committee on Governmental Affairs.

EC-1101. A communication from the Assistant Secretary for Finance and Administration of the Smithsonian Institution, transmitting, pursuant to law, the annual pension reports of the Smithsonian Institution, the Woodrow Wilson International Center for Scholars, and Reading is Fundamental for calendar year 1989; to the Committee on Governmental Affairs.

EC-1102. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1990; to the Committee on Governmental Affairs.

EC-1103. A communication from the Attorney General of the United States, transmitting, pursuant to law, the annual report on the private counsel debt collection pilot project for fiscal year 1990; to the Committee on Governmental Affairs.

EC-1104. A communication from the Acting Assistant Secretary of the Interior (Policy, Management and Budget), transmitting, pur-

suant to law, the progress report on the Tribal Self-Governance Demonstration Project for the period October 1990 to March 1991; to the Select Committee on Indian Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-30. A concurrent resolution adopted by the Legislature of the State of North Dakota to the Committee on Appropriations.

"HOUSE CONCURRENT RESOLUTION NO. 3029

"Whereas, oil embargoes instituted by the organization of Petroleum Exporting Countries cartel during the mid 1970s held the entire industrialized world hostage to outrageous and predatory oil pricing; and

"Whereas, the recent invasion of Kuwait by Iraq has resulted in the disruption of world oil supplies, and the political instability of the Middle East has caused extreme volatility in world oil markets; and

"Whereas, the Food, Agriculture, Conservation, and Trade Act of 1990 falls far short of providing cost of production to the nation's agricultural producers; and

"Whereas, the market price for most major farm commodities is substantially below the cost of producing those commodities;

"Now, therefore, be it resolved by the House of Representatives of North Dakota, the Senate concurring therein:

"That the Fifty-second Legislative Assembly urges the President and the Congress of the United States to develop expenditiously a sound and comprehensive national energy policy utilizing renewable agricutural commodities, such as ethanol, in the production of energy and lubrication products; and

"Be it further resolved, that the Fifty-second legislative Assembly urges that the President request and that the Congress of the United States appropriate funds within the budgets of the Department of Defense and the Department of Agriculture to establish this sound and comprehensive energy program; and

"Be it further resolved, that copies of this resolution be forwarded by the Secretary of State to the President of the United States, the Secretary of Energy, the Secretary of Defense, the Secretary of Agriculture, the Speaker and the majority and minority leaders of the United States House of Representatives, the President and the majority and minority leaders of the United States Senate, and each member of the North Dakota Congressional Delegation."

POM-31. A petition from a citizen of Concord, New Hampshire relative to cutting funds for the Special Prosecutor in the Iran Contra Affair; to the Committee on Appropriations.

POM-32. A resolution adopted by the Assembly of the State of New Jersey; to the Committee on Armed Services.

"ASSEMBLY RESOLUTION CALLING ON THE COMMISSION ON BASE REALIGNMENT AND CLOSURE TO DROP FROM ITS RECOMMENDATIONS THE PROPOSED SCALING DOWN OF MILITARY OPERATIONS AT FORT DIX

"Whereas, On Friday, April 12, 1991, the Secretary of Defense announced that as part of a national plan to consolidate military facilities, Fort Dix, in southern New Jersey, would lose all regular Army functions and maintain only facilities and staff necessary to support Reserve and National Guard training requirements; and

"Whereas, This scaling down of military operations at Fort Dix comes on the heels of a controversial 1988 base closing order, under which the facility is to lose its entire basic training mission and other Army Operations and the overall workforce is to be cut by 2,760 personnel by 1994; and

"Whereas, Under the latest proposal, the base would lose an additional 500 civilian jobs and 309 military positions by the 1997 fiscal year; and

"Whereas, The proposal also provides that excess facilities and land at Fort Dix will be sold and projects that implementation of the plan will save the Department of Defense $116 million; and

"Whereas, The proposal is not in the best interests of our nation's defense because the ideal location of Fort Dix between New York and Philadelphia permits ease of access and departure for military personnel and the post has superior facilities, is contiguous with McGuire Air Force base and had a significant role in preparing men and material for victory in Operation 'Desert Storm'; and

"Whereas, It is obvious that the proposal does not take into account the serious negative economic impact that the downscaling will have on the south Jersey economy, especially, Ocean and Burlington counties; and

"Whereas, It is also obvious that the amount of money to be gained by selling off land at the facility is seriously overestimated, since the land is in an area of restricted development that is strictly regulated by the Pinelands Commission; and

"Whereas, Given these reasons, this House believes that the proposal to downscale Fort Dix should be dropped by the Commission on Base Realignment and Closure before it makes its recommendations on July 1st of this year and sends them to the President and the Congress for approval; now, therefore,

"Be it resolved by the General Assembly of the State of New Jersey:

"1. This House calls on the Commission on Base Realignment and Closure to drop from the recommendations it is to make to the President and the Congress the proposed scaling down of military operations at Fort Dix.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be sent to each member of the Commission on Base Realignment and Closure, the Secretary of Defense, the presiding officers of each House of Congress and each member of Congress from New Jersey.

"STATEMENT

"This Assembly resolution calls on the Commission on Base Realignment and Closure to drop from the recommendations it is to make to the President and the Congress the proposed scaling down of military operations at Fort Dix.

"VETERANS

"Calls on Commission on Base Realignment and Closure to drop from its recommendations the proposed scaling down of military operations at Fort Dix."

POM-33. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Armed Services:

"HOUSE CONCURRENT RESOLUTION 95

"Whereas, the liberation of Kuwait is complete and the forces of tyranny have been vanquished by the coalition troops of Operation Desert Storm; and

"Whereas, brave young men and women from throughout the State of Indiana answered their country's call and proudly served with the forces of Operation Desert Shield and Operation Desert Storm; and

"Whereas, while representing their country in the Persian Gulf, these dedicated Hoosiers exemplified the values of duty, courage, and unselfish devotion to service in ways that have brought honor upon them and upon all Hoosiers; and

"Whereas, these returning heroes have been the voice by which America has told the world that oppression of the weak will be tolerated no more; and

"Whereas, all Hoosiers join the families, friends and neighbors of these fine troops in welcoming home these dedicated servants of liberty; and

"Whereas, although we celebrate victory, that celebration is muted by the grief felt by all Americans for the tragic loss of those fine heroes who, when called, unhesitatingly made the ultimate sacrifice for their country and for the cause of freedom and liberty; and

"Whereas, the nation will be forever indebted to those few who, in the call of duty, willingly gave so much for their country; and

"Whereas, on behalf of the people of the State of Indiana, the Indiana General Assembly pays special tribute to these servicemen who gave their lives and to their families and loved ones who remain: PFC Jeffrey D. Reel, U.S. Army, Vincennes; Lance Corporal Brian L. Lane, U.S. Marine Corps, Bedford; PFC Mark Miller, U.S. Army, Cannelton; Spc. Brian K. Simpson, U.S. Army, Anderson; Spc. James R. Miller, Jr., U.S. Army, Decatur; PFC David M. Wieczorek, U.S. Army, Indianapolis; Spc. Jeffrey A. Septimi, U.S. Navy, Ft. Wayne; and Chief Warrant Officer Michael F. Anderson, U.S. Army, Frankfort; and

"Whereas, the Indiana General Assembly also honors U.S.A.F. Lt. Colonel David W. Eberly from Brazil, Indiana, who was held by Iraq as a prisoner of war, for his courage and strength through that experience; and

"Whereas, it is most appropriate at this time of honoring our returning service men and women, to also recall and honor those service personnel who fought so valiantly in the Korean and Vietnam Wars, especially remembering those veterans who lost their lives in Southeast Asia and the POWs and MIAs still remaining there.

"Now, therefore, be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

"Section 1. That the Indiana General Assembly offers its gratitude and appreciation to the brave Hoosier veterans, especially the men and women of Operation Desert Storm and to the families and friends who stood behind these fine Americans.

"Section 2. That the Indiana General Assembly and all Hoosiers offer their deepest sympathy to the families and friends of those young men and women who gave their lives in the service of their country.

"Section 3. That the Indiana General Assembly offers its gratitude for the courage and leadership exemplified by Lt. Colonel Eberly while being held as prisoner of war.

"Section 4. That the Indiana General Assembly calls upon all Hoosiers to welcome home the troops of Operation Desert Shield and Operation Desert Storm with open arms and heartfelt thanks.

"Section 5. That certified copies of this Resolution be sent to the President of the United States, the United States Department of Defense, the presiding officer and the majority and minority leaders of both

houses of the Congress of the United States, to the Indiana members of the United States Congress, to the commanding officers of Grisson Air Force Base and Fort Benjamin Harrison, to the Adjutant General of the Indiana National Guard and the Indiana Reserves, and to the families of PFC Jeffrey D. Reel, Lance Cpl. Brian L. Lane, PFC Mark Miller, Spc. Brian K. Simpson, Spc. James R. Miller, Jr., PFC David M. Wieczorek, Spc. Jeffrey A. Septimi, and Chief Warrant Officer Michael F. Anderson."

POM-34. A resolution adopted by the Legislature of Rockland County, New York seeking to increase the Coast Guard presence in the Hudson River; to the Committee on Commerce, Science, and Transportation.

POM-35. A joint resolution adopted by the Legislature of the State of Montana Committee on Energy and Natural Resources.

"JOINT RESOLUTION

"Whereas national forest lands are a significant source of high-quality water and clean air upon which Montanans depend; and

"Whereas national forest lands provide natural splendor, wildlife habitat, scenic beauty, and recreational opportunity that all Montanans enjoy; and

"Whereas the economic stability of communities in western Montana is dependent upon a regular and stable supply of timber; and

"Whereas unsustainable rates of timber harvest affect other multiple uses of national forest lands and disrupt and destabilize dependent communities.

"*Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:*

"That the Montana Legislature formally request that the United States Congress conduct hearings in Montana to evaluate whether forest practices in Montana are affecting other multiple uses of national forests, including clean water and air, and the scenic qualities of forest lands.

"*Be it further resolved,* That the United States Congress also conduct these hearings to determine whether national forest lands are being managed on a sustainable basis and that the forest practices on these lands maximize timber growth for sustained-yield production.

"*Be it further resolved,* That the Secretary of State send copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Montana Congressional Delegation."

POM-36. A resolution adopted by the House of Representatives of the Commonwealth of Puerto Rico; to the Committee on Energy and Natural Resources.

"RESOLUTION

"Whereas some members of the Armed Forces of the United States meet their military obligations even when this requires them to be separated from their minor children.

"Whereas some members of the Armed Forces of the United States who are separated from their minor children because of their military obligations are concerned about the welfare, care and stability of their minor children.

"Whereas military personnel have been deployed in the Persian Gulf conflict including spouses with minor children, which should be a reason for the Department of Defense to show concern in protecting the best interests of minor children of the members of the Armed Forces who are in this situation.

"Whereas the Persian Gulf war has caused anxiety and grief to thousands of families, but especially to those children who find themselves separated from their parents without knowing whether they will ever see them again.

"Whereas House bill 537 was introduced in the House of Representatives of the 102nd Congress of the United States on January 16, 1991, for the purpose of exempting one spouse of a married couple, or a single father or mother who have minor children, who are members of the Armed Forces, from being assigned to a region where there is an armed conflict or a region of imminent danger.

"Therefore: Be it resolved by the House of Representatives:

"Section 1.—To express the support and endorsement of this Legislative Body to House Bill 537, introduced in the House of Representatives of the 102nd Congress of the United States on January 16, 1991.

"Section 2.—To translate this Resolution into English and send a copy thereof to the Presidents of both bodies of the United States Congress, to the Members of Congress who introduced H.B. 537, to the President of the United States, and to the Secretary of Defense of the United States.

"Section 3.—To send a copy of this Resolution to the news media of the country for its diffusion."

POM-37. A resolution adopted by the House of Representatives of the Commonwealth of Puerto Rico; to the Committee on Energy and Natural Resources.

"RESOLUTION

"When the members of the Armed Forces of the United States retire for years of service and return to civilian life, one of the benefits granted by the Federal government is the health plan designated "Civilian Health and Medical Program of the Uniformed Services" known commonly for its acronym "CHAMPUS".

"Contrary to the general belief of the veterans retired years of service, the CHAMPUS program is not for an indefinite time. Its coverage concludes if, in civilian life, the retired soldiers become disabled thus requiring continuous medical care for more than two years or when they attain 65 years of age. As of these two events, they are only covered by "Medicare" thus reducing the benefits comprised in the CHAMPUS program and reducing the economy of the household by having to defray a portion for health care, which, in some cases is substantial and unaffordable by the veterans. Another problem is that program CHAMPUS does not cover the veterans when they become ill in foreign countries.

"This House of Representatives of the Commonwealth of Puerto Rico considers that the program CHAMPUS should be in effect indefinitely, in recognition to the services rendered by the veterans of the Armed Forces of the United States of America who have retired for years of service.

"*Be it resolved by the House of Representatives of Puerto Rico:*

"Section 1.—To request the President of the United States of America, the Secretary of Defense of the United States of America, the Secretary of Veterans' Affairs of the United States of America, the President of the Senate and the Speaker of the House of Representatives of the United States of America, the Chairpersons of the Committees on Veterans' Affairs of the Senate and the House of Representatives, Senator Daniel Inouye, Representative José Serrano and the Resident Commissioner of Puerto Rico in Washington, to carry out the affirmative actions within their reach so that the veterans retired for years of service in the Armed Forces of the United States of America, be granted for indefinite time, the health benefits of the program Civilian Health and Medical Program of the Uniformed Services—"CHAMPUS" and that this program cover the soldiers retired for years of services when they become ill in any foreign country.

"Section 2.—A copy of this Resolution, translated into the English language, shall be delivered to each one of the officials mentioned in Section 1 of this Resolution.

"Section 3.—This Resolution shall take effect immediately after its approval."

POM-38. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Environment and Public Works:

"HOUSE JOINT RESOLUTION NO. 335

"Whereas, the recently enacted Clean Air Act Amendments of 1990 impose increasingly stringent emissions standards on transit buses; and

"Whereas, while it may be possible to meet the short-term bus emissions standards imposed by this legislation through use of so-called "clean diesel" technology, meeting the more strigent long-term standards will probably require the use of alternative fuels by transit buses; and

"Whereas, in order to use alternative fuels, it will be necessary for transit systems either to convert the engines of existing buses or purchase new vehicles designed and built specifically to be operated on alternative fuels; and

"Whereas, whatever the impact of this technological change on the environment and the health of the population, the transition from diesel-fueled transit buses will impose an additional and considerable financial burden on transit systems and the state and local governments upon which these transit systems depend; and

"Whereas, particularly in the cases of Northern Virginia and Hampton Roads, Virginia, much of the need for and ridership of mass transit systems are caused by the presence in these areas of high concentrations of federal, military and civilian agencies; and

"Whereas, in the coming year, Congress will be debating legislation to reauthorize the federal highway program—legislation whose passage is vital to every state in the nation and every sector of the economy; and

"Whereas, it is imperative that the final version of this reauthorization legislation continue major federal financial participation in highway and transportation programs throughout the country; and

"Whereas, it is equally indispensable that the federal government make a greater financial commitment specifically to dealing with worsening urban and suburban traffic congestion, rising need for and costs of mass transit operations, and the variety of costs borne by state and local governments as the result of federal mandates such as those contained in the Clean Air Act Amendments of 1990; now, therefore be it

"Resolved by the House of Delegates, the Senate concurring, That the United States Congress is hereby memorialized to approve legislation to reauthorize the federal highway program and provide for meaningful federal financial participation in the costs of converting and replacing transit buses in order to operate on alternative fuels; and, be it

"Resolved further, That the Clerk of the House of Delegates transmit copies of this

resolution to the Speaker of the United States House of Representatives, the President of the Senate of the United States, and the members of the Virginia delegation to the United States Congress that they may be apprised of the sense of the General Assembly in this matter."

POM-39. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Finance.

"JOINT RESOLUTION

"Whereas, persons who are elderly or disabled desire to continue to live in their homes and remain in close association with their own communities; and

"Whereas, persons who are elderly or disabled often are in need of long-term medical care services; and

"Whereas, many persons who are elderly or disabled and receiving long-term medical care services are located away from their homes and communities; and

"Whereas, Medicaid home and community services have shown that many elderly or disabled persons in need of long-term medical care services may remain in their homes and communities if provided the appropriate supportive services; and

"Whereas, Medicaid home and community services show that quality long-term medical care can be provided at a savings over institutionally based, long-term medical care; and

"Whereas, persons who are elderly or disabled continue to be placed into long-term medical care situations that are away from their homes and communities because of the limits on the availability of services through Medicaid home and community services; and

"Whereas, the Legislature finds that Medicaid home and community services can provide an excellent alternative model for future Medicaid-funded, long-term medical care services.

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"(1) That it is the state's policy that persons who are elderly or disabled in need of long-term medical care be provided Medicaid services in their homes and communities whenever appropriate.

"(2) That the state, acting through the Department of Social and Rehabilitation Services, expand Medicaid home and community services to the extent permitted by the federal government.

"(3) That the Congress of the United States be advised that the Medicaid program as a whole should be made more flexible and cost-effective and that these objectives can be realized through further funding, development, and expansion of home and community services and by applying the principles of home and community services to the Medicaid program as a whole.

"(4) That copies of this resolution be sent by the Secretary of State to each member of the United States Congress."

POM-40. A resolution adopted by the House of Representatives of the State of Iowa; to the Committee on Finance:

"HOUSE RESOLUTION NO. 11

"Whereas, Iowa occupies a preeminent position as this nation's supplier of agricultural products which also significantly contributes to reducing the United States trade deficit; and

"Whereas, Iowa during the twentieth century has led the nation in hog production, producing 25 percent of all hogs in the United States and producing more hogs than the next two leading hog production states combined; and

"Whereas, the pork industry represents the single largest segment of Iowa's agriculture-based economy, generating more than $3,000,000,000 in annual cash receipts from the marketing of hogs which has an economic impact of more than $6,000,000,000; and

"Whereas, approximately 70,000 Iowans are employed in positions related to the pork industry; and

"Whereas, the United States and Canada have entered into a free trade agreement built upon principles honoring free market competition undistorted by governmental policies; and

"Whereas, subsidies paid to Canadian pork producers distort market forces by providing an unfair advantage to Canadian producers; and

"Whereas, the United States Department of Commerce and the International Trade Commission have ruled that government payments to Canadian pork producers are subsidies to both hog and pork product shipments which pose a threat of material injury to Iowa and United States pork producers; and

"Whereas, the binational panel authorized under the United States and Canada Free Trade Agreement to review the countervailing duty on pork products shipments restricted the facts allowed to be considered by the International Trade Commission in its recent ruling on the duty; and

"Whereas, this improper restriction has forced the International Trade Commission to rule that countervailing duties can no longer be imposed on Canadian pork product imports; and

"Whereas, the United States and Canada Free Trade Agreement authorizes the formation of an extraordinary challenge committee to review actions of the binational panel when the panel departs from a fundamental rule of procedure; and

"Whereas, the countervailing duty remains in place on live hog imports from Canada, and the excessive delay in the calculation of countervailing duties by the United States Department of Commerce greatly reduces the effectiveness of the duty in equalizing hog trade between the United States and Canada; now therefore,

"Be it resolved by the House of Representatives, That the United States trade representatives should use the extraordinary challenge provision of the United States and Canada Free Trade Agreement to correct the actions of the binational panel which forced the International Trade Commission to reverse its opinion on the countervailing duty imposed on subsidized Canadian pork products; and

"Be it further resolved, That the President of the United States, the United States Congress, and the United States Department of Commerce should review the entire binational panel process to ensure such panels do not in the future ignore fundamental principles underpinning the United States and Canada Free Trade Agreement; and

"Be it further resolved, That the President of the United States, the United States Congress, and the United States Department of Commerce review the process by which countervailing duty levels are calculated with the goal of reducing the delay between subsidy payments to Canadian producers and the imposition of corresponding duties at the United States and Canadian border; and

"Be it further resolved, That copies of this Resolution be sent by the Chief Clerk of the House of Representatives to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Commerce, and to members of Iowa's congressional delegation."

POM-41. A concurrent resolution adopted by the Legislature of the State of Florida; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION NO. 501

"Whereas, the economic uncertainty of the 1980's and early 1990's has resulted in a loss of American jobs, a strain on the American family and a restructuring of many of America's industrial corporations, and

"Whereas, one of the leading factors in the creation of economic problems in the United States has been the encroachment of foreign goods and products into the American marketplace, coupled with trade barriers abroad which discourage American exports, and

"Whereas, at the present time foreign manufacturers have encroached upon American markets, producing a great percentage of our electronic equipment, including televisions, microwave ovens, telephone equipment and radios, a great percentage of shoes, bicycles, stuffed toys, and luggage, and a great number of automobiles, and

"Whereas, each manufactured product sold in the United States and produced abroad contributes both to our trade deficit and to the domestic loss of American jobs, and

"Whereas, the citizens of Florida and of the United States could have a positive effect upon this corrosive problem by refusing to purchase imported products, and

"Whereas, it is fitting and appropriate that the Legislature of the State of Florida support American manufacturers in their efforts to overcome foreign imported products and preserve American jobs, Now, Therefore,

"Be It Resolved by the House of Representatives of the State of Florida, the Senate Concurring:

"That the Legislature of the State of Florida hereby declares the week of July 4th, 1991, as "Buy American Week" and urges all citizens of the State of Florida to participate by refraining from purchasing any imported goods during that week and instead urges them to purchase goods manufactured in the United States.

"Be it further resolved that copies of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-42. A resolution adopted by the Senate of the State of Michigan; to the Committee on Finance:

"SENATE RESOLUTION NO. 87

"Whereas, Mortgage Revenue Bonds and the Low Income Housing Tax Credit are important to financing affordable housing in the state of Michigan. Through Mortgage Revenue Bonds, the Michigan State Housing Development Authority provides low-cost mortgage loans and home improvement loans to moderate-income working families and senior citizens. The Low Income Housing Tax Credit has proved to be essential in encouraging investment in affordable rental housing for low-income people and senior citizens; and

"Whereas, In Michigan, over 40,000 families with average incomes under $22,000 have been able to purchase a home due to the availability of Mortgage Revenue Bonds. Moreover,

Mortgage Revenue Bonds have financed 19,000 home improvement loans for homeowners with average incomes of approximately $11,000. These bonds have allowed individuals in every county of Michigan to buy or improve a home; and

"Whereas, Since 1987, more than 12,000 rental apartments have been constructed or maintained in Michigan because of Low Income Housing Tax Credits. These units were made available to families and senior citizens whose incomes were approximately half of the median income in the state; and

"Whereas, Due to the Omnibus Budget Reconciliation Act of 1990, Mortgage Revenue Bonds and the Low Income Housing Tax Credit cannot be used for housing after December 31, 1991. The members of this legislative body are deeply concerned by the potential loss of affordable financing for low and moderate income people, including our ever-increasing senior citizen population. Presently, legislation is pending in the United States Congress to extend the sunset on Mortgage Revenue Bonds and the Low Income Housing Tax Credit: S. 167 and H.R. 1067 would extend Mortgage Revenue Bonds and S. 308 and H.R. 413 would extend the Low Income Housing Tax Credit; now, therefore, be it

"Resolved by the Senate, That the members of this legislative body memorialize the Congress of the United States to pass legislation extending the sunset on Mortgage Revenue Bonds and the Low Income Housing Tax Credit; and be it further

"Resolved, That a copy of this legislation be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation."

POM-43. A resolution adopted by the City Council of Sweetwater, Florida urging Congress to cease all aid to Jordan and other countries which supported Iraq during Operations Desert Shield and Desert Storm; to the Committee on Foreign Relations.

POM-44. A resolution adopted by the City Council of Sweetwater, Florida favoring the issuance of commemorative postage stamps honoring the forces which served during Operations Desert Shield and Desert Storm; to the Committee on Governmental Affairs.

POM-45. A resolution adopted by the Senate of the State of Michigan; to the Committee on Governmental Affairs.

"SENATE RESOLUTION NO. 74

"Whereas, Due to our victory in the Persian Gulf War and the awaited triumphant return of our brave and patriotic fighting men and women, there is a renewed and justified sense of pride sweeping across our nation. Indeed, we are feeling far different about our country and our military might than we have since the Vietnam War. While our citizens certainly deserve the right to enjoy our victory and to forget about the negative aspects of the Vietnam War, we can never forget about those we left behind in Southeast Asia; and

"Whereas Seventy-three Michigan citizens are still considered Missing in Action (MIA) or Prisoners of War (POW) from the Vietnam War. The families of these POW/MIAs have been suffering for decades, always wondering and never knowing about their loved one. It is time to renew our commitment to find our POW/MIAs; and

"Whereas, Presently before the United States Congress are two bills that can help our POW/MIAs and their families. H.R. 1147, The Truth Bill, would require the United States government to make classified information available to the families of POW/MIAs. H.R. 1730, The Missing Service Personnel Act, would prohibit changing the status of a POW/MIA to Killed In Action (KIA) while there is still a possibility that the missing serviceman is a Prisoner of War; and

"Whereas, While these bills would greatly ease the burden of the families of POW/MIAs, only bringing them home will end their suffering. On behalf of the families of Michigan's seventy-three Vietnam POW/MIAs, we ask Congress to report on what has been done to locate our POW/MIAs, and to continue reporting until they are home. We also memorialize Congress to establish a Senate Select Committee to investigate the POW/MIA issue; now, therefore, be it

"Resolved, by the Senate, That we memorialize the Congress of the United States to report within sixty days to the Michigan Legislature what has been done to locate the seventy-three Michigan men still considered Prisoners of War or Missing in Action from the Vietnam War, followed by quarterly reports; and be it further

"Resolved, That we memorialize Congress to enact H.R. 1147, the Truth Bill, and H.R. 1730, The Missing Service Personnel Act, to help the families of POW/MIAs; and be it further

"Resolved, That we memorialize Congress to establish a Senate Select Committee to investigate the POW/MIA issue; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-46. A resolution adopted by the Senate of the State of Michigan; to the Committee on Governmental Affairs:

"SENATE CONCURRENT RESOLUTION NO. 109

"Whereas, Due to our victory in the Persian Gulf War and the awaited triumphant return of our brave and patriotic fighting men and women, there is a renewed and justified sense of pride sweeping across our nation. Indeed, we are feeling far different about our country and our military might than we have since the Vietnam War. While our citizens certainly deserve the right to enjoy our victory and to forget about the negative aspects of the Vietnam War, we can never forget about those we left behind in Southeast Asia; and

"Whereas, Seventy-three Michigan citizens are still considered Missing in Action (MIA) or Prisoners of War (POW) from the Vietnam War. The families of these POW/MIAs have been suffering for decades, always wondering and never knowing about their loved one. It is time to renew our commitment to find our POW/MIAs; and

"Whereas, Presently before the United States Congress are two bills that can help our POW/MIAs and their families. H.R. 1147, The Truth Bill, would require the United States government to make classified information available to the families of POW/MIAs. H.R. 1730, The Missing Service Personnel Act, would prohibit changing the status of a POW/MIA to Killed In Action (KIA) while there is still a possibility that the missing serviceman is a Prisoner of War; and

"Whereas, While these bills would greatly ease the burden of the families of POW/MIAs, only bringing them home will end their suffering. On behalf of the families of Michigan's seventy-three Vietnam POW/MIAs, we ask Congress to report on what has been done to locate our POW/MIAs, and to continue reporting until they are home. We also memorialize Congress to establish a Senate Select Committee to investigate the POW/MIA issue, now, therefore, be it

"Resolved by the Senate (the House of Representatives concurring), That we memorialize the Congress of the United States to report within sixty days to the Michigan Legislature what has been done to locate the seventy-three Michigan men still considered Prisoners of War or Missing in Action from the Vietnam War, followed by quarterly reports; and be it further

"Resolved, That we memorialize Congress to enact H.R. 1147, The Truth Bill, and H.R. 1730, The Missing Service Personnel Act, to help the families of POW/MIAs; and be it further

"Resolved, That we memorialize Congress to establish a Senate Select Committee to investigate the POW/MIA issue; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-47. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Select Committee on Indian Affairs:

"HOUSE CONCURRENT RESOLUTION NO. 5009

"Whereas, Native American populations need to have their heritage and cultural background well represented in the state's libraries, especially Haskell Indian Junior College, a federal school; and

"Whereas, The 1990 Kansas Governor's conference on libraries and information services, in its Resolution No. 21, requested that an appropriate state legislative or executive committee be established to develop methods for state and local governments to assist Haskell Indian Junior College and to establish and maintain Haskell's ability to serve the special needs of Native American populations; and

"Whereas, The Library Services and Construction Act (20 USCA 351 et seq.) as well as the Higher Education Act (20 USCA 1001 et seq.) take into consideration the unique status of Haskell Indian Junior College: Now, therefore,

"*Be it resolved by the House of Representatives of the State of Kansas The Senate concurring therein:* that we petition the United States Congress to designate Haskell Indian Junior College as a major research reference library for Native American literature, records, and historical data; to fund it as such; and to authorize Haskell Indian Junior College to be an official repository for Native American literature, records, and historical data, with all the powers and responsibilities that are implied by the designation; and

"*Be it further resolved:* That the Archivist of the United States be encouraged to lend all assistance in the establishment of the repository; and

"*Be it further resolved:* That the Secretary of State be directed to send enrolled copies of this resolution to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, each member of the Kansas delegation in the United States Congress; and President Bob Martin, Haskell Indian Junior College, Lawrence, Kansas 66046."

POM-48. A resolution adopted by the Legislature of Rockland County, New York urg-

ing the Attorney General to drop his appeal in a certain case; to the Committee on the Judiciary.

POM-49. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on the Judiciary.

"JOINT RESOLUTION

"Whereas, although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on the expression in specific instances have long been recognized as a legitimate means of maintaining public safety and decency, as well as orderliness and the productive value of public debate; and

"Whereas, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, the rights of expression, and the sacred values of others; and

"Whereas, there are symbols of our national soul, such as the Washington Monument, the United States Capitol, and memorials to our greatest leaders, that are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, the American flag, to this day, is the most honorable and worthy banner of a nation that is thankful for its strengths and committed to curing its faults and that remains the destination of millions of immigrants attracted by the universal power of American ideals; and

"Whereas, the law, as interpreted by the United States Supreme Court, no longer affords to the Stars and Strips that reverence, respect, and dignity befitting the banner of the most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper station under law and decency.

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"That the Legislature of the State of Montana respectfully petition the Congress of the United States to consider an amendment to the United States Constitution, for ratification by the states, specifying that Congress and the states have the power to prohibit the physical desecration of the flag of the United States.

Be it further resolved, that the Secretary of State send copies of this resolution to the Speaker of the United States House of Representatives, the President of the Senate, and each member of Montana's Congressional Delegation."

POM-50. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION NO. 1612

"Whereas, The United States Supreme Court has held that the burning of the American Flag is a protected form of free speech under the First Amendment of the United States Constitution; and

"Whereas, The American Flag has served as a rallying force for American fighting men and women from Yorktown to the Sanh and the Persian Gulf; and

"Whereas, Millions of Americans hold the American Flag in deep reverence, as evidenced by the fact that Flag desecration was prohibited by an act of Congress and by the laws of 48 of the 50 states; and

"Whereas, The American Flag symbolizes the ideas of liberty and equality and what our nation is and what it values and further symbolizes the cherished constitutional rights Americans have fought and died for; and

"Whereas, Kansans strongly support, cherish and many proudly display the American Flag; and

"Whereas, Kansans have a long history of patriotism in support of the Constitution and the American Flag; and

"Whereas, In the early days of Statehood, Kansans were selective of a Constitution because of the slavery issue; and

"Whereas, Many Union Army veterans came to Kansas because of Kansas being a free state by popular vote prior to the Civil War; and

"Whereas, Kansans, in disproportionate numbers, have fought in the Spanish-American war, World War I, World War II, the Korean war and the Vietnam war. Kansas also sent critical units to the Persian Gulf in support of freedom; and

"Whereas, Kansans hold dear the right to effect peaceful change through political means, such as giving women the right to vote, an issue early decided in Kansas; and

"Whereas, Kansans are careful and deliberate people who possess a deep respect for human rights, freedom, the democratic process and our republican form of government with its built-in checks and balances; and

"Whereas, Kansans are deeply concerned and want Congress to protect the Constitution as well as our national symbols; and

"Whereas, Kansans have often taken a leadership role in working to preserve our form of government and the rights guaranteed to individuals therein; and

"Whereas, The framers of the Constitution created the First Amendment to discourage the oppression of the views expressed by unpopular minorities; and

"Whereas, No other American symbol has been as universally honored as the American Flag; and

"Whereas, Kansans find the desecration of the American Flag to be highly offensive; and

"Whereas, Kansans believe that the right to express displeasure with government is a cherished right protected by the First Amendment; however, the Flag represents the ideals and beliefs of the nation and Kansans believe that the desecration of the American Flag is an atrocious act which many feel should be prohibited; and

"Whereas, The Cross and other Religious Symbols represent the ultimate personal beliefs of members of many religious sects; and

"Whereas, Many citizens of this State regard the Cross or other Religious Symbols as sacred objects embodying a holy supreme being; and

"Whereas, The burning of a Cross or other Religious Symbols is often done to intimidate or harass members of racial, religious or ethnic minorities; and

"Whereas, The burning of Religious Symbols is abhorrent, whether intended as a display of disdain for others' religious beliefs or as an act of terrorism against American minority citizens, and should be prohibited; and

"Whereas, Several states have passed or are considering resolutions urging Congress to submit a constitutional amendment which would allow the Congress and States to punish as a crime desecration of the American Flag even though the controlling Supreme Court cases, United States v. Eichman and Texas v. Johnson, and the changes in the composition of the Supreme Court leave room for statutory approaches: Now, therefore,

"Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Legislature expresses strong support for the American Flag and the Cross and other Religious Symbols and urges the Congress of the United States, if it finds that existing means of combating desecration of the Flag and the Cross and other Religious Symbols are inadequate, to carefully balance the desires of many to protect the American Flag and the Cross and other Religious Symbols from desecration against the important freedoms of speech and religion guaranteed by the Constitution; and to not sacrifice central First Amendment principles, and to preserve the values and basic constitutional rights that the American people have long fought for under the American Flag; and

"Be it further resolved: That the Secretary of State be directed to send enrolled copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and all members of the congressional delegation from the State of Kansas."

POM-51. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Labor and Human Resources:

"JOINT RESOLUTION

"Whereas, 37 million Americans are without health insurance coverage of any kind; and

"Whereas, costs of medical care are raising twice as fast as the rate of inflation; and

"Whereas, per capita health care costs in Montana are expected to increase from $2,059 in 1990 to $4,686 in 2000; and

"Whereas, 20% of all people in Montana have no health insurance, and an even larger percentage are underinsured; and

"Whereas, our current health care system in this country is a patchwork of private and government programs that are both expensive and inefficient, with 23 cents of every health care dollar spent for administration and bureaucracy; and

"Whereas, as health care costs raise, employers are less and less able to pay for health insurance for employees, resulting in negotiation deadlocks, strikes, and further restrictions on access to health insurance for America's working class citizens; and

"Whereas, the cost of employer health care raised by 18.6% in 1988 and by 20.4% in 1989; and

"Whereas, families are becoming impoverished paying for the costs of long-term care; and

"Whereas, prescription drug costs in the last decade have increased at more than triple the general rate of inflation; and

"Whereas, infant mortality rates are climbing in the United States, especially among poor people; and

"Whereas, poor people are being turned away from health care; and

"Whereas, preventable disease is on the rise in the United States, especially among the poor; and

"Whereas, preventable diseases, such as measles, mumps, rubella, whooping cough, and polio, are increasing among children because they lack access to medical care; and

"Whereas, the death rate from preventable causes is on the rise in the United States; and

"Whereas, a national health care program would provide quality, comprehensive health care to all citizens of the United States; and

"Whereas, all medically necessary services would be paid under a national health care program, eliminating the patchwork of ex-

isting private and government health care programs; and

"Whereas, under a national health care program, health care practitioners would maintain their private practice and patients would have the freedom to choose their own physician or hospital.

"Now therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"That the Legislature of the State of Montana urge the United States Congress to enact legislation to provide a national health care program for all citizens of the United States.

"Be it further resolved, that Congress include in a national health care program:

"(1) a single-payer system for the payment of health care; and

"(2) coverage for basic health care, including long-term care.

"Be it further resolved, that the Secretary of State send a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and each member of the Montana Congressional Delegation."

POM-52. A resolution adopted by the Board of Chosen Freeholders of the County of Monmouth, New Jersey urging the establishment of permanent medical care for a certain veteran and all combat wounded veterans; to the Committee on Veterans' Affairs.

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. SHELBY:

S. 1002. A bill to impose a criminal penalty for flight to avoid payment of arrearages in child support; to the Committee on the Judiciary.

By Mr. GLENN (for himself and Mr. SPECTER):

S. 1003. A bill to provide for appointment by the President, by and with the advice and consent of the Senate, of certain officials of the Central Intelligence Agency; to the Select Committee on Intelligence.

By Mr. HOLLINGS:

S. 1004. A bill to authorize a certificate of documentation for the vessel *Billfish;* to the Committee on Commerce, Science, and Transportation.

S. 1005. A bill to authorize a certificate of documentation for the vessel *Marsh Grass III;* to the Committee on Commerce, Science, and Transportation.

S. 1006. A bill to authorize a certificate of documentation for the vessel *Miss Lelia;* to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON (by request):

S. 1007. A bill to withdraw certain public lands in Eddy County, New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCONNELL:

S. 1008. A bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice; to the Committee on the Judiciary.

By Mr. COATS:

S. 1009. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $4,000, and for other purposes; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BOND, Mr. CRANSTON, and Ms. MIKULSKI):

S. 1010. A bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN (for himself, Mr. BOND, Mr. JEFFORDS, Mr. KOHL, and Mr. DURENBERGER):

S. 1011. A bill to require the Secretary of Agriculture to make payments under the dairy export incentive program to promote the export of certain minimum quantities of nonfat dry milk and butter during fiscal year 1991, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRYAN (for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. GORTON, Mr. McCAIN, and Mr. KERRY):

S. 1012. A bill to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY (for himself and Mr. COATS):

S. 1013. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit for individuals with young children; to the Committee on Finance.

By Mr. GRASSLEY:

S. 1014. A bill to amend the Internal Revenue Code of 1986 to increase the personal exemption amount; to the Committee on Finance.

By Mr. McCAIN:

S. 1015. A bill to amend the Communication Act of 1934 to require that the live television transmission of certain sporting events be available by broadcast over a national broadcast television network; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 1016. A bill to amend the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to develop comprehensive tests of academic excellence, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. EXON:

S. 1017. A bill to amend title 11, United States Code, to provide that an automatic stay in certain bankruptcy proceedings shall not apply to State property taxes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SHELBY:

S. 1002. A bill to impose a criminal penalty for flight to avoid payment of arrearages in child support; to the Committee on the Judiciary.

CRIMINAL PENALTY FOR FLIGHT TO AVOID PAYMENT OF CHILD SUPPORT

Mr. SHELBY. Mr. President, I rise today to introduce an important piece of legislation regarding child support enforcement. I am pleased that my colleague from Illinois, Mr. HYDE, has introduced the same legislation in the House of Representatives.

Nationwide, $18 billion in child support obligations remain uncollected. In 1985, 4,381,000 women were supposed to receive child support. Less than half of these women received full payment, while 1,138,000 received nothing at all. When looking at women and their children who live below the poverty line, these figures become even more alarming. Clearly, our society needs to take a stronger position on the abandonment of children. Our country needs to make the enforcement of child support a major priority.

Each State varies from another in laws and enforcement capabilities. Although, all 50 States have laws giving local authorities the right to garnish paychecks and seize property of a delinquent parent, these laws are of little help when a runaway spouse crosses a State line. Absent parents often avoid their child support responsibility by fleeing the State.

The legislation that I am introducing today will make it a Federal crime for a parent or legal guardian to cross a State line in order to avoid payment of child support. A first offense is punishable by fine or imprisonment of up to 6 months. Further offenses can be punished by up to 2 years of imprisonment. This legislation will crack down on State garnishment laws. The delinquent father will be less likely to flee a State to avoid child support payments when faced with the prospect of serving time in a Federal penitentiary.

Mr. President, nonpayment of child support is a national disgrace, a form of economic child abuse. Divorce and single-parenting are traumatic enough without leaving economic ruin in its wake. I urge my colleagues to give this measure serious consideration and join me in sending a strong signal to those parents in this country who have escaped court-ordered child support by simply moving to a new State. I also ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1002

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

SECTION 1. FLIGHT TO AVOID PAYMENT OF ARREARAGES IN CHILD SUPPORT.

Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"§ 1075. Flight to avoid payment of arrearages in child support

"(a)(1) Whoever, for the purpose of avoiding payment of an arrearage under a legal child support obligation, leaves or remains outside the State in which such obligation is imposed, shall be fined under this title or imprisoned not more than six months for the first offense and not more than two years for a second or subsequent offense.

"(2) An absence of six months without any payment of arrearage shall create a rebuttable presumption of intent to avoid arrearage payment under this section.

"(3) After serving a term of imprisonment for an offense under this section, the continued failure to pay an arrearage for six months shall constitute a second offense under this section.

"(b) As used in this section—

"(1) the term 'arrearage' means, with respect to a legal child support obligation, a judicially determined arrearage in payments under such obligation; and

"(2) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

SEC. 2. TECHNICAL AMENDMENT.

The table of sections for chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"1075. Flight to avoid payment of arrearages in child support".

By Mr. GLENN (for himself and Mr. SPECTER):

S. 1003. A bill to provide for appointment by the President, by and with the advice and consent of the Senate, of certain officials of the Central Intelligence Agency; to the Select Committee on Intelligence.

APPOINTMENT OF CERTAIN OFFICIALS BY THE PRESIDENT

Mr. GLENN. Mr. President, I rise to introduce legislation, on behalf of myself and Senator SPECTER, which would require Presidential nomination and Senate confirmation of the following six officials at the Central Intelligence Agency [CIA]: The Deputy Director for Operations; the Deputy Director for Intelligence; the Deputy Director for Science and Technology; the Deputy Director for Administration; the Deputy Director for Planning and Coordination; and the General Counsel.

Currently, the law mandates Presidential nomination and Senate confirmation of three officials at the CIA: the Director of Central Intelligence [DCI], the Deputy Director of Central Intelligence [DDCI], and the CIA Inspector General [IG].

President Bush announced this morning the impending departure of William Webster as Director of Central Intelligence. Judge Webster is a man of enormous integrity and has done a fine job as DCI. This summer, the Senate Select Committee on Intelligence will be holding a series of confirmation hearings on a nominee to replace Judge Webster as DCI. Today's announcement underscores the importance of the confirmation process.

Mr. President, I believe that this measure is needed for several reasons. The CIA general counsel and the five deputy directors have responsibilities that have significant and increasing importance for U.S. National Security. Requiring Presidential appointment and Senate confirmation of these positions would merely validate this standing.

As the Federal Government has expanded and become more complex since World War II, the Presidential nomination and Senate confirmation process has become an increasingly important means to ensure the accountability of senior level executive branch officials to the American people through their duly elected representatives in the Congress. In addition, the Senate confirmation process provides a second forum to assess the competence of an individual for a high-ranking post in the Federal Government—serving as a check against possible executive branch politicization of these positions.

Of the hundreds of positions requiring Senate confirmation, these six officials at the CIA are at least as high in rank and importance of their position as officials in similar roles in other agencies and departments. For example, there are over 40 positions at the Department of Defense requiring Senate confirmation; 20 positions at the Department of Energy; and nearly 30 positions requiring confirmation in the State Department—in addition to numerous ambassadorships.

As the CIA has grown over the years, its support for U.S. national security policies—which include intelligence collection and analysis as well as covert action—have broadened into many different areas. The individuals who hold these six positions advise the DCI and the DDCI about policy. The DCI and the DDCI are in turn responsible for providing leadership and direction not only to the CIA, but the entire U.S. intelligence community as well. Thus, the five CIA Deputy Directors and the CIA General Counsel play a significant role supporting the entire national security infrastructure of our country.

The CIA's Deputy Director for Operations, for example, has responsibility for human source intelligence collection and is responsible for extraordinarily sensitive and highly classified operations. In addition, the Deputy Director for Intelligence has responsibility for producing intelligence assessments in support of U.S. policymakers. These intelligence estimates form the foundation of our foreign policy and define the threat to U.S. national security that is the basis of our defense spending.

The CIA's General Counsel is responsible for providing legal advice to the DCI and the agency as a whole on all matters. (1 of the recommendations of the congressional committees investigating the Iran-Contra affair was that the General Counsel of the CIA be confirmed by the Senate). In addition, the Deputy Director for Planning and coordination is responsible for identifying intelligence collection and analysis priorities for the agency—a particularly important position considering today's rapidly evolving international security environment.

Mr. President, I believe that Senate confirmation of these positions could also serve to strengthen relations between the executive branch and the Congress. The confirmation process will reduce the likelihood of future problems resulting from unqualified individuals holding these positions. Hopefully, both the President and the DCI will consult the Senate Select Committee on Intelligence [SSCI]—which will have jurisdiction over these nominations—prior to formal nomination in order to solicit committee views.

The confirmation process can serve to create confidence and rapport between the nominee and the legislative branch. Through the record established during confirmation, the nominee and the SSCI could clarify and establish a common understanding of the position's role and responsibilities, develop a constructive working relationship, and define the appropriate constraints on CIA activities. I believe that this process will go a long way toward avoiding future problems as a result of misunderstandings, which in turn could lead to abuses of authority.

Some may argue that to require Presidential nomination and Senate confirmation of these individuals will somehow "politicize" these positions by bringing in inexperienced outsiders as senior personnel at the CIA.

Mr. President, I believe that this argument is unpersuasive. In fact, I am convinced that the Senate confirmation process will help to prevent the politicization of these positions by ensuring that only well qualified individuals serve in these posts. This will prevent the possibility of appointments made by DCIS which might be based on political factors or personal and business ties. Such appointments could ultimately be damaging to the CIA and its mission.

Indeed, I have addressed this concern in the legislation. Subsection (b) of the bill specifies that appointments "shall be made without regard to political affiliation and shall be limited to persons with substantial prior experience and demonstrated ability in the field of foreign intelligence or counterintelligence, or, in the case of the general counsel, to persons either with substantial prior experience and demonstrated ability in the field of foreign intelligence or counterintelligence or in a related area of the law."

Mr. President, I am second to no one in my support for a strong, effective, and responsible intelligence capability for our Nation. Nevertheless, the CIA, like any large bureaucracy, is capable of waste, abuse, mismanagement, and incompetence. Because the CIA is such a vast and secretive organization, it is essential that it be fully accountable for its actions.

Intelligence activities are consistent with democratic principles only when they are conducted in accordance with the law and in an accountable manner to the American people through their duly elected representatives. I believe

that Presidential nomination and Senate confirmation of the CIA's general counsel and the five deputy directors will serve to strengthen the accountability of the CIA—and ultimately enhance the effectiveness of this important agency.

By Mr. HOLLINGS:

S. 1004. A bill to authorize a certificate of documentation for the vessel *Billfish*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "BILLFISH"

• Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Billfish*, official number 920896, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106.

The *Billfish* was constructed in Merrit Island, FL, in 1978 as a recreational vessel. It is 29.6 feet in length, 11.5 in breadth, has a depth of 6 feet, and is self-propelled.

The vessel was purchased on December 8, 1989, by Jay R. Johnson of Charleston, SC, who intended to employ it in a charter fishing business. When Mr. Johnson purchased the boat, it was documented with the U.S. Coast Guard, and he assumed that there were no restrictions on operating the boat as a passenger vessel carrying six or less passengers. However, due to certain vessel documentation laws, the vessel did not meet the requirements for a coastwise license endorsement that is required in the operation of a charter fishing business in the United States.

After an extensive investigation, the vessel's owner was able to submit proof of ownership of numerous prior owners of the boat. However, he was not able to meet the requisite demands of the Coast Guard that requires proof of U.S. citizenship of all prior owners of a vessel in order for that vessel to qualify for coastwise trading privileges. As as result, the vessel's owner has received documentation for the *Billfish* for recreational purposes, but not coastwise trade, thereby preventing him from using the boat for the purpose for which he purchased the vessel.

The owner of the *Billfish* is thus seeking a waiver of the existing law because he wishes to use the vessel for small fishing charters. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Billfish* to engage in the coastwise trade and the fisheries of the United States.•

By Mr. HOLLINGS:

S. 1005. A bill to authorize a certificate of documentation for the vessel *Marsh Grass III;* to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "MARSH GRASS III"

• Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Marsh Grass III*, official number 96316, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106.

The *Marsh Grass III* is a fishing vessel that was built in Miami, FL for Chantiers France in 1962. It is 30.27 feet in length, 10.87 feet in breadth, and has a depth of 4.81 feet.

The vessel was purchased on April 26, 1990 by Marsha Hass of Charleston, SC to be used primarily as a fishing vessel. At the present time, the vessel is restricted from coastwise trade due to the fact that it has not been under continuous ownership by a U.S. citizen. The current owner was unaware at the time of the purchase of the *Marsh Grass III* that it had been built for a foreign entity. She also was unfamiliar with the laws restricting coastwise trade for vessels previously owned by foreign entities. Official U.S. documentation for the *Marsh Grass III* has since been received, and it has been inspected by the U.S. Coast Guard.

The owner of the *Marsh Grass III* is seeking a waiver of existing law because she wishes to use the vessel to carry passengers for small fishing charters. Her desired intentions for the vessel's use would not have a detrimental effect of the coastwise trade in U.S. waters. It is her desire to comply fully with U.S. documentation and safety requirements. The purpose the legislation I am introducing today is to allow the *Marsh Grass III* to engage in the coastwise trade and the fisheries of the United States.•

By Mr. HOLLINGS:

S. 1006. A bill to authorize a certificate of documentation for the vessel *Miss Lelia*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "MISS LELIA"

• Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the Vessel *Miss Lelia*, official number 577213, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106.

The *Miss Lelia* was constructed in Fort Lauderdale, FL in 1976 as a fishing vessel. It is 34.1 feet in length, 13.6 feet in breadth, has a depth of 6.3 feet, and is self-propelled.

The vessel was purchased March 7, 1990, by J.R. Copeman and James W. Green of Rockville, SC, to be used primarily as a fishing vessel. The owners of this vessel also wish to use the *Miss Lelia* to carry passengers for hire—divers—which falls under the restrictions of coastwise trade.

At the present time, the vessel is restricted from coastwise trade due to its having been under foreign ownership in the past, of which the current owners were unware when they purchased the *Miss Lelia*. Official U.S. documentation for the *Miss Lelia* has since been received, however, and it has been inspected by the U.S. Coast Guard.

The owners of the *Miss Lelia* are seeking a waiver of existing law in order to carry passengers for hire. Their desired intentions for its use in no way will adversely affect coastwise trade in the U.S. coastal waters. It is their desire to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing today is to allow the *Miss Lelia* to operate in coastwise trade of the United States.•

By Mr. JOHNSTON (by request):

S. 1007. A bill to withdraw certain public lands in Eddy County, New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

• Mr. JOHNSTON. Mr. President, I am pleased to introduce today at the request of the administration legislation that would permanently withdraw the public land surrounding the waste isolation pilot plant in Carlsbad, NM. This legislation has been submitted by the Department of Energy. It is an important milestone in the Department's efforts to open the WIPP facility for a 5-year demonstration phase.

The Waste Isolation Pilot Plant is a research and development facility of the Department of Energy that was authorized by Public Law 96-164 for the purpose of demonstrating the safe disposal of transuranic radioactive waste generated by DOE's nuclear weapons production activities. The WIPP facility, built 2,000 feet below the surface in the Delaware salt basin in New Mexico, has been under construction since 1981. Construction of the facility is now completed, and the facility will soon be ready to begin the demonstration phase. During that phase, DOE will conduct a series of experiments to evaluate the facility's ability to comply with the environmental laws governing the safe storage and disposal of nuclear waste.

The WIPP site consists of 10,240 acres in Eddy County, NM, all of which is public land administered by the Bureau of Land Management. Currently, the land is utilized under an administrative land withdrawal issued by the Department of the Interior in June 1983. This administrative withdrawal is for a period of 8 years. However, it does not authorize use of the land for transportation, storage, or burial of any radioactive waste at the site.

The Department of the Interior has completed action on a modification of the existing land order that would allow use of radioactive waste at the site for testing purposes. However, the administration has agreed to defer its

effective date until June to give Congress a chance to consider land withdrawal legislation.

The Department's legislation that I am introducing today would permanently withdraw this land from the public domain and transfer it to control by the Department of Energy. It would be possible to continue use of the land under the recently-approved modification of the existing land order, at least for the demonstration phase. However, both the Department of Energy and the State of New Mexico have indicated a preference to withdraw the land permanently through legislation.

DOE is seeking a permanent land withdrawal for several reasons. The environmental standards of the Environmental Protection Agency [EPA] for disposal of radioactive waste require that DOE exercise active institutional control over the disposal site for up to 100 years and passive control thereafter. Since DOE has statutory responsibility for managing radioactive waste, the agency should have permanent jurisdiction and control over the site. In addition, because the period of active use and institutional controls will exceed the maximum 20-year period for administrative land withdrawals, a statutory, permanent land withdrawal is desirable.

The target date for completion of activities leading to the opening of WIPP is now July 1991. The Department has been moving quickly toward completion of the tasks that remain prior to the opening of WIPP for the demonstration phase. I hope that we in Congress will do our part and move quickly on the land withdrawal legislation that has been submitted by the Department. It is important that we get started working on this legislation now so that the opening of this facility will not be delayed by the failure of the Congress to enact legislation.

Transuranic waste from our Nation's defense production activities is generated and stored at 10 DOE sites around the country. At some of these sites, we are running out of the limited temporary storage space. Therefore, opening of this facility will be an extremely important step in demonstrating that the defense waste cleanup is underway at DOE sites around the country.

The Committee on Energy and Natural Resources has been monitoring the progress of the WIPP facility for several years now. I am pleased that we have now reached the point that this important facility is almost ready to open. This is a major milestone in the Department's efforts to demonstrate that we have the technology necessary to store and dispose safely the byproducts of our Nation's nuclear weapons.

Mr. President, I ask unanimous consent that the transmittal letter from the Department of Energy, a section-by-section analysis, and the text of the bill be printed in the RECORD following my statement.

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

S. 1007

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 "Waste Isolation Pilot Plant Land Withdrawal Act."

SEC. 2. DEFINITIONS.

As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agreement" or "Agreement for Consultation and Cooperation" means the July 1, 1981, Agreement for Consultation and Cooperation, as amended by the November 30, 1984 "First Modification" and the August 4, 1987 "Second Modification," or as it is amended after the date of enactment of this Act, between the State of New Mexico and the United States Department of Energy as authorized by section 213(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164);

(3) "EEG" means the Environmental Evaluation Group for the Waste Isolation Pilot Plant referred to in section 1433 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456).

(4) "Secretary" means the Secretary of Energy; and

(5) "WIPP" means the Waste Isolation Pilot Plant project authorized under section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 to demonstrate the safe disposal of radioactive waste materials generated by defense programs.

SEC. 3. LAND WITHDRAWAL AND RESERVATION FOR THE WIPP.

(a) WITHDRAWAL, JURISDICTION, AND RESERVATION.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the lands described in subsection (c) are withdrawn from all forms of entry, appropriation, and disposal under the general land laws (including without limitation the mineral leasing laws, the geothermal leasing laws, the material sale laws, except as provided in section 4(b)(2)(D) of this Act, and the mining laws). These lands shall be known as the "Waste Isolation Pilot Plant Withdrawal" (referred to in this Act as the "Withdrawal").

(2) Jurisdiction over the Withdrawal is transferred permanently from the Secretary of the Interior to the Secretary. The Withdrawal is permanently reserved for the use of the Secretary for the construction, operation, repair and maintenance, shutdown, monitoring, decommissioning, post-decommissioning control, and other authorized activities associated with, and limited by, the mission of the WIPP.

(b) REVOCATION OF PUBLIC LAND ORDERS.—Public Land Order 6403, of June 29, 1983, as modified by Public Land Order 6826 of January 28, 1991, and the memorandum of understanding accompanying Public Land Order 6826, are revoked.

(c) LAND DESCRIPTION.—(1) The boundaries depicted on the map issued by the Bureau of Land Management of the Department of the Interior, entitled "WIPP Withdrawal Site Map," dated October 9, 1990 and on file with the Bureau of Land Management, New Mexico State Office, are established as the boundaries of the Withdrawal.

(2) Within 30 days after the date of enactment of this Act, the Secretary of the Interior shall:

(A) publish in the Federal Register a notice containing a legal description of the Withdrawal; and

(B) file copies of the map and the legal description of the Withdrawal with the Committee on Energy and Natural Resources of the United States Senate, the Committee on Interior and Insular Affairs of the United States House of Representatives, the Secretary, the Governor of the State of New Mexico, and the Archivist of the United States.

(d) TECHNICAL CORRECTIONS.—The map and legal description referred to in subsection (c) have the same force and effect as if they were included in this Act. The Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(e) WATER RIGHTS.—This Act does not establish a reservation to the United States with respect to any water or water rights on the Withdrawal. This Act does not authorize the appropriation of water on the Withdrawal by the United States after the date of enactment of this Act, except in accordance with the laws of the State of New Mexico. This Act does not affect water rights acquired by the United States before the date of enactment of this Act.

SEC. 4. ESTABLISHMENT OF MANAGEMENT RESPONSIBILITIES.

(a) GENERAL AUTHORITY.—The Secretary shall be responsible for the management of the Withdrawal and the WIPP, and shall consult with the State of New Mexico in discharging those responsibilities as well as any other reponsibility required by this Act.

(b) MANAGEMENT PLAN.—(1)(A) Within one year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of the Interior and the State of New Mexico, shall develop a management plan for the use of the Withdrawal until such time as the decommissioning of the WIPP has been completed.

(B) Any use of the Withdrawal for activities not associated with the WIPP shall be subject to conditions and restrictions that may be necessary to permit the conduct of WIPP activities.

(2) The management plan shall address other uses of the Withdrawal, including, but not limited to, domestic livestock grazing, hunting and trapping, maintenance of wildlife habitat, the disposal of salt tailings remaining on the surface, and mining, in accordance with the following—

(A) GRAZING.—The Secretary shall permit grazing to continue where established before the date of enactment of this Act subject to regulations, policies, and practices that the Secretary determines necessary or appropriate. The management of grazing shall be conducted in accord with, among other authorities—

(i) the Act entitled "An Act to stop injury to public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," approved June 28, 1934 (43 U.S.C. 315 et seq., commonly referred to as the "Taylor Grazing Act");

(ii) title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.);

(iii) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1902 et seq.); and

(iv) Executive Order 12548 (51 Fed. Reg. 5985).

(B) HUNTING AND TRAPPING.—The Secretary shall permit hunting and trapping within the Withdrawal in accordance with applicable laws and regulations of the United States and the State of New Mexico, except that the Secretary, after consultation with the State of New Mexico, may issue regulations designating zones where, and establishing periods when, no hunting or trapping is permitted for reasons of public safety, administration, or public use and enjoyment.

(C) WILDLIFE HABITAT.—In order to preserve the wildlife of the Withdrawal, the Secretary shall manage the Withdrawal so as to maintain the wildlife habitat.

(D) SALT TAILINGS.—Notwithstanding any other law, the Secretary shall dispose of salt tailings that are extracted from the Withdrawal and that are not needed for backfill at the WIPP. Disposition shall be made under sections two and three of the Act of July 31, 1947, as amended (30 U.S.C. 602, 603; commonly referred to as the "Materials Act of 1947").

(E) MINING.—Except for that mineral extraction permitted by the terms of certain leases existing below 6,000 feet in Section 31, Township 22 South, Range 31 East of the Withdrawal, more particularly described as Federal Oil and Gas Lease No. NMNM 02953 and Federal Oil and Gas Lease No. NMNM 02953C, which leases were granted prior to the date of enactment of this Act, surface or subsurface mining unrelated to the mission of the WIPP, including slant drilling under the Withdrawal from within or without the Withdrawal, shall not be permitted on or under the Withdrawal, before or after decommissioning.

(c) CLOSURE TO THE PUBLIC.—If the Secretary determines that the health and safety of the public or the common defense and security require the closure to the public use of any road, trail, or other portion of the Withdrawal, the Secretary may take whatever action the Secretary determines to be necessary or desirable to effect and maintain the closure.

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements—

(1) with the Secretary of the Interior and the State of New Mexico for the administration of grazing within the Withdrawal; and

(2) with the State of New Mexico for the maintenance of the wildlife habitat of the Withdrawal.

(e) SUBMISSION OF PLAN.—Within one year after the date of enactment of this Act, the Secretary shall submit the management plan developed under subsection (b) to the Committee on Interior and Insular Affairs of the United States House of Representatives, the Committee on Energy and Natural Resources of the United States Senate, and the State of New Mexico. Any amendments to the plan shall be submitted promptly to those Committees and the State of New Mexico.

SEC. 5. PERFORMANCE ASSESSMENT PLAN.

The Secretary, in consultation with the National Academy of Sciences, the Administrator, the Governor of the State of New Mexico, and the EEG, shall develop and update a performance assessment plan to include experiments that the Secretary considers to be necessary to assure the protection of the health and safety of the public, to determine the timing of experiments, to estimate the quantities and types of waste required for any of these experiments, and to identify the data required to assess compliance with applicable Environmental Protection Agency disposal standards for transuranic waste.

SEC. 6. AUTHORIZATIONS.

(a) PERFORMANCE ASSESSMENT PHASE.—The Secretary may place transuranic waste in WIPP to perform tests and experiments during the performance assessment phase.

(b) DISPOSAL OPERATIONS.—Upon completion of—

(1) the performance assessment phase;

(2) the Secretary's determination, after the Administrator's review under section 8(a), that WIPP complies with environmental standards for the disposal of transuranic wastes; and

(3) submittal to Congress of the Secretary's plans for decommissioning the WIPP and managing the Withdrawal after the decommissioning of the WIPP, the Secretary may dispose of up to 6.2 million cubic feet of contact handled transuranic waste and 250,000 cubic feet of remote handled transuranic waste in WIPP.

SEC. 7. ISSUANCE OF ENVIRONMENTAL PROTECTION AGENCY DISPOSAL STANDARDS FOR TRANSURANIC WASTE.

(a) ISSUANCE OF ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—The Administrator, pursuant to authority under other provisions of law, shall—

(1) issue revised proposed environmental standards for disposal of transuranic wastes no later than 12 months after the date of enactment of this Act; and

(2) issue final environmental standards for disposal of transuranic wastes not later than two years after the date of enactment of this Act.

(b) COMPLIANCE WITH FUTURE STANDARDS.—If the Administrator is ordered by a court of law to repromulgate or reissue the standards required under subsection (a) or is enjoined from implementing the standards or is otherwise prevented from giving the standards full force and effect by a court of law, the Secretary shall demonstrate compliance with the standards required under subsection (a) notwithstanding any court order to the contrary, unless the court order expressly finds and orders that its injunction relates to substantive health and safety aspects of the standards directly applicable to the WIPP.

(c) FAILURE TO ISSUE.—If the Administrator fails to issue environmental standards for disposal of transuranic wastes under subsection (a), the Secretary shall demonstrate compliance with the environmental standards for the disposal of transuranic wastes as those regulations were in effect on November 18, 1985.

SEC. 8. COMPLIANCE WITH ENVIRONMENTAL PROTECTION AGENCY STANDARDS FOR TRANSURANIC WASTE.

(a) COMPLIANCE WITH ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—(1) The WIPP is subject to generally applicable Environmental Protection Agency radiation standards that apply to management and storage of transuranic waste.

(2) Prior to the permanent disposal of transuranic waste at the WIPP—

(A) the Secretary, with respect to the WIPP, shall comply with the Environmental Protection Agency disposal standards for transuranic waste established under section 7; and

(B) the Secretary shall submit a determination of compliance with Environmental Protection Agency disposal standards for transuranic wastes and necessary supporting documents to the Administrator for review. Within six months, the Administrator shall review and provide comments on the determination of compliance to the Secretary. The Secretary, following review of the Administrator's comments, shall revise the determination of compliance as appropriate, and submit this determination to Congress.

(b) ENGINEERED BARRIERS.—The WIPP shall use both engineered and natural barriers to isolate transuranic waste after disposal to the extent necessary to comply with Environmental Protection Agency disposal standards for the waste. For purposes of this subsection, "engineered barriers" means the blackfill, room seals, and any other man-made barrier components of the disposal system.

SEC. 9. BAN ON HIGH-LEVEL RADIOACTIVE WASTE.

The Secretary shall not emplace or dispose of high-level radioactive waste as defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) in the WIPP.

SEC. 10. ECONOMIC ASSISTANCE.

(a) WIPP-RELATED BUSINESS AND EMPLOYMENT OPPORTUNITIES.—To the maximum extent practicable, the Secretary shall continue to encourage business and employment opportunities related to the WIPP that may be conducive to the economy of the State of New Mexico, especially Lea and Eddy counties, and report annually to the State of New Mexico on these activities.

(b) IMPACT ASSISTANCE PAYMENTS.—(1) The Secretary may provide payments to the State of New Mexico to assist the State and its affected units of local government in mitigating the potential environmental, social, transportation, economic and other impacts resulting from the WIPP. Upon initiation of the performance assessment phase, the Secretary may provide up to $20,000,000 in each fiscal year beginning in fiscal year 1992 and continuing throughout the performance assessment phase. If, at the end of this phase, the Secretary determines that the site is suitable to become a repository for the disposal of transuranic waste, the Secretary may provide up to $20,000,000 each fiscal year in which the repository is operated for disposal. Upon completion of disposal operations at the WIPP, the Secretary may provide up to $13,000,000 each fiscal year until decommissioning of the repository is completed. A portion of all payments received by the State of New Mexico under this section shall be provided directly to the affected units of local government in the vicinity of, and along the transportation routes to, the WIPP. The portion of payments provided to local governments, the identification of local governments to receive payments, and the share of the local government payment to each local government shall be based on a State assessment of needs, conducted in consultation with its affected units of local government and based upon the demonstration of local impacts by the affected local governments.

(2) If the Secretary determines that the WIPP does not meet either the technical or the legal requirements for a transuranic mixed waste disposal facility, payments under this subsection may be terminated only after this waste is removed from the WIPP site and the associated impacts resulting from the WIPP have been mitigated.

(c) PAYMENTS EQUIVALENT TO TAXES.—There is authorized to be appropriated to the Secretary such sums as are necessary to provide a payment each fiscal year to the State of New Mexico and each unit of local government in which the withdrawal is located. A payment under this subsection shall be determined by—

(1) calculating the amount the State of New Mexico and the unit of local govern-

ment would receive were they authorized to tax the development and operation of the WIPP, as the State of New Mexico and the unit of local government taxes the other comparable real property and industrial activities occurring within the State of New Mexico and the unit of local governing; and

(2) subtracting from the amount calculated under paragraph (1) any amount paid in the most recent fiscal year by the Department of Energy to reimburse WIPP contractors and subcontractors for taxes, fees, or other payments assessed by the State of New Mexico and any of its local governments for contractor and subcontractor activities attributable to WIPP in excess of the actual amount paid in fiscal year 1990 by the Department of Energy to reimburse WIPP contractors and subcontractors for taxes, fees, or other payments assessed by the State of New Mexico and any of its local governments for contractor and subcontractor activities attributable to WIPP.

Payments under this subsection shall continue until all activities related to the development and operation of the WIPP are terminated at the WIPP site.

(d) POTASH LEASE. —There is authorized to be appropriated to the Secretary such sums as may be necessary to acquire the 1,600 acre potash leasehold within the Withdrawal, comprising a portion of Federal Potash Lease No. NM0384584.

SEC. 11. DECOMMISSIONING OF THE WIPP.

(a) PLAN FOR WIPP DECOMMISSIONING.—Within five years after the date of enactment of this Act, the Secretary shall submit to the Committees on Armed Services and Energy and Natural Resources of the United States Senate; the Committees on Armed Services, Energy and Commerce, and Interior and Insular Affairs of the United States House of Representatives; the State of New Mexico; the Secretary of the Interior; and the Administrator a plan for decommissioning the WIPP. In addition to activities required under the Agreement, the plan shall be consistent with the disposal standards for transuranic wastes established by the Administrator that apply to the WIPP at the time the plan is prepared. The Secretary shall consult with the Secretary of the Interior and the State of New Mexico in the preparation of this plan.

(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within five years after the date of enactment of this Act, the Secretary shall develop a plan for the management and use of the Withdrawal following the decommissioning of the WIPP. The Secretary shall consult with the Secretary of the Interior and the State of New Mexico in the preparation of this plan.

SECTION-BY-SECTION ANALYSIS OF THE WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

SECTION 1. SHORT TITLE

Section 1 would cite this Act as the "Waste Isolation Pilot Plant Land Withdrawal Act".

SECTION 2. DEFINITIONS

Section 2 would provide definitions relevant to the Act.

SECTION 3. LAND WITHDRAWAL AND RESERVATION FOR THE WIPP

Section 3 would authorize the withdrawal of the land within the current boundaries of the WIPP site (the "Withdrawal"), comprised of some 10,240 acres, from all forms of entry, appropriation and disposal under the general land laws and the permanent transfer of jurisdiction over the Withdrawal to the Secretary of Energy (the "Secretary").

SECTION 4. ESTABLISHMENT OF MANAGEMENT RESPONSIBILITIES

Section 4 would make the Secretary responsible for the management of the WIPP. The Secretary would be required to develop a management plan, in consultation with the Secretary of the Interior and the State of New Mexico, within one year of the date of enactment. Grazing, hunting, and trapping would be permitted within the Withdrawal, but would be subject to necessary or appropriate regulation. New surface or subsurface mining, including slant drilling, would be prohibited. The Secretary would have the authority to close any or all of the Withdrawal to the public.

SECTION 5. PERFORMANCE ASSESSMENT PLAN

Section 5 would require the Secretary, in consultation with the National Academy of Sciences, the Administrator of the EPA, the State of New Mexico, and the Environmental Evaluation Group, to develop and update a WIPP performance assessment plan that describes experiments needed to assess compliance with EPA standards for disposal of transuranic waste and any other experiments that the Secretary considers necessary.

SECTION 6. AUTHORIZATIONS

Section 6 would allow the Secretary to place transuranic waste in the WIPP for the purposes of the performance assessment phase. After completion of the performance assessment phase, the Secretary may begin permanently disposing of transuranic waste if he determines, after a review by the Administrator of the EPA as specified in section 8(a), that the WIPP complies with relevant environmental standards and has submitted plans for decommissioning the WIPP and managing the Withdrawal after decommissioning to the Congress. EPA's No-Migration Determination only allows emplacement of transuranic waste for the purposes of the test phase. Under the Resource Conservation and Recovery Act, the EPA would have to make a new or amended No-Migration Determination before the Department of Energy could begin permanent disposal operations. EPA's Determination would be made with full opportunity for public comment.

SECTION 7. ISSUANCE OF ENVIRONMENTAL PROTECTION AGENCY DISPOSAL STANDARDS FOR TRANSURANIC WASTE

Section 7 would require the Administrator of the EPA to issue final standrds for disposal of transuranic wastes within two years after the date of enactment. The Secretary must demonstrate compliance with these standards notwithstanding any court order requiring the repromulgation or reissuance of the standards or any injunction preventing their enforcement, unless the court finds that its injunction relates to health and safety aspects of the standards applicable to the WIPP. If the Administrator fails to issue standards for waste disposal, the Secretary must demonstrate compliance with the environmental standards for transuranic waste disposal in effect on November 18, 1985.

SECTION 8. COMPLIANCE WITH ENVIRONMENTAL PROTECTION AGENCY STANDARDS FOR TRANSURANIC WASTE

Section 8 would make the WIPP subject to EPA management and storage standards applicable to transuranic waste. Before disposal of transuranic wastes at WIPP, the Secretary must comply with EPA standards for disposal, submit a determination of compliance to the Administrator of the EPA for review, revise the determination of compliance as appropriate, and submit the determination to the Congress. This section also would require the WIPP to use both engineered and natural barriers to isolate the transuranic waste to the extent necessary to comply with EPA disposal standards.

SECTION 9. BAN ON HIGH-LEVEL RADIOACTIVE WASTE

Section 9 would prohibit the Secretary from placing high-level radioactive waste in the WIPP.

SECTION 10. ECONOMIC ASSISTANCE

Subsection (a) would require the Secretary to encourage WIPP related business and employment opportunities within the State of New Mexico.

Subsection (b) would provide for payments to the State of New Mexico to assist in the mitigation of environmental, social, economic, and other impacts resulting from the WIPP. The Secretary could provide up to $20 million per fiscal year throughout the performance assessment phase and an additional $20 million for each year that the respository is operated for disposal. After completion of disposal operations, the Secretary could provide up to $13 million per fiscal year until decommissioning of the repository is completed. The State of New Mexico will determine how this money is to be distributed within the State. If the Secretary determines that the WIPP fails to meet necessary technical or legal requirements, payments to the State of New Mexico may not be terminated unless all waste is removed from the WIPP and any associated impacts have been mitigated.

Subsection (c) would authorize the Secretary to provide payments to the State of New Mexico, and each unit of local government in which the WIPP is located, equal to the amount those governments would have received were they authorized to tax the WIPP. Subsection (c) also contains an offset provision which would govern increases in payments, by Department of Energy contractors and subcontractors to the State, that are attributable to WIPP activities.

Subsection (d) would authorize such funds as may be necessary for the Secretary to complete the purchase of a Federal Potash Lease that is located on the WIPP site.

SECTION 11. DECOMMISSIONING OF THE WIPP

Section 11 would require the Secretary to submit a plan for decommissioning the WIPP to designate Senate and House committees, the State of New Mexico, the Secretary of the Interior, and the Administrator of the EPA, within five years of the date of enactment. The plan must be consistent with EPA standards for disposal of transuranic waste that apply to the WIPP at the time the plan is prepared. Within five years of enactment, the Secretary would also be required to develop a plan for the management and use of the Withdrawal following the decommissioning of the WIPP. The Secretary must consult with the State of New Mexico and the Secretary of the Interior in the preparation of the plans.

THE SECRETARY OF ENERGY,
Washington, DC, April 11, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation entitled the "Waste Isolation Pilot Plant Land Withdrawal Act." I strongly urge the Congress to enact this legislation. Its timely enactment would provide a statutory foundation for the important test programs to be conducted at the Waste Isolation Pilot Plant (WIPP) and remove the need

for use of the current WIPP administrative land withdrawal.

The Congress authorized the WIPP project to demonstrate the safe disposal of radioactive waste generated by the Department's defense activities. The WIPP's development has proceeded in a phased manner, from site characterization and validation through facility construction. The facility is located deep underground in thick salt formations on public lands near Carlsbad, New Mexico.

The next step—a vital one—is the performance assessment phase during which experiments will be conducted on site to asses the facility's ability to perform safely and to obtain operational experience. Upon completion of this phase, a determination will be made as to whether to dispose of waste at the site permanently.

In my testimony before Congress and in numerous public statements, I have said that I will not permit WIPP to open until I am certain that it is safe and has met all prerequisites specified in the Department's "WIPP Decision Plan," which is regularly updated and released for public review and comment. I expect these prerequisites to be completed by early this summer. To promote safe operations at the facility and to ensure the protection of public health and safety, it is necessary to withdraw the lands around the WIPP site from public use. Permanent land withdrawal through legislative means is the option preferred by the Department to allow the performance assessment phase to move forward expeditiously, and, we believe, is in the best interests of the State of New Mexico. If legislation is not enacted in a timely manner, then we plan to proceed under the current administrative land order.

The enclosed legislative proposal includes a number of key provisions. These include: Quantitative limits on the amount of waste that could be emplaced at WIPP; a ban on high-level waste emplacement and disposal; independent review by the Environmental Protection Agency (EPA) Administrator of the Department's determination of compliance with the EPA disposal standards for transuranic waste; and essential provisions from the pending State of New Mexico-Department of Energy agreement for financial assistance to mitigate WIPP-related impacts in the State.

In addition, the proposal includes a number of other economic assistance provisions for the State of New Mexico. First, the Department would continue to encourage business and employment activities in the State of New Mexico. Second, the Department would provide payments to the State and units of local government in which the land withdrawal is located. Those payments would be equal to taxes that these jurisdictions would receive were they authorized to tax WIPP as an industrial facility. Third, when the land withdrawal takes effect under this proposal, the Department would be in a position to provide the State of New Mexico additional funds in the amount of $42,451,750.00, held in a special reserve account, for certain road projects.

This proposal also would require compliance with EPA standards for the management, storage, and disposal of transuranic waste. Under the Resource Conservation and Recovery Act, EPA issued to the Department a Final No-Migration Determination in November 1990. This Determination includes specific conditions that limit the scope of the performance assessment phase activities, the amount of waste to be used at WIPP for testing, and the time for testing with waste. The Department will fully comply with this Determination throughout the performance assessment phase. Under the Resource Conservation and Recovery Act, EPA will also be required to make another No-Migration Determination before initiation of the disposal phase.

The Office of Management and Budget has advised that there is no objection to the presentation of this legislative proposal to Congress, and its enactment would be in accord with the President's program.

I believe that this country must and can demonstrate the ability to manage and dispose of nuclear waste safely. The WIPP performance assessment phase is a vital step in that process.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).•

By Mr. McCONNELL:

S. 1008. A bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice; to the Committee on the Judiciary.

NATIONAL CHILD ABUSER REGISTRATION ACT

• Mr. McCONNELL. Mr. President, I rise today to introduce legislation to protect our Nation's children from repeat child abusers.

This bill, the National Child Abusers Registration Act, would require the registration of all convicted child abusers and sexual offenders with the National Crime Information Center of the Department of Justice.

Few crimes committed in the United States today affect one as deeply as the crime of child abuse and neglect. It has almost become a daily occurrence—news reports of a child being sexually or physically mistreated. According to the Department of Justice, in 1989 alone, there were 2.4 million reported cases of child abuse. Of those, 380,000 involved sexual abuse. In addition, ChildHelp USA estimates that one out of every six boys and one out of every three girls will be sexually abused or victimized before the age of 18. These appalling figures reveal the need for Federal, State, and local officials to become involved, to eliminate these affronts to human decency.

The horrifying facts and statistics do not stop there. According to the National Institute of Mental Health, the typical child sexual offender will molest an average of 117 youngsters in his/her lifetime and garner multiple child abuse convictions. These child abusers often do not fit the stereotype—they may be respected citizens, professionals, or even individuals entrusted to care for children in our community.

In 1985, a Maryland school psychologist was convicted of child molestation and received a probated sentence. He moved to Virginia, again was hired as a school psychologist, and was subsequently arrested for the molestation of 12 to 15 elementary schoolchildren. In 1986, a physician in Ohio was convicted of molestation. He moved to Washington, DC, resumed medical practice, and was arrested again in 1987, convicted for molesting children in a hospital.

In both of these instances, the States had no means of checking an individual's record to verify previous sexual violations against children. These States had no way to see if an individual had one or a hundred child abuse convictions in other parts of the country. Mr. President, convicted child sexual offenders in Washington State should not be able to move 3,000 miles to prey on children in Washington, DC, and vice versa.

The bill that I am proposing today will assist in combating this problem. By requiring States to register the names and other pertinent information about convicted child abusers with the National Crime Information Center, we can and will be able to clamp down on repeat offenders by having information available, and easily accessible for every children's organization in the United States.

Having this child abuser information will enable these organizations to conduct needed background checks on perspective employees. Therefore reassuring parents that their children are not easy prey for a convicted child molester.

The time has come for Congress to aggressively address the growing problem of repeat cases of child abuse in the country. I strongly urge my colleagues to join with me in safeguarding the lives of children by supporting the National Child Abuser Registration Act.•

By Mr. COATS:

S. 1009. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $4,000; to the Committee on Finance.

INCREASE IN PERSONAL EXEMPTION FOR CHILDREN

• Mr. COATS. Mr. President, for a number of months now I have been reinvigorating a public discussion on the failure of the personal exemption to keep up with the costs of living and raising children in today's economy.

As you are aware, a number of my colleagues and I were successful in including a doubling of the personal exemption in the Tax Reform Act of 1986. This was clearly a step in the right direction.

Despite this victory, however, and despite the concurrent initiation of an indexation of the personal exemption for inflation—a step which, by the way, should have been taken 40 years ago—the current level of the personal exemption still falls far short of where it needs to be to meet its original mission of accounting for the financial obligations of families.

I have been very pleased to note the growing awareness both on Capitol Hill and within the media of just how difficult it has become for an average

American family to make ends meet. Increased prices for basic fundamentals like food, housing, health care and education have, in many instances, forced second members of households into the job market. And they have often required a greater dependence on credit and debt.

Yet while a second income may help pay the bills, families are still finding their ability to adequately support their children a great challenge.

Rising living expenses are not the sole cause of the economic decline of the American family, however. The increasing and highly unfair tax burden on American families has been a major contributor to their woes. Because the personal exemption was not indexed for inflation from 1948 until the mid-1980's, it steadily lost its value. The failure of Congress to rectify this situation amounted, in essence, to an annual tax increase on Americans.

In fact, according to the Urban Institute, families earning one-half of the median income in 1948 paid only 2 percent of their income in total taxes. Today, in 1990, families with one-half of median income hand out about 23 percent of their paychecks to Federal, State, local, and Social Security taxes.

Mr. President, our Government has been digging too deeply into American family pockets for too long. As we continue to siphon off greater amounts of the family paycheck we see parents who must work longer hours at the expense of time with their children.

And we see a continued growing dependence on Government handout programs—programs which we cannot afford and which, in my estimation, often do little to strengthen or improve the family condition.

It is time to reverse this trend and restore the original value of the personal exemption. In fact, the current level of $2,150 should be tripled to account for the annual costs of raising a child. While budget realities inhibit our ability to triple the personal exemption, I believe we can and should at least double it to $4,000.

Last January I introduced a bill, S. 152, to do just that for all taxpayers and their dependents, and I have been very pleased with the interest and support that has been expressed by a number of my colleagues.

Today I rise to introduce another bill that more directly recognizes the sizable tax burden on families with children. This legislation will simply double the personal exemption for dependents under age 18 and index it thereafter for inflation.

While I would prefer to see the personal exemption increased for everyone, this new bill is another fine variation on that theme. Families with children have been feeling the brunt of the growing tax burden and are in need of the most immediate relief.

The heightened discussion on the need for profamily tax policy lends promise to success in this endeavor. With recent comments by Senators and Members from the other side of the aisle, I believe there is a general concensus that a reexamination of the priorities set forth in our Tax Code is needed with a greater focus on the needs of the American family. This view is shared by organizations from all ends of the political spectrum including the Family Research Council and the Progressive Policy Institute.

I intend to do everything I can to see that we continue to move forward with this goal and to press for a restoration of a fair personal exemption level. I invite my colleagues in the Senate to join me in cosponsoring this important legislation. We have relied on the good faith of the American family for too long. It is time to do the right thing and allow them to meet their own needs with their own hard earned dollars by reducing their tax burden.

Your support will be much appreciated.●

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BOND, Mr. CRANSTON, and Ms. MIKULSKI):

S. 1010. A bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants; to the Committee on Commerce, Science, and Transportation.

FLIGHT ATTENDANT DUTY TIME ACT

● Mr. INOUYE. Mr. President, on behalf of our Nation's flight attendants, I am introducing legislation that would amend the Federal Aviation Act to provide limitations on the duty-time hours for flight attendants.

As Members of Congress, we are required to travel more than the average person, and understand the fatigue which accompanies flight travel. To prevent fatigue and overwork which may threaten the ability of airline aviation professionals to perform effectively, the Federal Aviation Administration [FAA] rightfully regulates the hours of work for airline pilots, flight engineers, flight navigators, dispatchers, and air traffic control operators. Although Federal rules also regulate flight attendants for safety reasons, they have been unjustifiably excluded from these FAA work-time regulations. Thus, flight attendants average in excess of 15–20 duty-time hours per day.

Such fatigue and exhaustion compromise a flight attendant's ability to provide quality service to the flying public. In addition to providing the best possible service, airline flight attendants are trained as safety professionals. They perform routine safety procedures and must be continually alert and prepared throughout the flight for such emergencies as rapid depressurization, cabin fires, passenger illness, and terrorist attacks. Their job is physically demanding in a noisy, stressful, and poorly ventilated environment.

Since 1978, the FAA has promised and failed to issue flight-duty time for flight attendants. In addition, the Department of Transportation [DOT] states that there is no conclusive evidence to demonstrate a correlation between a flight attendant's fatigue and passenger safety. However, common sense dictates that if a flight attendant has not slept or rested for the last 18–24 hours, he or she will not be able to function in an alert and effective manner, let alone be able to respond to emergencies or other potential safety hazards that may occur on an airplane.

Mr. President, the DOT and the FAA have acknowledged many cases in which flight attendants have been required to work as many as 24 consecutive hours. A particularly alarming case is that of the accident involving Galaxy Airlines in Reno, NV in 1985. An investigation disclosed that at the time of the accident, two of the flight attendants had been on duty for over 18 hours and were scheduled to continue for another 7 hours.

Irrespective of the danger that overworked flight attendants pose to the safety of our airways, as well as themselves, the DOT has consistently refused to include them in its protective class of safety sensitive aviation employees which currently includes airline pilots, flight engineers and navigators, dispatchers, and air traffic controllers. Yet, the DOT has determined that flight attendants are safety sensitive employees for purposes of submitting to random drug and alcohol testing. The DOT's conflicting and inconsistent position—safety sensitive in one regard but not another—is not in the best interest of public safety.

Our bill mandates that the DOT promulgate final regulations within 8 months of enactment, and requires that it must establish duty-time limitations and rest requirements that are outlined in the bill. If the DOT fails to take action, the bill provides for backup duty-time limitations to be implemented. Thereafter, the Department may amend these limitations under its rulemaking authority.

Mr. President, we request unanimous consent that the text of our bill be printed in the RECORD.

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

S. 1010

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 "Flight Attendant Duty Time Act".

SEC. 2. AMENDMENT TO THE FEDERAL AVIATION ACT.

(a) IN GENERAL.—Title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421–1433)

is amended by adding at the end thereof the following new section:

"SEC. 614. DUTY TIME OF FLIGHT ATTENDANTS.

"(a) RULEMAKING PROCEEDING.—Not later than 60 days after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding for the purpose of establishing limitations on duty time for flight attendants, including minimum rest requirements.

"(b) FINAL REGULATIONS.—Except in any case in which the prohibitions referred to in subsection (c) take effect, the Secretary shall issue, not later than 240 days after the date of the enactment of this Act, final regulations establishing limitations on duty time for flight attendants, including minimum rest requirements as follows:

"(1) For domestic flights, a maximum of 14 hours of actual duty time and a minimum of at least 10 consecutive hours of rest after each duty period.

"(2) For international flights, a maximum of 16 hours of actual duty time and minimum of at least 12 consecutive hours of rest after each duty period.

"(3) for a long-range international nonstop flight, a maximum period of actual duty time no more than 4 hours greater than the scheduled duty time, with a maximum period of actual duty time no greater than 20 hours, and a minimum consecutive rest period (after such duty period) equal to at least twice the scheduled flight time.

"(4) For all flight attendants, a minimum of eight 24 consecutive hour periods of rest at their domicile per calendar month, including at least one 24 hour consecutive period of rest within every 7 calendar days.

"(5) For all flight attendants, at least a continuous 1 hour rest break in any flight or segment scheduled for 8 hours or more of flight time in a designated rest area.

"(c) MANDATED PROHIBITIONS.—If the Secretary does not initiate a rulemaking proceeding under subsection (a) before the 60th day following the date of the enactment of this Act or does not issue final regulations under subsection (b) before the 240th day following such date of enactment, no air carrier may after such date operate an aircraft using a flight attendant who has been on duty more hours, or who has had fewer hours of rest, than those required by paragraphs (1) through (5) of subsection (b).

"(d) MODIFICATION OF MANDATED PROHIBITIONS.—The Secretary may issue regulations modifying the prohibitions contained in paragraphs (1) through (5) of subsection (b) if the Secretary determines that such modifications are in the interest of safety and transmits a copy of the modifying regulations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The modifying regulations may not take effect until the expiration of the 90-day period beginning on the date of the transmittal of the modifying regulations to such committees.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) AIR CARRIER.—The term 'air carrier' means any air carrier which is subject to the provisions of part 121 or part 135 of title 14 of the Code of Federal Regulations.

"(2) DEBRIEFING TIME.—The term 'debriefing time' means a time period of at least 30 minutes for domestic flight and of at least 45 minutes for international flight after the block-in time of the last flight or segment of a flight.

"(3) DESIGNATED REST AREA.—The term 'designated rest area' means a passenger seat of an aircraft assigned for crew rest purposes.

"(4) DOMESTIC FLIGHT.—The term 'domestic flight' means any flight or segment of a flight worked by a flight attendant totally within the 48 contiguous States and the District of Columbia.

"(5) DUTY TIME.—The term 'duty time' means all time worked for an air carrier at any place and in any capacity and, with respect to flying, shall begin at the required report time and shall end at the conclusion of the debriefing time, or when released by the carrier, whichever is later. Duty time accrues until the crewmember is given a required rest period by the carrier. Time spent deadheading, either on an aircraft or by surface transportation, to or from an assignment by an air carrier, time spent ferrying, and time spent attending meetings and training shall also be considered duty time. Duty time continues—

"(A) throughout a rest period of a shorter duration than that contained in subsection (b)(1), (b)(2), or (b)(3), as the case may be; and

"(B) during in-flight rest periods contained in subsection (b)(5).

"(6) INTERNATIONAL FLIGHT.—The term 'international flight' means any flight or segment worked by a flight attendant for which a take off or landing is scheduled outside the 48 contiguous States and the District of Columbia.

"(7) LONG-RANGE INTERNATIONAL NONSTOP FLIGHT.—The term 'long-range international nonstop flight' means a single nonstop international flight scheduled for 8 hours or more of flight time.

"(8) REPORT TIME.—The term 'report time' means a time period of at least 30 minutes prior to the scheduled departure time of the first flight or segment of a flight in a flight attendant's duty period or the time the flight attendant is required to report to work, whichever is earlier.

"(9) REST.—The term 'rest' means uninterrupted time free from all duty.

"(10) SCHEDULED FLIGHT TIME.—The term 'scheduled flight time' means the elapsed time of a flight of an air carrier based on the times shown in schedules published for the air carrier.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(f) TREATMENT OF DUTY PERIOD WITH DOMESTIC AND INTERNATIONAL FLIGHT SEGMENTS.—A duty period with both domestic and international flight segments shall be treated as international flying for the purpose of calculating duty and rest requirements under this section if the majority of the flight time during that duty period is on an international segment and domestic flying if the majority of the flight time during that duty period is on a domestic segment.".

(b) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title VI the following:

"Sec. 614. Duty time of flight attendants.
"(a) Rulemaking proceeding.
"(b) Final regulations.
"(c) Mandated prohibitions.
"(d) Modification of mandated prohibitions.
"(e) Definitions.
"(f) Treatment of duty period with domestic and international flight segments.".●

By Mr. KASTEN (for himself, Mr. BOND, Mr. JEFFORDS, Mr. KOHL, and Mr. DURENBERGER):

S. 1011. A bill to require the Secretary of Agriculture to make payments under the dairy export incentive program to promote the export of certain minimum quantities of nonfat dry milk and butter during fiscal year 1991, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EXPORTS OF NONFAT DRY MILK AND BUTTER

● Mr. KASTEN. Mr. President, I rise today to introduce legislation that will promote the export of certain quantities of nonfat dry milk and butter.

My bill is very simple. It would require the Department of Agriculture to export at least 100 million pounds of nonfat dry milk and 50 million pounds of butter during fiscal year 1991. These products will be exported under the Dairy Export Incentive Program [DEIP] established under the Food Security Act of 1985 and the 1990 farm bill.

This year the United States has exported some 22 million pounds of nonfat dry milk and butter under the DEIP. I believe that the goal we have set in this bill is very reasonable and will go a long way in helping the depressed milk market.

The Dairy Export Incentive Program helps U.S. exporters to meet prevailing world prices for targeted dairy products and destinations. The program offers U.S. exporters a bonus in the form of commodity certificates issued by the U.S. Department of Agriculture's [USDA] Commodity Credit Corporation [CCC] to help them meet competition from other subsidizing nations, especially the European Community.

Mr. President, dairy farmers in Wisconsin and across the Nation are barely surviving on the current low price of milk. By reducing the Government surplus, we will inevitably promote higher prices for milk.

The DEIP benefits U.S. dairy farmers, processors, manufacturers, and exporters by helping to provide access to foreign markets. The program makes possible sales of U.S. dairy products that would otherwise not have been made due to the subsidized prices offered by some U.S. competitors.

Mr. President, in simple terms, if we don't do something to help these desperately needy family farmers, we could end up putting some 4,000 of them out of business. Dairy farmers are crying out for help—so I hope my colleagues will join with me in providing this much-needed relief.●

● Mr. DURENBERGER. Mr. President, I rise today in support of legislation being introduced to direct the Secretary of Agriculture to make payments under the Dairy Export Incentive Program [DEIP] to promote the export of certain minimum quantities of nonfat dry milk and butter during the remaining portion of fiscal year 1991.

This legislation would direct the Secretary to promote the export of 100,000,000 pounds of nonfat dry milk and 50,000,000 pounds of butter during the next 5 months. On March 1, 1991, the Secretary of Agriculture announced new allocations under the Dairy Export Incentive Program that 70 countries were eligible for bonuses of 308,000,000 pounds of nonfat dry milk and 59 countries were eligible for 90,000,000 pounds of butter. Since that announcement, only a small portion of the possible allocation has actually been awarded to eligible nations. This legislation would require the Secretary to take appropriate action needed to move at least one-third of the possible nonfat dry milk allocation and slightly more than one-half of the eligible butter allocation.

On Friday, I will be hosting a meeting in my office with Secretary Madigan and leading Minnesota agricultural officials to discuss the current dairy situation and possible actions which can be taken to increase the price that farmers receive for milk. I know that one of the requests which will be made to Secretary Madigan will be for USDA assistance in substantially utilizing the available DEIP allocation. This bill will give the Secretary the authority to marshal the resources needed to promote the export of 100,000,000 pounds of dry milk and 50,000,000 pounds of butter.

The level of dairy stocks being required to be moved under this legislation is roughly equivalent to about 1.5 billion pounds of milk. Most experts suggest that the current overhang of surplus dairy production which is depressing milk prices is in the vicinity of 5 billion pounds. This measure removes about 30 percent of that overhang.

In closing, I would urge my colleagues to give this measure expeditious consideration and approval. While this measure is not a panacea to the existing dairy crisis, it is a component of a package of actions which can be used to stabilize and increase the price of milk which farmers receive.●

By Mr. BRYAN (for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. GORTON, Mr. MCCAIN, and Mr. KERRY):

S. 1012. A bill to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT

● Mr. BRYAN. Mr. President, as chairman of the Consumer Subcommittee I am pleased to introduce this bill, which is a comprehensive reauthorization of the National Highway Traffic Safety Administration [NHTSA]. I am especially pleased to be joined in this effort by my Commerce Committee colleagues Senators HOLLINGS, DANFORTH, GORTON, KERRY, and MCCAIN, all of whom have distinguished records of hard work and experience in the area of highway safety.

NHTSA's responsibility can be simply stated—to save lives. Obviously, nothing could be of greater importance, or more deserving of our attention and efforts toward reauthorization.

NHTSA's primary responsibility is to improve the safety of our vehicles and our highways. Since the agency was created in 1966, progress has been made. However, about 45,000 people still are killed on our highways each year, and motor vehicle-related injuries are the leading cause of death for children over 1 year old. Motor vehicle crashes cost the U.S. economy $74 billion each year. There can be no doubt that NHTSA, and those of us who consider legislation in this area, still have our work cut out for us.

As everyone who works on highway safety issues is aware, the effort to reauthorize NHTSA has been strenuous, but as yet unsuccessful. The agency has been without an authorization since 1982, despite the fact that the Senate has passed three separate bills during this time. In the last Congress, in March 1989, I introduced S. 673, which was unanimously approved by the Commerce Committee, and passed by the Senate on a voice vote in August 1989. Despite the early Senate action, the bill was not enacted into law.

The authorization bill I am introducing today includes many of the provisions contained in S. 673. These issues include requirements that NHTSA complete rulemakings to improve the safety of passenger vehicles, including additional head injury protection and rollover protection.

I am pleased to note that there are some very important issues addressed in S. 673 that do not need to be addressed in this authorization bill because the rulemakings they would have required have been completed by NHTSA. These issues include improved side impact protection for passenger cars, and passive restraints and roof crush standards for light trucks.

In addition to issues addressed in earlier legislation, this bill includes rulemakings on some safety issues that have evolved since S. 673 was first drafted, including airbags and antilock brakes. As improved technology becomes available and proven, we want to insure that it is provided for all consumers, and not just those who can afford luxury cars. In particular, with respect to airbags, this bill will require that airbags be available in all cars and light trucks on a phased-in schedule. There now is general agreement that airbags with manual seatbelts offer occupants superior protection to any other system, yet NHTSA's current rules allow manufacturers to use either automatic seat belts or airbags. While most manufacturers are moving toward airbags on their own, this bill will insure that the installation of airbags will not vary from model to model, but will be available to all.

Additionally, this bill contains authorizations for NHTSA's operations and research, and its programs funded out of the highway trust fund, including programs established by sections 402 and 403 of title 23 United States Code, and impaired driving prevention grants to States. Section 402 provides funds to the States through a formula based on population and highway mileage to assist in highway safety through NHTSA-approved programs. Section 403 funds research in a number of safety areas, including intelligent vehicle-highway systems.

The operations and research funding and the section 403 program adopt the administration's requests for fiscal year 1992. The operations and research funding is increased by the inflation factor recommended by the Congressional Budget Office for fiscal years 1993 and 1994. The section 403 funding is the administration's request for fiscal year 1992, and identical amounts for four additional years. Since the administration's request for 1992 is a substantial increase over prior years' funding, no increases have been authorized for later years. The section 402 funding provides the 1991 authorized amount for fiscal year 1992, and increases this amount by the Congressional Budget Office inflation factor for an additional 4 years.

This bill also replaces the two current NHTSA-administered programs of impaired driving prevention grants—sections 408 and 410 of title 23 United States Code—with one new program to become effective upon the sunset of the earlier programs. The new program is structured in a manner identical to the current programs, but eliminates the overlap between the two, retains the most effective elements of each, and adds some additional measures that have been shown to be effective to prevent impaired driving. Incentive grants are provided to States to encourage such actions as: prompt suspension of drivers' licenses of impaired drivers; sobriety checkpoints; mandatory blood alcohol intoxication levels of 0.10, decreasing to 0.08 in later years; and mandatory minimum penalties for those convicted of impaired driving.

I believe this bill is comprehensive and will provide important authorization and direction to this vital agency. All parties working on highway safety share the common goal of saving lives and preventing injuries. This bill will advance that process, and go a long way toward achieving these goals. I urge my colleagues to support it.●

● Mr. HOLLINGS. Mr. President, as chairman of the Commerce Committee,

I am pleased to join Senator BRYAN, chairman of the Consumer Subcommittee, and other colleagues in cosponsoring this legislation to reauthorize the National Highway Traffic Safety Administration [NHTSA]. It is obvious that this agency has the power to save lives. An agency with this kind of responsibility deserves our fullest oversight and support, and reauthorization legislation is an important part of the congressional assistance for these safety activities. However, despite the continual efforts of this committee and the Senate, including Senate passage of reauthorization legislation by voice vote early in the 101st Congress, NHTSA has not been reauthorized since 1982. I certainly will do everything I can to avoid a similar result this Congress.

The issues within NHTSA's responsibility deserve serious and immediate attention because they can provide vital improvements in the safety of the motor vehicles and highways of this country. Over 900 people are killed on our highways each week, so there can be no question that these issues are of the highest priority.

This legislation contains authorizations for a number of important operations, research activities, and State grant program which NHTSA administers. In my view, among the most important are the incentive grants provided to encourage States to more effectively address the issue of impaired driving. Close to 50 percent of all traffic fatalities are alcohol-related, so there is enormous potential for saving lives by addressing this issue. This authorization bill reorganizes, streamlines, and improves the two current incentive grant programs into one program that should effectively encourage States to take the particular measures believed to be most successful in preventing impaired driving, including a prompt license suspension for impaired drivers, mandatory minimum penalties for those convicted of impaired driving, use of sobriety checkpoints, and improved enforcement of "21 drinking age" laws.

The legislation also addresses a broad range of other safety measures, including vehicle manufacturing standards and accident avoidance research. I believe that its enactment will continue the progress we have seen since NHTSA's creation in 1966 in reducing highway deaths and injuries. I urge my colleagues to join me in supporting this important measure.●

● Mr. DANFORTH. Mr. President, today I am joining Senators BRYAN, HOLLINGS, GORTON, and MCCAIN in introducing the National Highway Traffic Safety Administration Reauthorization Act of 1991, designed to reduce highway death and injury. Each year, 45,000 Americans die in highway crashes and another 520,000 receive serious injuries. In my home State of Missouri, there were 1,096 highway deaths last year—a 4-percent increase over the previous year. According to the Department of Transportation [DOT], highway crashes cost the U.S. economy $75 billion annually.

Congress has given the National Highway Traffic Safety Administration [NHTSA] primary responsibility for solving highway safety problems. Despite the importance of NHTSA, no reauthorization has been enacted since 1982. In the last 9 years, the Senate has approved, without opposition, three reauthorization bills. The Senate and the House have been unable to reach agreement, however. I hope that, in this Congress, legislation will be enacted to address safety issues raised in previous NHTSA bills, promising new safety technologies, and impaired driving.

UNFINISHED BUSINESS

Each year 9,000 Americans are killed in side-impact crashes. In 1979, NHTSA opened a rulemaking to improve its side-impact standard, which was inadequate because it only called for a small door beam that did not protect occupants in vehicle-to-vehicle crashes.

Last September, NHTSA announced a modification to the passenger car side-impact protection standard designed to prevent pelvic and torso injuries. NHTSA has not completed a modification to the standard that would prevent head injuries from side impact. These injuries account for about one-half of side-impact deaths. The last four Senate-passed NHTSA bills required improved passenger car side-impact protection to prevent head, torso, and pelvic injuries. The bill we are introducing today requires NHTSA to conduct a rulemaking on reducing such head injuries.

Another important issue addressed in earlier bills is multipurpose vehicle [MPV] safety. MPV's, which include minivans, pickups, and four-wheel drive vehicles, currently account for about one-third of the light-duty vehicle market. In 1990, MPV sales increased to 5 million because these relatively inexpensive vehicles are being used as passenger cars. Although MPV's compete directly with passenger cars, NHTSA has exempted them from many of the passenger car safety standards. These exemptions have contributed to the annual toll of more than 8,500 MPV fatalities.

Recently, some of these exemptions have been eliminated. Our bill would complete the process by requiring an MPV rollover prevention standard. Many MPV's, particularly sport-utility vehicles, have high centers of gravity, which can cause them to roll over. For example, NHTSA reports that 64 percent of all single-vehicle accidents of the discontinued Suzuki Samurai involved rollover. The rollover rate for full-sized sedans in single-vehicle crashes is only 8 percent. Our legislation also includes a provision from earlier bills requiring the development of a side-impact protection standard for these vehicles.

Another piece of unfinished business is the need for a rulemaking on methods to reduce head injuries. Each year, between 400,000 and 500,000 Americans suffer head injuries in automobile crashes. The National Head Injury Foundation estimates that over 50,000 of these head injury victims are permanently disabled. An airbag can eliminate head injuries resulting from frontal crashes. Even if all cars are equipped with air bags, however, head injuries will still occur from rollover and side-impact crashes. The rulemaking would draw on NHTSA's research, which indicates that many of these head injuries can be prevented if additional padding is placed in the interior of the car where a crash victim's head is likely to hit.

Our legislation also contains language from last Congress' NHTSA bill to conduct a rulemaking on reducing pedestrian injuries resulting from vehicle design. Since 1981, NHTSA has done considerable research on reducing the annual toll of 8,000 pedestrian fatalities. It has identified sources of pedestrian injuries and vehicle design changes to minimize these injuries, but, to date, NHTSA has not conducted a rulemaking.

One final item of unfinished business involves automobile bumpers. Our bill contains language from previous bills to require NHTSA to raise the bumper collision standard to 5 miles per hour. In 1982, NHTSA lowered it standards for bumpers from 5 miles per hour to 2.5 miles per hour. This lower standard has been costly to consumers. A recent Insurance Institute for Highway Safety [IIHS] study tested the bumper strength of 34 different cars in a 5 miles per hour crash test. Damages to those vehicles ranged from $618 to $3,300. In the worst cases, the Hyundai Sonata and Subaru Legacy sustained damages totaling $3,300. Before the bumper standard was lowered, the 1981 Ford Escort sustained no damages from the same test.

AIRBAGS

Under DOT's passive restraint rule, a passenger vehicle must be equipped with either airbags or automatic seatbelts. Although either option is available to manufacturers, statistics prove that airbags provide better protection.

Automatic belts can be either manually operated or, in some cases, may have motorized shoulder harnesses. A 1989 IIHS study on nonmotorized automatic belts found that the automatic feature had been disabled on one or more belts in 95 percent of the new cars it surveyed in dealer showrooms. Motorized automatic belts provide an automatic shoulder harness, but require the driver or passenger to buckle the lapbelt. A University of North

Carolina study found that less than 30 percent of the occupants of cars with motorized belts connected their lapbelts. In addition, a German study found that, even with automatic belts, 30.4 percent of the drivers in frontal collisions suffered from skull-brain trauma.

On the other hand, evidence is accumulating on the effectiveness of airbags. Since May 1989, State Farm insurance Co. has tracked the experience of its policyholders with airbag-equipped cars. In all but 3 out of 3,739 accidents in which the airbag deployed, the driver survived. In the State of Missouri, 143 State Farm policyholders have been saved from death or more serious injury by airbags. Our bill requires that all passenger cars manufactured on or after September 1, 1995, have both driver- and passenger-side airbags. In addition, MPV's manufactured after September 1, 1997, must have both driver- and passenger-side airbags.

NEW VEHICLE TECHNOLOGIES

Our legislation encourages new technologies to prevent accidents and relieve congestion. One such technology is a smart car/smart highway system. According to NHTSA, driver error contributes to more than 80 percent of all crashes. In advanced smart car/highway systems, automatic braking or steering is used to help overcome a driver's lapse in judgment or his inability to detect risks. These advanced systems will rely on computers and radio signals beamed up from the roadway to keep vehicles spaced safely and moving smoothly.

Less advanced systems might include safety improvements such as enhanced cruise control, which uses a radar technology to help maintain a safe following and leading distance. Another radar-related technology provides a driver with a warning if the attempts to switch lanes when there is a vehicle in his blind spot.

For fiscal year 1992, the Bush administration has requested $62 million for smart car/highway research with $8 million of this money scheduled to go to NHTSA. Our legislation would encourage DOT to develop a strategic plan to maximize the safety benefits of these systems.

Daytime running lights are another promising new technology. There is considerable evidence that equipping vehicles with these lights increases the visibility of vehicles and can reduce accidents. An IIHS study of a fleet of 2,000 cars equipped with such lights found that they had 7 percent fewer accidents than unlighted cars in the same fleet. In addition, a Finnish study showed that multivehicle accicents dropped 27 percent once daytime running lights were required. Moreover, Canada now requires that all new vehicles sold in that country have automatic daytime running lights. Our legislation requires a rulemaking on whether manufacturers should be permitted to equip vehicles with daytime running lights, notwithstanding any State law that affects the use of such lights. It also requires NHTSA to consider whether these lights should be standard equipment.

Antilock brake systems are another promising safety technology. These brakes greatly increase the ability of a vehicle to stop in a short distance and in a straight line. They are especially effective in wet, snowy, or icy conditions. Currently, antilock brakes are available on some pickup trucks and luxury models. Our bill requires NHTSA to conduct a rulemaking on whether antilock brakes should be mandated for passenger cars and MPV's.

Our bill also requires NHTSA to consider a new technology known as heads-up display systems. These displays can project speed, fuel, and other instrument readings onto the lower part of the windshield, enabling the driver to check readings without looking down, enhancing safety.

THE IMPAIRED DRIVING PREVENTION ACT OF 1991

Our bill also addresses the leading cause of highway death—drunk and drugged driving, an issue on which Congress has played a leadership role during the last decade.

In 1982, according to NHTSA, 25,170 Americans were killed in alcohol-related crashes. That year, Senator PELL and I authorized legislation, known as the 408 Program, providing States with incentive grants if they passed laws requiring prompt license suspension, a 0.10-percent blood alcohol content [BAC] per se intoxication standard, and minimum jail sentences or community service for repeat offenders. To date, 25 States have qualified for these grants by passing laws with the required provisions.

In 1984, Congress passed the National Minimum Drinking Age Act. Since enactment, all 50 States have adopted a minimum drinking age of 21. In 1988, Senator LAUTENBERG and I authorized the Drunk Driving Prevention Act. This act created the 410 program for grants to States which adopt antidrunk driving enforcement measures, such as administrative per se suspension of licenses and open container laws.

These efforts have made a small but measurable difference. NHTSA reports that there were 22, 415 drunk driving fatalities in 1989. The percentage of fatal crashes that are alcohol-related has also dropped from 57.2 percent to 49.2 percent.

NHTSA has proposed elimination of the 408 and 410 drunk driving programs. It has also proposed that, in the future, there be no distinct antidrunk driving program, but rather a safety bonus program whereby States could receive grants for enacting safety proposals, such as mandatory seatbelt and motorcycle helmet laws, as well as drunk driving prevention measures. Mothers Against Drunk Driving [MADD] and the National Association of Governors' highway safety representatives have testified before the Commerce Committee that drunk driving is still the leading cause of highway deaths and should remain the focus of a targeted program.

Our bill provides for sunsetting the 408 and 410 programs. It also creates a new impaired driving program to include a number of the most effective features of the 408 and 410 programs, as well as some additional promising impaired driving prevention initiatives.

One of the features of the program involves encouragement of increased use of sobriety checkpoints. These checkpoints have been endorsed as an effective tool to fight impaired driving by DOT Secretary Samuel K. Skinner and National Transportation Safety Board Chairman James Kolstad. In June 1989, the Supreme Court upheld the constitutionality of such checkpoints by a vote of 6 to 3. In a concurring opinion, Justice Blackmun called impaired driving a "tragic aspect of American life" and cited an earlier decision in which he noted that the "slaughter on our highways exceeds the death toll of all our wars."

Another requirement for receiving a grant under the new program involves efforts to videotape impaired drivers. Some local law enforcement officials are using video cameras to record the image of a weaving car and its incoherent driver. Aetna Life & Casualty and MADD have formed a partnership to purchase a limited number of video cameras for the police departments in cities such as Columbus, OH, and Kansas City, MO. Michael Creamer, a deputy sheriff in Columbus, explained the importance of the camera, "We'll show the judge, the jury and the courtroom how they really looked driving on the wrong side, falling down by the car, unable to walk or recite the alphabet." Creamer said all 17 drunk drivers that his department videotaped have pleaded guilty. Last May, the Supreme Court upheld the use of videotaping drunk drivers by an 8 to 1 margin.

Another requirement under the new program involves BAC levels. A State would have to establish a per se BAC standard of no more than 0.10 percent for the first 3 years. To qualify for the grant after that time, the State would have to have a 0.08 percent BAC standard. Virtually every major developed country has a standard lower than 0.10 percent BAC: Canada 0.08 percent BAC; Australia 0.05 percent BAC; Finland 0.05 percent BAC; Norway 0.05 percent BAC; Sweden 0.02 percent BAC; France 0.08 percent BAC; Spain 0.08 percent BAC; Japan 0.08 percent BAC; and U.K. 0.08 percent BAC. States with 0.08 percent BAC per se include Utah, Oregon,

California, and Maine. The scientific community believes that 0.08 percent BAC is well above the level of driving impairment. To get above 0.08 percent, a 170-pound male must drink 4 drinks in 1 hour on an empty stomach. He will metabolize 0.015 percent, or about one drink an hour, so he must continue to drink to stay at 0.08 percent. Thirty-seven studies show impaired depth perception, vision, and judgment at levels at or below 0.04 percent BAC.

Two additional features of this new program merit discussion: First the progam endeavors to give States some flexibility by waiving one of the five basic criteria if they can show reduced alcohol-related fatalities over a 5-year period; and second the program provides a supplemental grant to States that create an effective drugged driving prevention program. A 1988 DOT review of drugged driving indicates between 10 percent and 22 percent of crash-involved drivers tested positive for drugs.

CONCLUSION

This legislation will reduce impaired driving, make vehicles more crashworthy, and help drivers avoid accidents. I urge my colleagues to support it.•

• Mr. GORTON. Mr. President, in the last few weeks, the tragic deaths of Senators HEINZ and TOWER have reminded the Senate of the importance of transportation safety. The most critical aspect of transportation safety is highway safety. Over 94 percent of those killed in transportation accidents die in highway crashes. If current trends continue over the next 10 years, these crashes will kill 450,000 Americans, force the hospitalization of over 5 million of our citizens, and cost our country more than $750 billion. Highway crashes are the leading cause of death for Americans under the age of 34.

Since 1982, the Senate has repeatedly passed legislation to reauthorize the Nation's leading highway safety agency—the National Highway Traffic Safety Administration [NHTSA]. Although these efforts have not been enacted into law, they have helped to move NHTSA forward on several important issues, including side-impact protection for passenger cars and the application of the passive restraint rule to light trucks.

I am pleased to be a cosponsor of this year's NHTSA reauthorization bill. If its recommendations were adopted, they would significantly reduce highway death and injury.

Much work remains to be done to improve passenger car and light truck safety. We must improve the safety of small trucks and minivans by making sure that they have basic safety protections as passenger cars, such as the side-impact protection standard. We must ensure that vehicles have sufficient stability so that they are not prone to roll over.

Another critical safety need is to ensure that all vehicles are equipped with airbags. The Department of Transportation has estimated that universal installation of airbags would save 8,000 lives a year. Our bill would require that, beginning on September 1, 1993, all federally purchased vehicles must have driver- and passenger-side airbags. More importantly, it would require that all newly manufactured passenger cars have full-front airbags by September 1, 1995, and that all light trucks have full-front airbags by September 1, 1997.

NHTSA also has a mandate to help those who purchase vehicles under the Motor Vehicle Information and Cost Savings Act. One of NHTSA's responsibilities under this act is the establishment of minimum standards for bumpers. In 1982, NHTSA lowered its bumper standard from 5 miles per hour to 2.5 miles per hour. At the time, it promised to develop a rating system to inform consumers about the strength of automobile bumpers, but it never developed such a system.

We never should have allowed the bumper standard to be lowered. Each year the Insurance Institute for Highway Safety [IIHS] conducts crash tests with bumpers. Several of the 1991 cars IIHS tested at 5 miles per hour had damages of over $3,000. The 2.5 miles per hour standard is unacceptable. With the ever increasing cost of automobile insurance and higher deductible levels, car owners cannot afford to drive vehicles equipped with tissue paper bumpers that offer no protection from low speed collisions.

We should address the bumper issue in two ways. First, it is time to return to its 1982 5 miles per hour bumper standard. Second, automakers should inform consumers of the maximum speed at which a vehicle's bumper can prevent damage to the vehicle.

Finally, this bill includes a title that would create a program to encourage States to take steps to prevent drunk and drugged driving. It includes incentives to enact proven preventive measures, such as administrative per se license suspension. It also encourages new techniques, such as videotaping, for evidentiary purposes, drunk drivers who are weaving and incoherent at the time of apprehension.

I look forward to working with the members of the committee in seeing that this bill is adopted into law. I urge all our colleagues to support this important safety legislation.•

By Mr. GRASSLEY (for himself and Mr. COATS):

S. 1013. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit for individuals with young children; to the Committee on Finance.

By Mr. GRASSLEY:

S. 1014. A bill to amend the Internal Revenue Code of 1986 to increase the personal exemption amount; to the Committee on Finance.

EMERGENCY TAX RELIEF FOR FAMILIES

Mr. GRASSLEY. Mr. President, today, I am introducing legislation in the form of two separate bills that addresses an increasing problem in America today, the unfair treatment of families through the Tax Code. My "emergency tax relief for families" legislation will make major strides toward accomplishing more tax fairness for families.

The first bill, which is cosponsored by Senator COATS, would expand the young child tax credit to up to $500 to families with adjusted gross income of under $50,000, and children under 5 years old. Congressman WOLF is sponsoring the companion bill in the House.

The current law is tied to the earned income tax credit and is only available to families with an AGI under $21,000 and children under 1 year old. In addition, the maximum credit under current law is only around $350.

My second bill would increase the dependent exemption from the current $2,100 to $7,000 by the year 2000. This is approximately the amount the exemption would be if it had kept up with inflation. The nearly $5,000 loss due to inflation only underscores the growing unfairness to families reflected in the Tax Code.

Mr. President, today is Tax Freedom Day, and I've introduced legislation to recognize the fact that, on this day, Americans stop working for the government and start working for themselves and their families. This Sunday is also Mothers' Day, when all Americans pay tribute to the women who helped bring life to them, and who continue to make great sacrifices for their families.

I can't think of a more appropriate way of commemorating both of these landmark occasions, than to bring tax relief to the working mothers and families of America.

Senator COATS and Congressman WOLF have taken the lead in expanding the personal exemption. Now, we want to strengthen this approach by expanding tax credits for young children, which will be a greater benefit for lower income working families.

I'm very pleased that others have begun to recognize the need to provide direct tax relief for families, rather than more spending for bloated bureaucracies. Two weeks ago, I offered an amendment to the budget resolution in committee that supported the notion that if taxes were raised on wealthy Americans, the revenue would be used to provide tax cuts to middle- and lower-income families, rather than for more spending programs. My amendment passed 20 to 1 in commit-

tee, and was included in the budget resolution passed in the Senate.

Yesterday, Congressman DOWNEY and Senator GORE introduced their proposal to offset tax cuts for families by increasing taxes on upper incomes. I commend my colleagues for their attempt to cut taxes, which a number of us have been pushing for a long time. Unfortunately, the cut is offset by raising taxes on others, which will be a sticking point.

Nevertheless, as a Republican, I take heart in the fact that some Democrats who advocate raising taxes actually want to cut taxes for others, rather than use the revenues for more wasted spending. This is certainly a major step in the right direction, and I congratulate these Democrats for being on the cutting edge.

I believe tax relief for families can and should be paid for by cutting spending in other areas. However, as I expressed in my budget resolution amendment, if taxes are raised on the wealthy, it's essential that the revenue be plowed back into tax relief for middle- and lower-income families, instead of new spending programs. There's just no more cost-effective way of helping families and children than through direct tax assistance.

Now that there is strong support and momentum on both sides of the aisle, and in both Houses of Congress for family tax relief, I'm very encouraged that we're going to finally see some results. I look forward to working with my colleagues in accomplishing this extremely important goal.

I ask unanimous consent that both bills be printed in the RECORD.

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

S. 1013

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

SECTION 1. INCREASE IN EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) is amended by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(3) in the case of a taxpayer with 1 or more young qualifying children, the supplemental young child credit."

(b) SUPPLEMENTAL YOUNG CHILD CREDIT.—

(1) Subsection (b) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) SUPPLEMENTAL YOUNG CHILD CREDIT.—

"(A) IN GENERAL.—The term 'supplemental young child credit' means the applicable percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $10,000.

"(B) LIMITATION.—The amount of the supplemental young child credit allowable to a taxpayer for any taxable year shall not exceed the excess (if any) of

"(i) the applicable percentage of $10,000, over

"(ii) the applicable percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $50,000.

"(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means 5 percent multiplied by the number of young qualifying children of the taxpayer for the taxable year.

"(D) YOUNG QUALIFYING CHILD.—For purposes of this section, the term 'young qualifying child' means any qualifying child who has not attained age 5 as of the close of the calendar year in which or with which the taxable year of the taxpayer ends. If the taxpayer elects to take a child into account under the preceding sentence, such child shall not be treated as a qualifying individual under section 21."

(2) Paragraph (1) of section 32(b) of such Code is amended by striking subparagraph (D).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) of such Code is amended by adding at the end thereof the following flush sentence:

"Separate tables shall be prescribed for purposes of determining the amount of the supplemental young child credit."

(2) Subsection (i) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) SUPPLEMENTAL YOUNG CHILD CREDIT.—In the case of any taxable year beginning after 1992, paragraph (1) shall also apply to the $10,000 and $50,000 amounts set forth in subsection (b)(3), except that 'calendar year 1990' shall be substituted for 'calendar year 1989' in subparagraph (B) of section 1(f)(3)."

(3) Clause (i) of section 3507(c)(2)(B) of such Code is amended by striking "(without regard to subparagraph (D) thereof)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

S. 1014

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

SECTION 1. INCREASE IN EXEMPTION AMOUNT.

(a) IN GENERAL.—Section 151(d)(1) of the Internal Revenue Code of 1986 (relating to exemption amount) is amended to read as follows:

"(1) GENERAL RULE.—

"(A) YEARS AFTER 1999.—Except as otherwise provided in this subsection, the exemption amount for taxable years beginning in a calendar year after 1999 shall be $7,000.

"(B) TRANSITION RULE.—In the case of any taxable year beginning in a calendar year after 1991 and before 2000, the exemption amount shall be determined in accordance with the following table:

"For taxable years beginning in:	The exemption amount is:
1992	$2,700
1993	3,200
1994	3,750
1995	4,300
1996	4,850
1997	5,400
1998	5,950
1999	6,500."

(b) CONFORMING AMENDMENT.—

(1) Section 151(d)(4)(A) of such Code (relating to inflation adjustments) is amended—

(A) by striking "calendar year after 1989" and inserting "calendar year after 2000", and

(B) by striking "paragraph (1)" and inserting "paragraph (1)(A)".

(2) Section 151(d)(4)(A)(ii) of such Code is amended by striking "calendar year 1988" and inserting "calendar year 1999".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

By Mr. MCCAIN:

S. 1015. A bill to amend the Communications Act of 1934 to require that the live television transmission of certain sporting events be available by broadcast over a national broadcast television network; to the Committee on Commerce, Science, and Transportation.

PUBLIC ACCESS TO NATIONAL SPORTING EVENTS ACT

• Mr. MCCAIN. Mr. President, sporting events in our country are not simply a matter of physical fitness and athletics. It involves something much deeper. Cheering for the home team reflects pride—pride in your hometown, pride in your State, and, most certainly, pride in your Nation.

Baseball and football are particularly embedded in our Nation's heritage. The first recorded baseball game ever in the United States took place on June 19, 1846, between the Knickerbockers and the New York Nine. Incidentally, the New York Nine won by a score of 23 to 1 in 4 innings.

Since then, baseball has been crowned as America's national pastime. Roaring, cheering fans have thrilled at the feats of such baseball greats as Babe Ruth, Ted Williams, Roberto Clemente, Ernie Banks, and such present day heroes as Ricky Henderson, and Nolan Ryan, who just recently pitched his seventh recordbreaking nohitter.

These players are role models to our youth, and our Nation's pride.

Football has also enjoyed a grand history in the United States. The first football match most closely resembling the game as it is played today took place in Cambridge, MA, in May 1874, between Harvard University and McGill University of Montreal. Professional football dates back to 1895, and continued with the founding of what is known today as the National Football League in 1920.

America has since cheered such football greats as Johnny Unitas, Joe Namath, Bob Griese, Neil Lomax, Walter Payton, and Joe Montana.

The invention of television provided baseball and football with the perfect medium to draw an even larger audience to these ever popular games. The year 1939 was a momentous one for football, with the advent of the first televised football game between Fordham University and the College of Waynesburg. For the first time, a television audience shared the excitement with the crowds in the stands as Fordham defeated Waynesburg, 34 to 7.

Television became, and remains still, an integral component in the popularity of these sports, so much so that

even the broadcast sports announcers have become famous personalities. Harry Caray, Howard Cosell, Joe Garagiola, and Al Michaels have all contributed greatly to the sport's popularity.

This is why it is greatly disturbing to see the growing trend toward making sports events available only through media other than live broadcast television. The growth of other media has brought many benefits to sports fans. Through subscription channels and pay-per-view programming, sports enthusiasts have continual access to their favorite sports. This is one of the greatest benefits subscription viewers enjoy.

Nonetheless, I believe that certain programs should remain available to all Americans through over-the-air broadcasts. Baseball and football are an integral part of our Nation's heritage, and the championship games for each of these sports, the World Series and the Super Bowl, are American traditions. these traditions should remain available to everyone, and not only to those who are able to pay for subscription television.

Mr. President, access to the World Series and the Super Bowl should not be determined by an income test. These traditions have always been available to all Americans, regardless of their income level. This access should remain unchanged.

The people have demonstrated their support and appreciation for what the baseball and football leagues have done for America. Through their representatives in Congress, and through the courts, these leagues have enjoyed the benefit of various antitrust exemptions. These benefits also bring a responsibility to the public the leagues serve. The leagues have given Americans two traditions which they have cherished since their inception.

These traditions should not be taken away.

For this reason, I am introducing the "Public Access to National Sporting Events Act." This bill would amend the Communications Act of 1934 to require that the live television transmission of certain sporting events be available by broadcast over a national broadcast television network.

Specifically, the bill stipulates that, regardless of any other agreements made between the sponsoring leagues and other media, the World Series and the Super Bowl will remain accessible to the public by live television transmission to be carried simultaneously by the broadcast stations affiliated with a national television broadcast network.

This bill guarantees that there is continued access to these championship games, which Americans enjoy and cherish as national traditions.

I am also concerned about the possibility of the Olympic games becoming available only by subscription. This bill does not address this concern. Nonetheless, it is my hope that this issue can be fleshed out through hearings in the coming weeks.

Mr. President, for all Americans, particularly those who love the World Series and the Super Bowl, as I do, this legislation is necessary for the preservation of two great national traditions.

I urge my colleagues to support this legislation.

Mr. President, I request that the full text of the bill be printed in the RECORD immediately following my remarks.

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

S. 1015

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Access to National Sporting Events Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) there is a growing trend toward making sports events available only through media other than live broadcast television;

(2) access to these events is becoming increasingly costly to the consumer;

(3) as this trend develops, whether the consumer has access to sports events will be determined by the ability of the consumer to pay;

(4) many consumers have benefited from the constant availability of sports programming through subscription media;

(5) nonetheless, the access by members of the public to certain sports events should not be dependent upon their ability to pay for that access;

(6) in particular, the National Football League's annual championship game, known as the "Super Bowl", and the American League's and the National League's annual championship series, known as the "World Series", have enjoyed tremendous popularity and growth, in large part as a direct result of benefits which have been conferred upon their sponsoring leagues by the Congress and the Federal courts;

(7) the National Football League, the American League, and the National League benefit from antitrust exemptions which permit them to operate their franchises free of the restrictions of our antitrust laws.

(8) Such benefits have allowed those leagues to prosper to their advantage and to the advantage of the American public;

(9) however, this advantage to the public will soon become a disadvantage if the availability of certain events is limited only to those who can afford the subscription costs of media other than the national television broadcast networks;

(10) limited access to viewing the Super Bowl and the World Series would deprive citizens of the ability to enjoy these events which have become an American tradition, and which benefit from the antitrust exemptions conferred upon them by Congress and the Federal courts; and

(11) therefore, Congress should ensure that these American traditions remain available to the public via live broadcast television.

SEC. 3. Title VII of the Communications Act of 1934 (47 U.S.C. 701 et seq.) is amended by adding at the end the following new section:

"TELEVISION TRANSMISSION OF CERTAIN CHAMPIONSHIP GAMES

"SEC. 714. (a) Any joint agreement by or among the professional football clubs of the National Football League in which the National Football League (or any successor league) sells or otherwise transfers all or any part of the rights of its member clubs in the live television transmission of its annual league championship game known as the 'Super Bowl' shall provide for such live television transmission to be carried simultaneously by the broadcast stations affiliated with a national television broadcast network.

"(b) Any joint agreement by or among the major legaue professional baseball clubs of the American League and National League in which the American League and National League (or any successor leagues) sell or otherwise transfer all or any part of the rights of their member clubs in the live television transmission of their annual championship series known as the 'World Series' shall provide for such live television transmission to be carried simultaneously by the broadcast stations affiliated with a national television broadcast network.

"(c) Nothing in this section shall be construed as prohibiting a community antenna television system or any other person from obtaining rights to the live television transmission of the Super Bowl or World Series.".●

By Mr. PELL:

S. 1016. A bill to amend the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to develop comprehensive tests of academic excellence, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE TESTS OF ACADEMIC EXCELLENCE

Mr. PELL. Mr. President, I am today introducing legislation that would require the Secretary of Education to develop or have developed a national test or series of tests that would serve as a national test. This legislation differs from that which became law in 1988 in that it requires the Secretary to take this action and is silent on the question of whether or not the test should be mandatory.

My interest in a national test goes back more than 24 years to 1967 when Senator John Sherman Cooper and I joined forces to introduce the Quality in Education Act. That legislation sought to devise a method by which we might be able to compare secondary school education on a district-by-district basis throughout the Nation.

In the aftermath of the proposals set forth in "the Nation's Report Card" in 1987, I resurrected that idea, modified it, and introduced legislation that authorized the Secretary of Education to formulate The Optional Test of Academic Excellence. As I noted, that legislation became law in 1988. My understanding, however, is that little work has been done by the Department with respect to the optional test, something I consider most unfortunate in light of

the national debate now going on in this area.

My idea is that the Secretary should approve a test or series of tests that would serve as a national test of academic excellence.

Unlike my previous legislation, there is no stipulation that the test be voluntary. I note that the administration in the education proposals unveiled last week has proposed that the test be a voluntary one. And, while we may reach that conclusion as we put the final legislation together, I thought it best not to limit the framework of the discussion from the outset by stipulating that the test would be voluntary.

My idea is that we have a national test that does not differ markedly from the New York regents test. Its purpose would be threefold. First, it would measure an individual's educational achievement.

Second, it would give a local education agency an indication of how its students compared with others. It would point out both strengths and weaknesses in the educational attainment of students on a district-by-district basis.

Third, it would award a certificate to each student who passed the examination, and, in that way, it would help identify talented students who might not otherwise be recognized. They could take the certificate to a college or to the workplace as an indication of their educational achievements and ability.

If enacted, the national test would inevitably raise questions regarding a national curriculum. And those are questions that must be addressed as we continue to debate the feasibility of a national test.

In some ways, we already have the elements of a national curriculum because of the dominance of a few States in the selection of textbooks. The requirements set by those States tend to establish a floor that all States adhere to because other options are not available. The question, therefore, may not be should we have a national curriculum, for indeed the basic elements may already be there. The real question may be: What elements do we want to be part of that national curriculum?

We have already had one hearing on the national test and national curriculum concerns within the context of the reauthorization. I would hope, Mr. President, that the legislation I am introducing today might be considered as an important part of the reauthorization of the Office of Educational Research and Improvement. In that regard, I look forward to working closely with the administration to arrive at legislation upon which we can agree and which we all believe is in the best interests of our Nation and its people.

I ask unanimous consent that the text of the proposed legislation appear in the RECORD in its entirety at this point.

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

S. 1016

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

SECTION 1. TESTS FOR ACADEMIC EXCELLENCE.

Section 4602 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3152) is amended to read as follows:

"SEC. 4602. TESTS FOR ACADEMIC EXCELLENCE.

"(a) TEST OF ACADEMIC EXCELLENCE AUTHORIZED.—The Secretary, after consultation with appropriate State and local educational agencies and public and private organizations, shall develop or approve comprehensive tests of academic excellence, to be administered to identify outstanding students who are in the eleventh grade of public and private secondary schools.

"(b) PREPARATION AND CONDUCT OF TESTS.—

"(1) The Secretary shall establish a program through consultation or arrangements with appropriate State educational agencies, local educational agencies, public and private secondary schools, and public and private organizations throughout the Nation, under which the tests of academic excellence prepared or approved under this part shall be given by such agencies or schools to students described in this section. The tests of academic excellence shall be tests of acquired skills and knowledge appropriate for the completion of a secondary school education.

"(2) The Secretary shall assure that the tests authorized by this section are conducted in a secure manner.

"(c) CERTIFICATE.—

"(1) The Secretary is authorized and directed to prepare a certificate, of such appropriate design as the Secretary shall prescribe, and in such numbers as are necessary, for issuance to students who have scored at a sufficiently high level, as determined by the Secretary, on a test of academic excellence prepared or approved under this subpart and given in accordance with arrangements made under this section. Each such student shall be awarded a certificate within 60 days following the date on which the student was given a test.

"(2) Each certificate awarded pursuant to this subsection shall be signed by the Secretary.

"(d) REPORT.—The Secretary shall prepare and submit to the Congress a report on the estimated costs of administering, scoring, and analyzing the tests of academic excellence prepared or approved under this section.".

By Mr. EXON:

S. 1017. A bill to amend title 11, United States Code, to provide that an automatic stay in certain bankruptcy proceedings shall not apply to State property taxes; to the Committee on the Judiciary.

BANKRUPTCY CODE AMENDMENT ACT

• Mr. EXON. Mr. President, in the 101st Congress I introduced a bill that was of vital importance to local governmental entities in Nebraska. Due to a ruling of Nebraska's bankruptcy court, those local governmental entities were having their efforts to assess and collect real estate taxes thwarted if the property in question was subject to a bankruptcy proceeding.

This was, and remains, a very serious problem for those governments as they rely substantially on ad valorem taxes as their base of income. The effect of a bankruptcy proceeding is that the property in question is effectively removed from the tax rolls during the time the property is subject to the bankruptcy proceeding.

When I introduced my previous bill on this subject I predicted that the Nebraska ruling would have a far reaching impact as other courts would begin adopting the same position. That has indeed been the case. A similar case with a similar holding, in re Parr Meadows Racing Association, Inc., has now been issued by the Second Circuit Court of Appeals. The U.S. Supreme Court declined an opportunity to review that ruling.

The National Association of Counties has recognized the importance of this decision and has adopted a resolution expressing their support for legislation amending our bankruptcy laws to preserve the priority of local tax claims and liens. I ask unanimous consent that a copy of a resolution passed by that association be placed in the RECORD following my remarks.

The legislation that I am introducing today is simple. It removes the process of assessing and levying ad valorem property taxes from the stay that is imposed by the filing of a bankruptcy. Doing so will allow our local governmental units to continue the process of assessing and levying such taxes without fear of violating the stay provisions of our current bankruptcy law.

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

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

S. 1017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (10) by striking out "or" after the semicolon;

(2) in paragraph (14) (as added by section 102 of the Act entitled "An Act to amend title 11 of the United States Code regarding swap agreements and forward contracts.", approved June 25, 1990 (Public Law 101-311; 104 Stat. 267)) by striking out the period and inserting in lieu thereof a semicolon;

(3) by redesignating paragraphs (14), (15), and (16) (as added by section 3007 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508)) as paragraphs (15), (16), and (17), respectively;

(4) in paragraph (16) (as resdesignated under paragraph (3) of this section) by striking out "or" after the semicolon;

(5) in paragraph (17) (as redesignated by paragraph (3) of this section) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(6) by adding between paragraph (17) (as redesignated by paragraph (3) of this section)

and the matter following such paragraph the following:

"(18) under subsection (a) of this section, of the valuation, assessment, levy, or perfection of any lien under State law for any ad valorem property tax imposed by any political subdivision.".●

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 141

At the request of Mr. DASCHLE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 144

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 144, a bill to protect the natural and cultural resources of the Grand Canyon and Glen Canyon.

S. 190

At the request of Mr. GRAHAM, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 190, a bill to amend 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retired pay reduced on the basis of the degree of the disability rating of such veteran.

S. 397

At the request of Mr. WIRTH, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 397, a bill to amend the Solid Waste Disposal Act to require producers and importers of newsprint to recycle a certain percentage of newsprint each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such newsprint, and for other purposes.

S. 398

At the request of Mr. WIRTH, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 398, a bill to amend the Solid Waste Disposal Act to provide management standards and recycling requirements for spent lead-acid batteries.

S. 399

At the request of Mr. WIRTH, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 399, a bill to amend the Solid Waste Disposal Act to prohibit the Administrator of the Environmental Protection Agency from listing used oil and affiliated materials as a hazardous waste under that Act, to require producers and importers of lubricating oil to recycle a certain percentage of used oil each year, to require the Administrator to establish a recycling credit system for carrying out such recycling requirement, and for other purposes.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 540

At the request of Mr. BURNS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 540, a bill to amend title 23, United States Code, to assist in the development of an infrastructure to support the use of public lands for travel and tourism purposes, and for other purposes.

S. 583

At the request of Mr. ROTH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 583, a bill to amend the Internal Revenue Code of 1986 to require the recapture of certain losses of savings and loan associations, to clarify the treatment of certain Federal financial assistance to savings and loan associations, and for other purposes.

S. 602

At the request of Mr. SASSER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 602, a bill to improve the food stamp and nutrition programs, and for other purposes.

S. 659

At the request of Mr. GRAHAM, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 659, a bill to suspend temporarily certain bars to the furnishing of veterans benefits to certain former spouses of veterans and to suspend temporarily a bar to the recognition of certain married children of veterans for veterans benefits purposes.

S. 715

At the request of Mr. BURNS, the names of the Senator from California [Mr. SEYMOUR] and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 715, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 722

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 with respect to the requirement that an S corporation have only 1 class of stock.

S. 778

At the request of Mr. GORE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 778, a bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and Inspecter General, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 786

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 786, a bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Kurdish peoples to alleviate suffering.

S. 821

At the request of Mr. LIEBERMAN, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Hawaii [Mr. AKAKA], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 821, a bill to establish the Silvio Conte National Fish and Wildlife Refuge.

S. 844

At the request of Mr. DOMENICI, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 844, a bill to provide for the minting and circulation of one dollar coins.

S. 878

At the request of Mr. DODD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 878, a bill to assist in implementing the plan of action adopted by the World Summit for Children, and for other purposes.

S. 879

At the request of Mr. DASCHLE, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 883

At the request of Mr. BOND, the name of the Senator from Missouri [Mr. DAN-

FORTH] was added as a cosponsor of S. 883, a bill to authorize funds for the construction of highways and to authorize activities under chapters 1 and 2 of title 23, United States Code.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 890

At the request of Mr. KENNEDY, the names of the Senator from Nebraska [Mr. EXON], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 890, a bill to reauthorize the Star Schools Program Assistance Act, and for other purposes.

S. 899

At the request of Mr. LUGAR, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 899, a bill to amend the Older Americans Act of 1965 to recognize, support, and promote the use of volunteers to assist older Americans, to encourage older Americans to volunteer in local communities, and for other purposes.

S. 987

At the request of Mrs. KASSEBAUM, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 987, a bill to amend the Home Owners' Loan Act to improve the qualified thrift lender test, and for other purposes.

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 40

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 40, a joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 65

At the request of Mr. D'AMATO, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 65, a joint resolution designating the week beginning May 12, 1991, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 78

At the request of Mr. BENTSEN, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Rhode Island [Mr. PELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Maryland [Mr. SARBANES], the Senator from Colorado [Mr. BROWN], the Senator from Utah [Mr. GARN], the Senator from California [Mr. CRANSTON], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 78, a joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from Delaware [Mr. BIDEN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Texas [Mr. BENTSEN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 110

At the request of Mr. MOYNIHAN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 110, a joint resolution expressing the sense of the Congress that the United States and the Soviet Union should lead an effort to promptly repeal United Nations General Assembly Resolution 3379 (XXX).

SENATE JOINT RESOLUTION 115

At the request of Mr. MOYNIHAN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 115, a joint resolution to designate the week of June 10, 1991, through June 16, 1991, as "Pediatric AIDS Awareness Week."

SENATE JOINT RESOLUTION 127

At the request of Mr. PACKWOOD, his name was added as a cosponsor of Senate Joint Resolution 127, a joint resolution to designate the month of May 1991, as "National Huntington's Disease Awareness Month."

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. CRAIG, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Concurrent Resolution 24, a concurrent resolution expressing the sense of the Congress that the President should seek to negotiate a new base rights agreement with the Government of Panama to permit the U.S. Armed Forces to remain in Panama beyond December 31, 1999, and to permit the United States to act independently to continue to protect the Panama Canal.

AMENDMENTS SUBMITTED

CONSUMER PROTECTION AGAINST PRICE-FIXING ACT

DOLE AMENDMENT NO. 91

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (S. 429) to amend the Sherman Act regarding retail competition, as follows:

At the end of section 3, add the following: "( ) Notwithstanding sections 4 and 16 of the Clayton Act, in any action under this section, the plaintiff, shall recover actual damages sustained, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to fully compensate such person for the injury sustained, on such actual damages for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances, and the cost of suit, including a reasonable attorney's fee."

DOLE AMENDMENT NO. 92

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to amendment No. 90 proposed by Mr. BROWN to the bill S. 429, supra, as follows:

On page 2, line 9, strike all through page 4, line 18.

DOLE AMENDMENT NO. 93

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 429, supra, as follows:

Beginning on page 2, line 20, strike all through page 4, line 14.

THURMOND AMENDMENT NOS. 94 THROUGH 114

(Ordered to lie on the table.)

Mr. THURMOND submitted 21 amendments intended to be proposed by him to the bill S. 429, supra, as follows:

AMENDMENT NO. 94

On page 2, line 9, strike all through page 4, line 18.

AMENDMENT NO. 95

Beginning on page 4 of the Brown substitute amendment, line 19, delete all beginning with "including" through page 5, line 10, and ending with the word before "An".

AMENDMENT NO. 96

Beginning on page 5, line 21, delete all of section 5.

AMENDMENT NO. 97

On page 5, line 4, starting with the word "except" strike all through the word "agreement".

AMENDMENT NO. 98

Beginning on page 2, line 20, strike all through page 4, line 14.

AMENDMENT NO. 99

On page 4, line 23 delete all after the word "section" through the word "service".

AMENDMENT NO. 100

Beginning on page 4, line 16, delete all beginning with the word "including" through page 5, line 2 and ending with the word before "An".

AMENDMENT NO. 101

On page 5, delete lines 14–17.

AMENDMENT NO. 102

At the end of section 3, add the following:

"( ) Notwithstanding sections 4 and 16 of the Clayton Act, in any action under this section, the plaintiff, shall recover damages sustained, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to fully compensate such person for the injury sustained, on such actual damages for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances, and the cost of suit, including a reasonable attorney's fee."

AMENDMENT NO. 103

At the end of section 3, add the following:

"( ) In any action under this section, the court shall award the cost of suit, including a reasonable attorney's fee, to a substantially prevailing defendant upon a finding that the plaintiff's conduct was frivolous, unreasonable, without foundation, or in bad faith.".

AMENDMENT NO. 104

At the end add the following:

"( ) The provisions of this Act shall apply to all actions commenced after the effective date of enactment of this Act."

AMENDMENT NO. 105

At the end add the following:

"( ) DEFENSE.—It shall be a defense to an action described in this Act that the defendant was so small in the relevant market as to lack market power."

AMENDMENT NO. 106

At the appropriate place, add the following:

"( ) The provisions of this Act shall apply to all actions commenced after the effective date of enactment of this Act."

AMENDMENT NO. 107

At the appropriate place, add the following:

"( ) Notwithstanding sections 4 and 16 of the Clayton Act, in any action under this section, the plaintiff, shall recover damages sustained, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to fully compensate such person for the injury sustained, on such actual damages for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances, and the cost of suit, including a reasonable attorney's fee."

AMENDMENT NO. 108

At the appropriate place, add the following:

"( ) In any action under this section, the court shall award the cost of suit, including a reasonable attorney's fee, to a substantially prevailing defendant upon a finding that the plaintiff's conduct was frivolous, unreasonable, without foundation, or in bad faith.".

AMENDMENT NO. 109

At the appropriate place, add the following:

"( ) DEFENSE.—It shall be a defense to an action described in this Act that the defendant was so small in the relevant market as to lack power."

AMENDMENT NO. 110

On page 5, line 4 delete "section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement." and insert in lieu thereof "section."

AMENDMENT NO. 111

Beginning on page 5, delete all of section 5.

AMENDMENT NO. 112

In section 3, delete the following: SEC. 8(a)(1) (A), (B), (C), (D) and SEC. 8(a) (1), (2), (3).

AMENDMENT NO. 113

Beginning on page 4 of the Brown substitute amendment, line 19 delete all beginning with "including" through page 5, line 10, and ending with the word "An"; insert in lieu thereof "an".

AMENDMENT NO. 114

On page 4, line 23 delete "section, except that this section shall not apply when the agreement to set, change, or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service." and insert in lieu thereof "section."

METZENBAUM AMENDMENT NOS. 115 THROUGH 226

(Ordered to lie on the table.)

Mr. METZENBAUM submitted 112 amendments intended to be proposed by him to the bill S. 429, supra, as follows:

AMENDMENT NO. 115

At the appropriate place, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a

good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 116

At the appropriate place, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 117

At the end, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an ac-

tion to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 118

At the end, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 119

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by

the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 120

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 121

Strike all after the enacting clause and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy

to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 122

Strike all after the enacting clause and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into

an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 123

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 124

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a

violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 125

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 126

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall con-

sider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 127

In lieu of the amendable matter, insert: "with instructions to report back forthwith with the following amendment:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one month after being signed by the President.

AMENDMENT NO. 128

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the

claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 129

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 130

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied

request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 131

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actuals bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 132

At the appropriate place, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted

action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actuals bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 133

At the appropriate place, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 134

At the end, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court

finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 135

At the end, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 136

At the appropriate place, insert the following: "Notwithstanding any other provision herein.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting be-

tween section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 137

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or

the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 138

In lieu of the amendable matter, insert: "with instructions to report back forthwith with the following amendment:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one month after being signed by the President.

AMENDMENT NO. 139

Strike all after the enacting clause and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or serv-

ice to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 140

At the end, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 141

At the appropriate place, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such

competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 142

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 143

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in

the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 144

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 145

Strike all after the enacting clause and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied

request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 146

At the end, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 147

At the appropriate place, insert the following: "The foregoing provisions shall have no effect.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy

to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 148

At the appropriate place, insert the following: "Notwithstanding any other provision herein.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into

an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 149

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 150

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change

or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 151

In lieu of the amendable matter, insert: "with instructions to report back forthwith with the following amendment:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one month after being signed by the President.

AMENDMENT NO. 152

Strike all after the first word and insert in lieu thereof the following: "any action under this section, the court may award the cost of suit, including a reasonable attorney's fee, to a substantially prevailing defendant, upon a finding that the plaintiff's conduct was frivolous, unreasonable, without foundation, or in bad faith.".

AMENDMENT NO. 153

Strike all after the first word and insert in lieu thereof the following: "any action under this section, the court may award the cost of suit, including a reasonable attorney's fee, to a substantially prevailing defendant, upon a finding that the plaintiff's conduct was frivolous, unreasonable, without foundation, or in bad faith.".

AMENDMENT NO. 154

Strike all after the first word and insert in lieu thereof the following: "any action under this section, the court may award the cost of suit, including a reasonable attorney's fee, to a substantially prevailing defendant, upon a finding that the plaintiff's conduct was frivolous, unreasonable, without foundation, and in bad faith.".

AMENDMENT NO. 155

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to

continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 156

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 157

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact

could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

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AMENDMENT NO. 158

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SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

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SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical terri-

torial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 159

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

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SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 160

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

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sale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

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AMENDMENT NO. 161

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(I) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(II) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(II), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(I) expressly or impliedly acquiesced to the request or demand, or

"(II) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(II).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

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AMENDMENT NO. 162

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"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

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"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 164

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termi-

nation or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 165

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 166

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted

action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 167

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 168

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 169

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the

agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective one week after being signed by the President.

AMENDMENT NO. 170

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 171

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such

goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 172

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 173

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 174

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 175

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted

action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 176

In lieu of the matter proposed to the stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 177

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 178

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the

agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 179

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 180

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such

goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 181

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 182

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 183

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 184

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted

action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 185

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(II), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(II).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 186

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 187

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the

agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 188

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 189

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such

goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 190

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 191

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 192

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 193

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted

action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 194

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 195

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 196

In lieu of the matter proposed to stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the

agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 197

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

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SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 198

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such

goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 199

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 200

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 201

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 202

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or

all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 203

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 204

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination,

or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 205

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 206

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition

by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 207

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 208

Strike all after the first and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy

to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 209

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 210

Strike all after the first word and insert in lieu thereof the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 211

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to

vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 212

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 213

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 214

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 215

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set,

change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 216

In lieu of the matter proposed to be stricken, insert the following:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 217

Strike all after the first word and insert in lieu thereof the following:

The provisions of section 3 of this Act shall not apply to a defendant which—

(1) had annual total sales of $7 million or less at the time the action was filed, and

(2) was so small in the relevant market as to lack market power.

AMENDMENT NO. 218

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action

to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 219

At the appropriate place, insert the following: "Notwithstanding any other provision herein:

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 220

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply un-

less, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 10 days after being signed by the President.

AMENDMENT NO. 221

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 222

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the

trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 223

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 15 days after being signed by the President.

AMENDMENT NO. 224

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 225

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting

competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

AMENDMENT NO. 226

At the appropriate place, insert the following: "Notwithstanding any other provision herein,

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply unless, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took action, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual bona fide non-price business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change or maintain the resale price of a good or service is an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon.".

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of non-price vertical restraints.

SEC. 6. This Act shall become effective 20 days after being signed by the President.

THURMOND AMENDMENT NOS. 227 THROUGH 234

(Ordered to lie on the table.)

Mr. THURMOND submitted eight amendments intended to be proposed by him to the bill S. 429, supra, as follows:

AMENDMENT NO. 227

At the appropriate place, add the following:

"DEFENSE.

It shall be a defense to an action described in this Act that the defendant was so small in the relevant market as to lack market power."

AMENDMENT NO. 228

At the appropriate place, add the following:

"( ) Nothing in this Act, shall be construed to allow the award of trible damages.

AMENDMENT NO. 229

On page 5, line 4 of the amendment starting with the word "except" strike all the language through "the agreement" on page 5, line 10.

AMENDMENT NO. 230

Beginning on page 2, line 9 strike all through page 4, line 18.

AMENDMENT NO. 231

Delete all from page 5, line 21 through page 6, line 2.

AMENDMENT NO. 232

On page 5, line 4 of the amendment starting with the word "except" strike all the language through "the agreement" on page 5, line 10.

AMENDMENT NO. 233

Beginning on page 2, line 9 strike all through page 4, line 18.

AMENDMENT NO. 234

Delete all from page 5, line 21 through page 6, line 2.

METZENBAUM AMENDMENT NO. 235

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill S. 429, supra, as follows:

Strike all after the first word and insert in lieu thereof the following:

The provisions of section 3 of this Act shall not apply to a defendant which—

(1) had annual total sales of $7 million or less at the time the action was filed, and

(2) was so small in the relevant market as to lack market power.

LEAHY AMENDMENT NO. 236

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 429, supra, as follows:

On page 5, strike lines 14 through 17 and insert the following:

SEC. 5. (a) In any action in which the conduct of an owner, licensor, licensee, or other holder of an intellectual property right is alleged to be in violation of the antitrust laws in connection with the marketing or distribution of a product or service protected by

such a right, such right shall not be presumed to define a market or to establish market power, including economic power and product uniqueness or distinctiveness, or monopoly power.

(b) For purposes of subsection (a)—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); and

(2) the term "intellectual property right" means a right, title, or interest—

(A) in subject matter patented under title 35 of the United States Code; or

(B) in a work, including a mask work, protected under title 17 of the United States Code.

SEC. 6. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding the following hearings in May. Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251:

Oversight hearing, May 9, 1991, 2 p.m., SR-485, regarding the impact of the Supreme Court's Ruling in Duro versus Reina on the administration of justice in Indian country and on S. 962 and S. 963, legislation to reaffirm the inherent authority of tribal governments to exercise criminal jurisdiction over all Indian people on reservation lands.

Hearing, May 15, 1991, 9:30 a.m., SR-485, regarding reauthorization of the Native American Programs Act, administration for native Americans.

Hearing, May 16, 1991, 9 a.m., SR-485, regarding S. 668, to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations.

Hearing, May 23, 1991, 9 a.m., SR-485, regarding S. 290, to establish an Indian Substance Abuse Program, and for other purposes.

Oversight hearing, May 23, 1991, 2 a.m., SR-485, regarding Indian libraries, archives, and information services.

SUBCOMMITTEE ON AGRICULTURE AND CREDIT

Mr. LEAHY. Mr. President, I would like to announce that a joint hearing of the Senate Committee on Agriculture and Forestry Subcommittee on Agriculture and Credit, and the House Committee on Government Operations Subcommittee on Government Information, Justice and Agriculture will hold a hearing on May 21, 1991 at 9 a.m. in SR-332. The hearing will address the Farmers Home Administration national appeal staff. For further information, please contact Suzy Dittrich of subcommittee staff at 224-5207.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBB. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 8, 1991, at 2 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON SMALL BUSINESS

Mr. ROBB. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, May 8, 1991, at 2 p.m. The committee will hold a full committee oversight hearing on small business procurement in the dredging industry.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROBB. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works and the Subcommittee on Labor, Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Wednesday, May 8, beginning at 2 p.m., to conduct a joint hearing on the environmental and economic implication of a free-trade agreement with Mexico.

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

SUBCOMMITTEE ON LABOR

Mr. ROBB. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, May 8, 1991, at 2 p.m., for a joint hearing with the Committee on Environment and Public Works on the United States-Mexico Free-Trade Agreement.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. ROBB. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., May 8, 1991, to receive testimony on S. 484, the Central Valley Project Improvement Act.

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

COMMITTEE ON ARMED SERVICES

Mr. ROBB. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Wednesday, May 8, 1991, at 2 p.m., to receive a briefing from Maj. Gen. James M. Myatt, USMC, commanding general, 1st Marine Division, and members of the 1st Marine Division on the conduct of ground operations in their tactical area of responsibility during Operation, Desert Shield/Desert Storm.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROBB. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Monday, May 13, beginning at 9 a.m., to conduct a hearing to hear testimony on S. 823, the Transportation Improvement Act of 1991; S. 965, the Surface Transportation Efficiency Act of 1991; and various truck issues.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROBB. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, May 14, beginning at 9 a.m., to conduct a hearing to hear testimony on S. 823, the Transportation Improvement Act of 1991; S. 965, the Surface Transportation Efficiency Act of 1991; and various truck issues.

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

ADDITIONAL STATEMENTS

TRIBUTE TO FLORIDIAN ROBERT B. WILLIAMS

• Mr. GRAHAM. Mr. President, because of my own strong interests in the subject, I am always delighted to acknowledge the contributions of Floridians in the health care arena. A particular source of great pride for us is Robert B. Williams, the director of the department of pharmacy at Shands Teaching Hospital, located on the campus of the University of Florida, who will assume the presidency of the American Society of Hospital Pharamacists [ASHP] this May.

ASHP was founded in 1942 and is the professional association representing pharmacists in the hospital and managed care settings. With more than 24,000 members from each of the 50 States, the society has extensive publishing and educational programs for its members to the benefit of the public. It is also a national accrediting organization for pharmacy residency and technician training programs.

In addition to his administrative duties at Shands, Bob is clinical professor and assistant dean for hospital affairs at the University of Florida's College of Pharmacy. Bob's undergraduate and graduate degrees are in pharamacy from Ferris (MI) State College and Ohio State University.

Along with his teaching and clinical responsibilities, Bob has been a leader

in clinical pharmacy at the local, State, and national levels. In addition, he is a prodigious author with nearly 100 publications and papers to his credit.

Mr. President, I am sure my colleagues join me in extending best wishes to Bob as president of ASHP.●

RECOGNITION OF THE NATIONAL WILDLAND FIREFIGHTERS MEMORIAL

● Mr. BAUCUS. Mr. President, I rise today to draw the Senate's attention to an event taking place at this moment in my home State of Montana. At the Aerial Fire Depot, in Missoula, people are gathering to dedicate a memorial to those who have lost their lives battling this Nation's forest fires.

Mr. President, Missoula is a particularly appropriate location for this memorial. Nearly 42 years ago, 13 young men donned their jumpsuits and parachutes, and flew out of Missoula to drop on a fire along the Missouri River. They were never to return.

The Mann Gulch fire, where these young men lost their lives on that hot August afternoon in 1949, is located not far from the ranch where I grew up. The fire, caused by a lightning strike, was burning in the sparse timber and scrub that is so typical of this area. I know of this country, and it is tough country. It rises steeply from the river. It is studded with breaks, gulches, and cliffs. And the wind on hot summer afternoons becomes erratic, gusty, and unpredictable.

I would bet that those 13 young men cramped inside that old Ford Tri-Motor joked and enjoyed the views on that flight down from Missoula. Inside, each was feeling that rising sense of anticipation and excitement that precedes a parachute jump. However, each knew that the real risk that all firefighters share lay not in the jump, but in what they might face upon landing.

Mr. President, what happened that late afternoon has since become the stuff of myth and legend. The movie, "Red Skies Over Montana," was Hollywood's attempt to capture this event. The loss of 13 young lives in the swirling vortex of the Mann Gulch fire generated controversy, charge, and countercharge. Investigations were held. Procedures were changed.

In thinking about this event, I have concluded that the meaning of the Mann Gulch fire, or any other where firefighters have lost their lives, lies in the deep appreciation we should all feel for those who routinely place themselves in harm's way. Believe me, the ferocious power of a forest fire is something that must be experienced to be understood.

The names of Stanley J. Reba, Marvin L. Sherman, James D. Harrison, Henry J. Thol, Leonard L. Piper, Eldon E. Dietteret, Joseph P. Sylvia, Philip R. McVey, Newton R. Thompson, David R. Navon, Robert J. Bennett, and William J. Hellman will be called forth today in Missoula. They are just a few of the firefighters who have lost their lives. Two hundred and twenty-six have perished since 1977 alone.

Mr. President, as I speak, another fire season is upon us. From Alaska to the Mexican border, young people are arriving at ranger stations and jump bases for another season. Refresher courses are being given. Equipment is being readied. New arrivals are being trained. To all of those who have and will fight this country's wildfires, this Nation is in your debt.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Julie Dammann, a member of the staff of Senator BOND, to participate in a program in Germany, sponsored by the Hanns Seidel Foundation, from May 11–18, 1991.

The committee has determined that participation by Ms. Dammann in the program in Germany, at the expense of the Hanns Seidel Foundation, is in the interest of the Senate and the United States.●

COMMUNITY ECONOMIC DEVELOPMENT CONFERENCE

● Mr. SMITH. Mr. President, there is probably no more important issue at the community level this year than economic health. In the wake of the economic downturn in New England and across the country, many communities and small businesses are fighting for survival.

My colleague, Senator WARREN RUDMAN, and I are sponsoring a Community Economic Development Conference on May 28 in Manchester, NH. The conference is for New Hampshire representatives of municipalities, small business people, and other interested citizens to learn about Federal resources available to strengthen the business climate and improve the local economy.

This conference will address the problems of housing, infrastructure, business development, and job creation—areas that are critical in reestablishing a strong New Hampshire economic climate. New Hampshire College, New Hampshire Municipal Association, Farmers Home Administration, and Blue Cross-Blue Shield of New Hampshire will join us in sponsoring the conference.

U.S. Representative BILL ZELIFF, who is also the owner of the Christmas Tree Farm Inn in Jackson, NH, will address the conference during breakfast. His speech will be followed by panel discussions on "How a Community Develops a Solid Economic Base" and "How a Community Addresses Their Citizens' Housing Needs.

I will address the conference at lunch, giving a report from the Senate on current economic policies that would boost the economy. This segment will be followed by a discussion on job creation and job retention. Finally, the attendees will have the opportunity to hear from representatives of various State and Federal agencies to discuss a number of Federal programs and respond to specific questions on Federal opportunities.

Organizations participating in the conference include: the U.S. Department of Agriculture, Farmers Home Administration; U.S. Small Business Administration; the Department of Commerce, Economic Development Administration, the Federal Highway Administration; the International Trade Administration, the New Hampshire Office of State Planning; New Hampshire Housing Finance Authority; the Northeast Rural Water Association; the Small Business Development Center; and the U.S. Environmental Protection Agency.

I look forward to a successful and productive conference.●

C. FREDERICK ROBINSON

● Mr. RIEGLE. Mr. President, I rise today to pay tribute to Mr. C. Frederick Robinson, a community leader from the city of Flint in my home State of Michigan.

Mr. Robinson has been an active and valuable member of the community and has contributed many things that have made Flint and Genesee County, MI, a better place for people to live.

Mr. Robinson was an original organizer and founder of the Community Civic League, an organization geared to political education and activism. He also helped organize the Urban Coalition of Flint, which advocates on behalf of citizens for needed social and institutional change. As an attorney, he has participated in many efforts to help protect the basic rights for all residents of the community.

On Thursday, May 9, 1991, Mr. Robinson's family, friends, and colleagues

will gather in Flint to honor the accomplishments of Mr. Robinson. Although I will not be able to personally participate in this event, I know I echo the thoughts of many when I say that Mr. Robinson is a man of dedication and commitment.•

SENIOR SERVICES OF SEATTLE/KING COUNTY BRAVO! V SENIOR VOLUNTEER CELEBRATION

• Mr. ADAMS. Mr. President, I arise today to pay tribute to a group of prominent citizens of my hometown of Seattle, WA, who will be honored for their outstanding voluntary contributions to bettering the lives of the residents of Seattle. Tomorrow, on May 9, 20 individuals from all walks of life in our great city will be honored at a banquet and awards ceremony to recognize them for their extraordinary talent and commitment to our community.

The Bravo! V Senior Volunteer Celebration is the fifth annual event to celebrate a special group of volunteers. This event is sponsored by Senior Services of Seattle/King County, a community-based organization which has for many years dedicated itself to providing services to the elderly residents of Seattle and King County. The Bravo! V Senior Volunteer Celebration is one of the many services provided by senior services.

Each year Senior Services of Seattle/King County invites community businesses and organizations to nominate the individuals they believe best exemplify outstanding voluntary service to our community, and from this list selects those to be honored at the award ceremony.

Mr. President, because the accomplishments of the 20 individuals to be honored tomorrow are so impressive I would like to briefly mention each of the honorees and the organization that nominated them for public recognition.

SENIOR VOLUNTEER HONOREES

Dr. Philip N. Hogue is a retired physician and has been a Red Cross volunteer since 1961, including serving on the board of directors for 20 of those years. Of particular note has been his work as chair of both the Military and Social Services Committee and the AIDS Education Committee of the Red Cross. Dr. Hogue was nominated by the American Red Cross.

Mr. Donald R. Cline is being recognized for his direct work with the disabled and frail elderly. Mr. Cline has worked closely with 22 individuals over the past 5 years, including 2 who were victims of Alzheimer's disease and 4 victims of multiple sclerosis. His work with these individuals has been hands on by providing them with transportation, doing their grocery shopping, doing yard work, and other services. Mr. Cline was nominated by ARCO.

Ms. Ann Pattee has been an active volunteer over the past 15 years including at the Union Gospel Mission's mailroom and mending clothes at the Josephinium. Ms. Pattee was nominated by the Association of Retired Seattle City Employees for whom she has volunteered for 14 years as treasurer and served as an executive board member since 1977.

Mr. Neil McCormick, a Boeing Co. retiree since 1978, has been active with SCORE—the Senior Corps of Retired Executives—a national program of retired executives and managers who provide voluntary management counseling to small businesses and community organizations. He has chaired the local SCORE chapter and has served as a representative to the regional and national offices of SCORE. Mr. McCormick was nominated by Boeing management.

Ms. Rosella Flannigan has been responsible for recruiting and training volunteers and matching them with low-income seniors or disabled persons for Catholic Community Services' Volunteer Chore Ministry since it began in 1981. Ms. Flannigan, a nurse, assesses the needs of each potential client to provide an appropriate volunteer match. She works with 50 volunteers who serve 40–60 clients each month. Ms. Flannigan was nominated by Catholic Community Services.

Mr. Leonard Honick has contributed as a volunteer in a variety of capacities to benefit older Americans and other members of the community, including the Senior Corps of Retired Executives [SCORE], the Red Cross Language Bank, and the Mayor's Office for Senior Citizens, where he was a key volunteer in Chautauqua 1988—a Senior World's Fair. Of special note is that Mr. Honick was responsible for forming the Chautauqua Northwest's Mature Market Services, a unique senior consulting service to help business, Government, and community agencies understand the consumer needs of people age 55-plus. Mr. Honick was nominated by Chautauqua Northwest.

Mr. Ken Dodson is the catalyst for Community Home Health Care's Team Running project—the Hood to Coast Relay. His recruitment of runners and fund raisers for the agency's Patient Care Fund has provided an average of $30,000 a year for home health care services to enable older persons to remain independently at home. Mr. Dodson was nominated by Community Home Health Care.

Ms. Selma Weisman chairs the Seattle Gray Panthers' Health Care Committee. To gain information about national health care, she has made many trips to Canada, at her own expense, to obtain information about Canada's health system. She shares this information with fellow Gray Panthers, legislators, and many community organizations. She also serves as president of Human Care Services, a nonprofit organization that assists those needing guardianships and other forms of assistance. Ms. Weisman was nominated by the Gray Panthers.

Mr. Herbert M. Bridge has won many awards and honors for his extensive volunteer work on behalf of a variety of organizations including serving with the Puget Sound chapter of the Naval Reserve Association, the Puget Sound chapter of the American Jewish Committee, vice president of the Federated Jewish Fund, the Seattle Council Navy League and Seafair, and others. Among his honors he was awarded the Washington State Humanitarian Award by the National Conference on Christians and Jews. Mr. Bridge was nominated by the Greater Seattle Chamber of Commerce.

Mr. Floyd Hutton volunteers with two programs at Group Health Cooperative's Senior Resource Center—the Telephone Assistance Resource Center and the new Research and Development Program. He is 1 of 20 volunteers who answer the resource line's over 15,000 requests a year for information. In addition, Mr. Hutton volunteers with the AARP Volunteer Income Tax Assistance Program, the Washington Literacy Program, and the Washington Library for the Blind and Physically Handicapped. Mr. Hutton was nominated by Group Health Cooperative of Puget Sound.

Ms. Jean Lunzer, a retired travel writer for the Seattle Post Intelligencer, has been providing articles to the monthly newsletter of the Retired Senior Volunteer Program [RSVP], providing both travel tips and armchair adventures for the readership. She also volunteers with the Editorial Planning Committee to help plan the focus and content of the paper. Ms. Lunzer was nominated by the Retired Senior Volunteer Program.

Mr. James C. Mizell is a volunteer board member of the Tallmadge Hamilton House Senior Center and chairs its personnel committee. He also serves on the city of Edmonds Civil Service Commission and actively participates with the Evergreen Area Council of Boy Scouts and the Pilchuck Council CampFire and the Big Brothers Bowl-a-thon. Mr. Mizell was nominated by SAFECO Insurance Co.

Mr. George Ledger has a long history as a volunteer with scouting. In 1990 he received the George Meany Award for his 40 years in Scouting, including serving as an assistant Cubmaster, Cub Scout Roundtable Commissioner, assistant Scoutmaster, and roundtable commissioner. He has taught and participated on the staff of our National Boy Scout Jamborees and World Jamborees in Norway and Japan. Mr. Ledger was nominated by the Retired Seattle City Light Employees Associaton.

Mr. T. Edward Stephens, Ph.D., has been a member of the Seattle Senior Corps of Retired Executives [SCORE] for 25 years—longer than anyone else

in the Seattle SCORE—and has served as a member of the executive board. He has been a SCORE counselor to countless small business owners, has assisted the Small Business Administration [SBA] in evaluating applicants' eligibility for loans and lectured and given speeches on behalf SCORE. Dr. Stephens was nominated by SCORE.

Mr. Del Castle has been a community volunteer in the Seattle area for many years in many capacities. In addition to serving for the past 6 years as a member of the Seattle-King County Advisory Council on Aging, where he chairs the public information Committee, he volunteers with the Seattle Longshore Pensioners Club, the Elder Citizens Coalition, the Puget Sound Council of Senior Citizens, the Harrison Denny Community Council and the Cypress Island Cooperative. In addition to his Sunday column in the Seattle Times, he is now helping to raise $1 million to endow at the University of Washington the first chair to be established in the Nation in the name of a labor leader, Harry Bridges. Mr. Castle was nominated by the Seattle-King County Advisory Council on Aging.

Mr. Ruben E. Spannaus has provided his volunteer contributions to the United Way since 1947 when he first served as a member of a special committee on a community fund agency. Since then he has served in an extraordinary array of roles with United Way, ranging from committee chairmanships, instructor for the Volunteer Leadership Board Training Program, and interpreter for the Board Bank. He now chairs the Government Affairs Committee and serves as United Way representative to a variety of community entities including the Seattle Public Schools and Seattle-King County Advisory Council on Aging. He is also a member of the United Way of King County Aging Services Panel. Mr. Spannaus was nominated by the United Way of King County.

Mr. Bob Fraser has played numerous community volunteer roles including leadership roles in the Telephone Pioneers of America, and is the elected representative of the Life Member Retirees of the Pioneers for all of western Washington. He was the heart and soul of the Pioneer effort in the Goodwill games, especially in recruiting and training volunteers. Mr. Fraser also provided leadership in repairing Talking Books for the Library of the Blind and has worked with physically challenged children. Mr. Fraser was nominated by the U.S. West Communication/Telephone Pioneers of America.

Ms. Lorna Aagaard was one of the first volunteers at the Burke Museum at the University of Washington, where she was a docent for 20 years and continues to work at the reception desk. She was also one of the first volunteers at the University Medical Center, holding a variety of positions including chair of the Volunteer Liaison Committee. She was president of the UW Faculty Auxiliary and the Medical Faculty Auxiliary. She has also volunteered at her church for 33 years. Ms. Aagaard was nominated to the University of Washington Retirement Association.

Mr. Norman Chamberlain is known throughout the State of Washington and nationally for his efforts to promote and expand rehabilitation facilities for those who have been incarcerated and who need help as a result of drug or alcohol illnesses. He has served as chair of the Washington Council on Crime and Delinquency and currently chairs the King County Executive's Committee on Prison Sitting. In addition, Mr. Chamberlain has dedicated himself to the creation of the Southeast Seattle Senior Center new building and is cofounder of the South Seattle Crime Prevention Council—a community/police partnership hailed nationally for its innovative structure and its contribution toward crime reduction techniques. Mr. Chamberlain was nominated by VelDyke Realty.

Ms. Josephine Lynch has provided extensive voluntary contributions to young and old alike. She participated in the 50 Plus Child Care Training Program at North Seattle Community College and has volunteered at the YWCA East Cherry Child Care Center where she serves three times a week as a teacher assistant. She also volunteers at the Central Area Senior Center and in other community and church programs. Ms. Lynch was nominated by the YWCA East Cherry Branch.

As this list of 20 individuals indicates, their contributions extend over many years and affect many different facets of community life. Their commitment makes a profound difference in the lives of children, disabled adults, and older persons. Their work benefits community services of all kinds, from serving on boards of directors to providing hands-on care to those in need. These deeply committed and hard working citizens have earned this honor which, most significantly, has been recommended by their peers. And, of course, they symbolize the contributions of tens of thousands of other volunteers serving communities throughout our Nation. They are the spirit of America.

Mr. President, I also want to recognize Senior Services of Seattle/King County, a community organization which sponsor this celebratory event. I have had the privilege of working with this organization for many years and am well-acquainted with the scope and importance of their work of behalf of the older citizens of Seattle. I know that Senior Services could not do what it does so well without the many volunteers that contribute to their organization as well. Hats off to all these incredible people.●

HONORING MICHIGAN TROOPS WHO DIED IN DESERT STORM

● Mr. RIEGLE. Mr. President, today I wish to pay tribute to the 15 brave Michigan service members who lost their lives in service to their Nation in support of Operation Desert Shield/Desert Storm.

The heroic Michigan servicemen I honor today are Army Cpl. Stanley Bartusiak of Romulus, Marine Cpl, Kurt Benz of Garden City, Army Sgt. Roger Brilinki of Ossineke, Navy Boiler Technician Fireman Tyrone Brooks of Detroit, Marine Capt. Jonathan Edwards of Grand Rapids, Army S. Sgt. Mark Hansen of Ludington, Army Spec. Timothy Hill of Detroit, Army PFC Aaron Howard of Battle Creek, Marine Lance Cpl. Michael Linderman, Jr., of Lansing, Army Sgt. Kelly Matthews of Burkley, Army Spec. William Palmer of Hillsdale, Army Spec. Kelly Phillips of Madison Heights, Navy Aviation Boatswain's Mate Marvin Plummer of Detroit, Marine S. Sgt. David Shaw of Harrisville, and Marine Lance Cpl. Tom Tormanen of Milford.

In an hour of national crisis, America called hundreds of young Michigan men and women to service. Each one of them answered willingly and with dignity. Each one gave all we asked of them, and more. Fifteen gave their lives.

It is always tragic when a life is lost, especially the life of a young person. But these heroic troops lost their lives in courageous service to their country. In that we may take pride. They willingly answered the call to serve the United States of America and selflessly gave their lives.

Their families were called upon as well to make the most heartbreaking sacrifice. In the grandest gesture of patriotism, they stood behind their loved ones and supported them even in the face of imminent danger. The families of service members involved in Operation Desert Storm are to be honored and commended. At the same time, let us never forget the profound loss of the families of the 15 fallen men from Michigan.

As a nation, we are indebted to these men and their families. As residents of Michigan, we are proud to have called them neighbors and friends. And, as individuals, we cannot help but mourn their loss. They have given to the United States something we hope never to have to ask of another American.

When we ask an American family to sacrifice a loved one for their country, we can ask for nothing greater. This debt may never be repaid except in our hearts, in our minds, and in our prayers.●

TRIBUTE TO JUDGE EUGENE SPELLMAN

● Mr. GRAHAM. Mr. President, I offer a tribute to an exemplary member of

the Federal judiciary, U.S. District Judge Eugene P. Spellman of the Southern District of Florida.

Judge Spellman died of cancer May 3 in Miami at age 60, having served as a district court judge 11 years. Funeral mass was held today in Coral Gables.

During those 11 years on the Federal bench, Judge Spellman presided over some of the most complicated cases of this century, involving issues of taxation, religious freedom, immigration law, and money laundering.

Amidst the diversity of his docket, the judge brought these consistent characteristics to court: compassion, fairness, intelligence, and humility.

Mr. President, our time-honored system of justice grants considerable power to Federal judges. But Judge Spellman never forgot the powerless—the handicapped, the impaired and the homeless.

Gene Spellman loved his profession, he loved his community and he loved his family. One of Judge Spellman's last accomplishments—and one of his proudest—was to speak at his son Michael's graduation from law school this spring at Florida State University in Tallahassee.

To the Spellman family, we extend our prayers as we share their grief. To future members of the judiciary, we offer the example of Judge Spellman's service as a model.•

CYPRUS AND THE NEW WORLD ORDER

• Mr. HARKIN. Mr. President, I would like to take this opportunity to speak about some of the lessons from the Persian Gulf war and their applicability to the conflict on Cyprus. As you know Mr. President, like the Kuwait crisis, the United Nations Security Council has passed a number of resolutions designed to end the crisis on Cyprus; most notably Security Council Resolutions 353, 1974; 367, 1975; 541, 1983; 550, 1984; and 649, 1990.

Throughout the Persian Gulf crisis President Bush spoke of a new world order resulting from the allied coalition's efforts to liberate Kuwait. Yet, the manner in which the Persian Gulf crisis was resolved did nothing to achieve a new world order. There was nothing new about the way the crisis was handled and little order has come about as a result of the war.

Cyprus, however, holds out a new hope and could be a shining example of how conflicts should be resolved in a new world order. As the international community searches for a solution to the conflict on Cyprus, we must consider not only what lessons can be learned from the gulf crisis but also what lessons will be taught in the future concerning conflict resolution.

What are some of the lessons that can be learned from the gulf war? First, the United Nations Security Council has an important role to play. If Cyprus is going to be an example of a new world order then United States Security Council Resolutions 367 (1975) and 649 (1990) as well as the agreements reached by the leaders of the two communities in 1977 and 1979 must continue to serve as the basis for the Secretary General's efforts and be implemented. Second, the United States is the only nation capable of providing the diplomatic and political leadership necessary to help resolve the conflict. Cyprus, as we all know, is high on the agenda of the Secretary General. The Secretary General began his illustrious career on Cyprus and would very much like to see the conflict resolved before he leaves office this year. I believe that Cyprus should also be high on the agenda of President Bush. Third, the manner in which U.N. Security Council resolutions are implemented—through diplomatic and political means as opposed to military force—will determine whether there will be a lasting and durable solution or whether greater human suffering will result. Last, as I have said on many occasions, the sovereignty, independence, and territorial integrity of Cyprus must be respected and Turkish troops must leave. These are some of the lessons that can be learned from the gulf war.

Mr. President, we must now turn to those lessons that Cypriots might teach the world. The Cypriot communities face a daunting challenge; to install new state structures that will be accepted by all Cypriots regardless of ethnic background. Cyprus is not alone in its challenge to form new state structures. Yugoslavia, the birthplace of my mother, faces a somewhat similar situation, absent the presence of foreign troops. In Yugoslavia the federal system is breaking apart along the lines of ethnicity and has thrust that country to the verge of civil war. The federal system of Canada, which all would agree is a modern Western industrialized state, was on the brink of collapse only last year. Again, cultural, ethnic and political differences were at the root of the problem. Whether in Africa or Eastern Europe, the Basques of Spain or the Kurds of the Middle East, ethnic differences and the desire for satisfactory political representation are causing tensions, challenging old regimes, placing new tensions on political structures and upon the world community. Even in our own country, which has long prospered and benefited from ethnic diversity, the political model of federalism, while proven to be attainable and advantageous, did not evolve without a civil war.

How the conflict on Cyprus is eventually resolved and how the Cypriots decide to best govern themselves could greatly influence the world and become a model for any new world order. The U.S. Congress, for its part, can be a positive influence on the future course of events in Cyprus. We can do so by reaffirming our commitment to a proven formula for stability between Greece and Turkey. As I have said before, experience has shown that continuing to fund Greece and Turkey on the basis of the 7:10 ratio is in the best interest of the United States and assists in creating a climate conducive to a lasting settlement on Cyprus.•

AILENE ROSELYN BUTLER

• Mr. RIEGLE. Mr. President, I rise today to pay tribute to Ms. Ailene Roselyn Butler, a community leader from the city of Flint in my home State of Michigan.

Ms. Butler has been an active and valuable member of the community and has contributed to many things that have made Flint and Genesee County, MI, a better place for people to live.

Ms. Butler has always been a pioneer. She was the first and, thus far, only black Flint city councilwoman, Flint's first black Girl Scout leader, the first woman elected as vice president and board member of the Flint NAACP, and Flint's first black female funeral director.

On Thursday, May 9, 1991, Ms. Butler's family, friends, and colleagues will gather in Flint, to honor her many accomplishments. Although I will not be able to personally participate in this event, I know I echo the thoughts of many when I say that Ms. Butler is a woman of dedication and commitment.•

INDUCTION OF BEN C. WILEMAN INTO THE NATIONAL HOUSING HALL OF FAME

• Mr. BOREN. Mr. President, it is great pleasure for me to note the induction of Ben C. Wileman into the National Housing Hall of Fame. The National Housing Hall of Fame honors individuals who have made a lasting contribution to the American housing industry and is sponsored by the National Association of Home Builders.

One of the most innovative and dedicated of its members, Ben Wileman's contributions were key to the development of the association as it is known today. His earliest contribution was as a member of the Home Builders Emergency Committee beginning in 1941. Because of this committee's work, the Federal Government did not take control of the residential building industry during World War II. The committee also helped ensure that local builders could get the supplies needed to build war-worker's housing.

Wileman first came to Washington to lobby for building supplies for Oklahoma in 1941. A Government-ordered control on all building materials put Oklahoma in an all-brick jurisdiction, but the State had a limited supply of

bricks and practically no bricklayers, so Wileman agreed to go to Washington to speak with the committee in charge of building material allocation. During this trip, he also met with the Home Builders Emergency Committee, forerunner of the NAHB. Wileman joined the group and became very involved in the committee. The committee helped set policy that allowed the residential building industry to continue through the war years.

Highlights of Wileman's NAHB activities include: negotiating the merger of the HBI/NAHB and the National Home Builders Association (1941–43), running various committees from 1941 to 1956, establishing the first annual membership campaign in 1945, serving as vice president in 1946 and providing vision for the fledgling association until the 1960's.

Wileman is also well known as a philanthropist in the Oklahoma City area. He built one of the first shopping centers in the region, and his residential developments were designed to build communities, not just houses. During the late 1950's, Wileman began a long-term interest in providing medical care for middle Oklahoma. He was instrumental in developing the Bellevue Medical Center and continues to endow many of its programs. His contributions to the health of the community have earned him many awards and honors in Oklahoma City.

Ben C. Wileman's contributions to his community and the building industry are well known in Oklahoma, and I am pleased that the rest of the country will now learn of the accomplishments of this outstanding Oklahoman.●

EXECUTIVE CALENDAR

Mr. ROBB. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 81, 82, 83, 84, and 85; I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Robert B. Zoellick, of the District of Columbia, to be Under Secretary of State for Economic and Agricultural Affairs.

INTERNATIONAL BANKS

Robert B. Zoellick, of the District of Columbia, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years; U.S. Alternate Governor of the African Development Bank for a term of 5 years; U.S. Alternate Governor of the African Development Fund; and U.S. Alternate Governor of the Asian Development Bank, vice Richard Thomas McCormack; and to be U.S. Alternate Governor of the European Bank for Reconstruction and Development.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

William G. Curran, of New York, to be U.S. Director of the European Bank for Reconstruction and Development.

INTER-AMERICAN FOUNDATION

Ann Brownell Sloane, of New York, to be a member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 1996.

UNITED STATES INFORMATION AGENCY

Henry E. Catto, of Texas, to be Director of the U.S. Information Agency.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MEASURE PLACED ON CALENDAR—H.R. 1455

Mr. ROBB. Mr. President, I ask unanimous consent that H.R. 1455, the Intelligence Authorization Act, just received from the House, be placed on the calendar.

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

THE CALENDAR

Mr. ROBB. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 76, 77, 78, and 79; that the bills be deemed read a third time and passed, and motions to reconsider the passage of these items be laid upon the table en bloc.

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

Mr. ROBB. Mr. President, I further ask unanimous consent that any statements relating to these calendar items appear at the appropriate place in the RECORD and that consideration of these items appear individually in the RECORD.

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

RELIEF OF FANIE PHILY MATEO ANGELES

The bill (S. 119) for the relief of Fanie Phily Mateo Angeles, was considered, ordered to be engrossed for a third reading, deemed read the third time, and passed, as follows:

S. 119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Fanie Phily Mateo Angeles shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of such Act, or if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

RELIEF OF MARIA ERICA BARTSKI

The bill (S. 159) for the relief of Maria Erica Bartski, was considered, ordered to be engrossed for a third reading, deemed read the third time, and passed, as follows:

S. 159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Maria Erica Bartski shall be issued a visa and admitted to the United States for permanent residence upon filing an application for a visa and payment of the required visa fees. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act (8 U.S.C. 1152(e)).

RELIEF OF MARY P. CARLTON AND LEE ALAN TAN

The bill (S. 395) for the relief of Mary P. Carlton and Lee Alan Tan, was considered, ordered to be engrossed for a third reading, deemed read the third time, and passed; as follows:

S. 295

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

SECTION 1. IMMEDIATE RELATIVE STATUS FOR MARY P. CARLTON AND LEE ALAN TAN.

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Mary P. Carlton, the widow of a citizen of the United States, and Lee Alan Tan, the stepchild of a citizen of the United States, shall be considered to be immediate relatives within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in these cases.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if Mary P. Carlton and Lee Alan Tan apply to the Attorney General for immigrant visas pursuant to such subsection within 2 years after the date of enactment of this Act.

RELIEF OF JOHN GABRIEL ROBLEDO-GOMEZ DUNN

The bill (S. 464) for the relief of John Gabriel Robledo-Gomez Dunn, was considered, ordered to be engrossed for a third reading, deemed read the third time, and passed, as follows:

S. 464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Naturalization Act, John Gabriel Robledo-Gomez Dunn shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act (8 U.S.C. 1101(b)(1)(E)), upon filing of a petition filed on his behalf by his adoptive parents, citizens of the United States, pursuant to section 204 of that Act (8 U.S.C. 1154). No natural parent, brother, or sister, if any, of John Gabriel Robledo-Gomez Dunn shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

NATIONAL HUNTINGTON'S DISEASE AWARENESS MONTH

Mr. ROBB. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 127 designating "National Huntington's Disease Awareness Month"; that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read a third time and passed; the motion to reconsider be laid upon the table; and the preamble be agreed to.

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

The joint resolution (S.J. Res. 127) was considered, ordered to be engrossed for a third reading, deemed read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 127

Whereas 25,000 Americans are victims of Huntington's Disease, a fatal, hereditary, neurological disorder;

Whereas an additional 125,000 Americans have a 50 percent chance of inheriting the gene responsible for Huntington's Disease from an affected parent, and are considered to be "at-risk" for the disease;

Whereas tens of thousands of other Americans experience the destructive effects of the disease, including suffering from the social stigma associated with the disease, assuming the difficult role of caring for a loved victim of the disease, witnessing the prolonged, irreversible physical and mental deterioration of a loved one, and agonizing over the death of a loved one;

Whereas at present there is no cure for Huntington's Disease and no means available to retard or reverse the effects of the disease;

Whereas a victim of the later stages of Huntington's Disease invariably requires total personal care, the provision of which often results in devastating financial consequences for the victim and the victim's family;

Whereas recent advances in the field of molecular genetics have enabled scientists to locate approximately the gene-site responsible for Huntington's Disease;

Whereas many of the novel techniques resulting from these advances have also been instrumental in locating the gene-sites responsible for familial Alzheimer's Disease, manic depression, kidney cancer and other disorders;

Whereas increased Federal funding of medical research could facilitate additional advances and result in the discovery of the cause and chemical processes of Huntington's Disease and the development of strategies to stop and reverse the progress of the disease;

Whereas Huntington's Disease typifies other late-onset, behavioral genetic disorders by presenting the victim and the victim's family with a broad range of biomedical, psychological, social, and economic problems; and

Whereas in the absence of a cure for Huntington's Disease, victims of the disease deserve to live with dignity and be regarded as full and respected family members and members of society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1991, is designated as "National Huntington's Disease Awareness Month", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

NATIONAL FOSTER CARE MONTH

Mr. ROBB. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 154, a joint resolution designating May 1991 as "National Foster Care Month," and that the Senate proceed to its immediate consideration.

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

The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 154) designating May 1991 as "National Foster Care Month."

The joint resolution (H.J. Res. 154) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBB. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE CHAIR

The PRESIDING OFFICER. The Chair, pursuant to Executive Order 12131, as amended, signed by the President May 4, 1979, and extended by Executive Order 12692, signed by the President September 29, 1989, appoints the Senator from New Jersey [Mr. BRADLEY] to the President's Export Council.

ORDERS FOR TOMORROW

Mr. ROBB. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:15 a.m., Thursday, May 9; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that at 11 a.m. the Senate resume consideration of S. 429.

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

PROGRAM

Mr. ROBB. Mr. President, the majority leader asks I announce for the information of the Senate that on tomorrow, at 10:30 a.m., the newly appointed Senator from Pennsylvania, HARRIS WOFFORD, will be sworn in to fill the vacancy created by the death of our late colleague, John Heinz.

RECESS UNTIL TOMORROW AT 10:15 A.M.

Mr. ROBB. Mr. President, if there be no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 10:15 a.m., Thursday, May 9.

There being no objection, the Senate, at 7:01 p.m., recessed until tomorrow, Thursday, May 9, 1991, at 10:15 a.m.

NOMINATIONS

Executive nominations received by the Senate May 8, 1991:

FEDERAL RESERVE SYSTEM

David W. Mullins, Jr., of Arkansas, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years, vice Manuel H. Johnson, resigned.

IN THE ARMY

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Harold T. Fields, Jr. [redacted] U.S. Army.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 8, 1991:

DEPARTMENT OF STATE

ROBERT B. ZOELLICK, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF STATE FOR ECONOMIC AND AGRICULTURAL AFFAIRS.

INTERNATIONAL BANKS

ROBERT B. ZOELLICK, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF 5 YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; UNITED

STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; AND UNITED STATES ALTERNATE GOVERNOR OF THE ASIAN DEVELOPMENT BANK, VICE RICHARD THOMAS MCCORMACK; AND TO BE UNITED STATES ALTERNATE GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

WILLIAM G. CURRAN, OF NEW YORK, TO BE UNITED STATES DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

INTER-AMERICAN FOUNDATION

ANN BROWNELL SLOANE, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 1996.

U.S. INFORMATION AGENCY

HENRY E. CATTO, OF TEXAS, TO BE DIRECTOR OF THE U.S. INFORMATION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

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HOUSE OF REPRESENTATIVES—*Wednesday, May 8, 1991*

The House met at 11 a.m.

The guest chaplain, Rev. Dr. Tyler Johnson, First Presbyterian Church, Newport, RI, offered the following prayer:

Dear God, we thank You for these good men and women, who have been willing to serve You and our country, and have been elected to this high place of leadership. They work, and have worked, long and hard hours for the good of our Nation. Be with them in moments when they question if it has been worth it. Remind us that the God we worship, and by whose help this Nation has continued, is still able to help us. Use them in the work You have called them to do.

We are grateful for our President's improvement in health. On this special day we thank You again for Your blessing in the miracle of Desert Storm and Desert Shield victories. We are grateful for our great leaders and the support of this House.

We pray again the words Peter Marshall prayed 44 years ago today to the other Members of Congress: "Help us to do our very best this day and be content with today's troubles, so that we shall not borrow the troubles of tomorrow. Save us from the sin of worrying, lest stomach ulcers be the badge of our lack of faith." Amen.

THE JOURNAL

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

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

Mr. RUSSO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 295, nays 103, not voting 32, as follows:

[Roll No. 77]

YEAS—295

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Bacchus
Barnard
Barton
Bateman
Bellenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff

NAYS—103

Allard
Armey
Ballenger
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Clinger
Coble
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Duncan
Edwards (OK)
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
McCandless
McDade
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nussle
Packard
Paxon
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Smith (TX)
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Wolf
Young (AK)
Zimmer

NOT VOTING—32

AuCoin
Baker
Brown
Bustamante
Clay
Coughlin
Dellums
Dixon
Dreier
Evans
Ford (MI)
Gaydos
Gephardt
Kanjorski
Kennelly
Lehman (FL)
Martin
Mollohan
Neal (NC)
Rangel
Ray
Ros-Lehtinen
Roybal
Sanders
Scheuer
Slattery
Stallings
Swift
Towns
Valentine
Washington
Williams

□ 1123

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania [Mr. SANTORUM] please come forward and lead the House in the Pledge of Allegiance.

Mr. SANTORUM led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 194. Joint resolution designating May 12, 1991, as "Infant Mortality Awareness Day."

The message also announced that, pursuant to section 4355(a), title 10, of the United States Code, the Chair, on behalf of the Vice President, appoints Mr. REID, from the Committee on Appropriations; Mr. D'AMATO, from the Committee on Appropriations; Mr. SHELBY, from the Committee on Armed Services; and Mr. BURNS, at large, to the Board of Visitors of the U.S. Military Academy.

The message also announced that, pursuant to section 6968(a), title 10, of the United States Code, the Chair, on behalf of the Vice President, appoints Ms. MIKULSKI, from the Committee on Appropriations; Mr. HATFIELD, from the Committee on Appropriations; Mr. MCCAIN, from the Committee on Armed Services; and Mr. SARBANES, at large, to the Board of Visitors of the U.S. Naval Academy.

The message also announced that, pursuant to section 9355(a), title 10, of the United States Code, the Chair, on behalf of the Vice President, appoints Mr. WIRTH, from the Committee on Armed Services; Mr. COCHRAN, from the Committee on Appropriations; Mr. DECONCINI, at large; and Mr. DOMENICI, from the Committee on Appropriations, to the Board of Visitors of the U.S. Air Force Academy.

The message also announced that, pursuant to section 2553 Public Law 101-647, the Chair, on behalf of the President pro tempore and upon the recommendation of the Republican leader, appoints Mr. Neal S. McCoy of Virginia to the National Commission on Financial Institution Reform, Recovery, and Enforcement.

The message also announced that, pursuant to Public Law 100-297, the Chair, on behalf of the President pro tempore, appoints Mr. INOUYE, Dr. Lionel Bordeaux of South Dakota, and Dr. Robert J. Swan of Montana, to the Advisory Committee of the Conference, White House Conference on Indian Education.

The message also announced that, pursuant to Public Law 101-509, the Chair, on behalf of the majority leader, announces his appointment of Dr. Christopher Beam of Maine to the Advisory Committee on the Records of Congress.

The message also announced that, the Chair, announces on behalf of the majority leader, the appointment of Mr. BYRD, as Chairman of the Senate Delegation to the British-American Parliamentary Group during the 102d Congress.

The message also announced that, pursuant to Executive Order 12131, as amended, and Executive Order 12692, the Chair appoints Mr. DANFORTH and Mr. BURNS to the President's Export Council.

REV. DR. TYLER JOHNSON

Mr. MACHTLEY. Mr. Speaker, it is an honor for me to welcome to the House Chamber as guest minister the Reverend Dr. Tyler Johnson, president and minister of the First Presbyterian Church in Newport, RI.

He is a distinguished and dedicated spiritual leader of our community. Rhode Island was the first State in the Union to declare religious freedom. He follows such great names as Roger Williams, Anne Hutchinson, and Judah Touro.

RECESS

The SPEAKER. Pursuant to the order of the House of Tuesday, May 7, 1991, the Chair declares the House in recess, subject to the call of the Chair.

Accordingly (at 11 o'clock and 26 minutes a.m.) the House stood in recess subject to the call of the Chair.

RECEPTION OF GEN. H. NORMAN SCHWARZKOPF BY THE HOUSE OF REPRESENTATIVES

The SPEAKER. The Chair appoints the following Members to welcome Gen. H. Norman Schwarzkopf into the Chamber:

The gentleman from Missouri, Mr. GEPHARDT; the gentleman from Pennsylvania, Mr. GRAY; the gentleman from Michigan, Mr. BONIOR; the gentleman from Maryland, Mr. HOYER; the gentleman from Illinois, Mr. MICHEL; the gentleman from Georgia, Mr. GINGRICH; the gentleman from California, Mr. LEWIS; the gentleman from Oklahoma, Mr. EDWARDS; the gentleman from Mississippi, Mr. WHITTEN; the gentleman from Pennsylvania, Mr. MCDADE; the gentleman from Florida, Mr. FASCELL; the gentleman from Michigan, Mr. BROOMFIELD; the gentleman from Indiana, Mr. HAMILTON; the gentleman from New York, Mr. SOLARZ; the gentleman from Mississippi, Mr. MONTGOMERY; the gentleman from Arizona, Mr. STUMP; the gentleman from Wisconsin, Mr. ASPIN; the gentleman from Alabama, Mr. DICKINSON; the gentleman from Pennsylvania, Mr. MURTHA; the gentleman from Florida, Mr. YOUNG; the gentleman from Florida, Mr. GIBBONS; and the gentleman from California, Mr. FAZIO.

"My Country" was presented by the U.S. Army Band, led by Col. L. Bryan Shelburne, Jr.

The Doorkeeper, the Honorable James T. Molloy, announced Gen. H. Norman Schwarzkopf, who entered the Hall of the House of Representatives accompanied by the escort committee, and was seated at the desk in front of the Speaker's rostrum.

The SPEAKER. The Chair wants to welcome everyone in the Chamber on this special occasion.

We are honored to have with us today representatives from the armed services who distinguished themselves in service in the Persian Gulf during Operation Desert Storm.

Would they please rise so they may be recognized.

(Applause, the Members rising.)

The SPEAKER. We are also very honored to have with us in the President's gallery, the wife of General Schwarzkopf, Brenda Schwarzkopf.

(Applause, the Members rising.)

The SPEAKER. We are pleased to welcome Senator MITCHELL, majority leader of the U.S. Senate, and Members of the U.S. Senate.

We are also pleased to welcome to the Chamber His Excellency Shaikh Saud Nasir Al-Sabah, Ambassador of the State of Kuwait.

(Applause.)

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and personal pleasure to present to you a man who has made every American proud of our great country, Gen. H. Norman Schwarzkopf, commander in chief of the U.S. Central Command and one of the great heroes of Operation Desert Storm.

(Applause, the Members rising.)

General SCHWARZKOPF. Mr. Speaker, Members of Congress and distinguished guests, it is a great day to be a soldier, and it is a great day to be an American.

I want to thank you for the singular distinction of being allowed to speak to the special session of the Congress of the United States of America.

Indeed, I am awed and honored to be standing at the podium where so many notable men and women have stood before me. Unlike them, I do not stand here today for any great deed that I have done. Instead, I stand here because I was granted by our national leadership the great privilege of commanding the magnificent American service men and women who constituted the Armed Forces of Operations Desert Shield and Desert Storm.

Before I go further, I must, through their Representatives who are here today, tell each and every one of those extraordinary patriots that I have no idea of what the future holds in store for me, but I do know one thing, I will never, ever in my entire life receive a greater reward than the inspiration

that I received every single day as I watched your dedicated performance, your dedicated sacrifice, your dedicated service to your country.

Since I was fortunate enough to command these great Americans and since you are the elected Representatives of the American people, I would presume today to speak for our service men and women, through you, to the people of our great Nation.

First of all, who were we? We were 541,000 soldiers, sailors, airmen, marines, and coast guardsmen. We were the thunder and lighting of Desert Storm. We were the U.S. military and we are damn proud of it. But we were more than that. We were all volunteers and we were regulars. We were Reservists and we were National Guardsmen, serving side-by-side as we have in every war, because that's what the U.S. military is. And we were men and women, each of us bearing our fair share of the load and none of us quitting because the conditions were too rough or the job was too tough, because that's what your military is. We were Protestants and Catholics and Jews and Moslems and Buddhists and many other religions fighting for a common and just cause, because that's what your military is. We were black and white and yellow and brown and red and we noticed when our blood was shed in the desert it didn't separate by race but it flowed together, because that's what your military is. We fought side by side with brothers and sisters at arms who were British and French and Saudi Arabian and Egyptian, Kuwaiti and members of many other Arab and Western nations; and we noticed the same thing when their blood was shed in the desert—it did not separate according to national origin. We left our homes and our families and traveled thousands of miles away and fought in places who's names we couldn't even pronounce simply because you asked us to and it therefore became our duty, because that's what your military does.

We now proudly join the ranks of those Americans who call themselves veterans. We are proud to share that title with those who went before us and we feel a particular pride in joining ranks with that special group who served their country in the mountains, and the jungles, and the deltas of Vietnam. We who were there and they served just as proudly as we served in the Middle East. And now that we have won a great victory, we dare to ask that, just as we were willing to sacrifice and fight to win the war, you be willing to sacrifice and search to win the peace.

We would like to offer our thanks. First, we would like to thank our God for the protection He gave us in the deserts of Kuwait and Iraq. Most of us came home safely. We ask Him to grant a special love to all of our fallen comrades who gave their lives for the cause of freedom and we ask that He embrace to His bosom not only the 147 of us who were killed in action but also the 188 of us who gave their lives both before the war during Desert Shield and since the termination of Desert Storm. They, too, no less than our killed in action, died for the cause of freedom. We also ask that God grant special strength to our comrades who are still in hospitals with wounds and injuries they received during the war. By their example, we should all remember that the freedoms we enjoy in this great country of ours do not come without a price. They are paid for and protected by the lives, the limbs and the blood of American service men and women.

We would also like to thank our Commander in Chief for his wisdom and courage and the confidence he demonstrated in us by allowing us to fight this war in such a way that we were able to minimize our casualties—that is the right way to fight a war. We would like to thank the Congress and former administrations for giving us the finest tanks and aircraft and ships and military equipment in the whole world without question. Without question that is what gave us the confidence necessary to attack into the teeth of our enemy with the sure knowledge that we would prevail. And we would ask that in the years to come as we reduce the quantity of our Armed Forces that you never forget that it is the quality of our Armed Forces that wins wars. We want to say a special thanks to our comrades in uniform who stayed behind. You backed us up so we could carry the fight to the enemy. You maintained the peace so that we could win the war. We never could have done our job if you hadn't done yours. We also want to thank our families. It is you who endure the hardships and the separations simply because you choose to love a soldier, a sailor, an airman, a marine, or a coastguardsman. But it is your love that gave us strength in our darkest hours. You are truly the wind beneath our wings. Finally, and most importantly, to the great American people: The prophets of doom, the naysayers, the protesters, and the flag burners all said that you would never stick by us. But we knew better. We knew you would never let us down. By golly, you didn't. Since the first hour of Desert Shield until the last minute of Desert Storm, every day in every way all across America you shouted that you were with us. Millions of elementary school, high school and college students, millions and millions of families, untold numbers of civic organizations, veterans' organizations, countless offices, factories, companies and work places, millions of senior citizens and just plain Americans never let us forget that we were in your hearts and you were in our corner. Because of you when that terrible first day of the war came, we knew we would not fail, we knew we had the strength of the American people behind us and with that strength we were able to get the job done, kick the Iraqis out of Kuwait, and get back home. So, for every soldier, thank you America. For every sailor, thank you America. For every marine, thank you America, For every airman, thank you America. For every coastguardsman, thank you America. From all of us who proudly served in the Middle East in your Armed Forces, thank you to the great people of the United States of America.

[Applause, the Members rising.]

The U.S. Army Band presented a medley of marches.

Gen. H. Norman Schwarzkopf, accompanied by the escort committee, retired from the Chamber.

The honored guests retired from the Chamber.

At 11 o'clock and 58 minutes a.m., the reception honoring Gen. H. Norman Schwarzkopf was concluded.

The SPEAKER. The House will remain in recess until 12:15 p.m.

□ 1215

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. HOYER] at 12 o'clock and 15 minutes p.m.

BRADY BILL

(Ms. NORTON asked and was given permission to address the House for 1 minute.)

Ms. NORTON. Mr. Speaker, if my colleagues listen closely while in session in this House, they can sometimes hear the sounds of gunfire. How can we any longer tolerate these sounds in the shadow of the Capitol without acting?

We in the District of Columbia have done all that one city can do alone. The District has one of the strongest gun control laws in the country, but the infiltration of guns from everywhere has frustrated our best efforts. In a free country, the borders are not porous; they are wide open. We must have remedies that speak to this reality.

The ever-increasing gun violence across the country underscores the necessity for a national gun control law that would be immediately effective, not the Staggers approach that is full of bullet holes.

In the District, there have been 119 deaths from gun-related incidents this year, 328 wounded, and 555 assaults. Those who want to stop the slaughter of black males by black males can start here in the District. In 1988, 44 percent of all deaths among black males, 15–24, resulted from firearms. Who can believe that the murder rate would be what it is if guns were not

freely available. Waiting periods have proven effective. In California, the 15-day waiting period stopped 2,182 illegal handgun sales in 1990.

We have no illusions about the potential of the Brady bill. It cannot eliminate the gun running that is an internal menace among the States. But our problems are so serious that a measure that would help even to slow the increase in death by gunfire is needed now, not tomorrow.

Mr. Speaker, this is a national emergency. Please give us relief now.

TAX FREEDOM DAY

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, we are all glad that April 15 has gone by for another year. Gone, that is, but certainly not forgotten. Tax time is a period where many of us reach new levels of frustration, because it seems that no matter how much the tax burden on hard-working Americans is increased, the Federal bureaucracy will still spend more. It's a vicious cycle: The more we spend, the more we tax; the more we tax, the more we spend.

To dramatize this, today is Tax Freedom Day—the day on which the average working American fulfills tax obligations for the year and finally begins working for themselves and their families. Each year this date gets later as the tax burden grows heavier, and each year American working men and women pay a higher price for their Government's inability to prioritize, to make tough choices, and to cut out waste.

To quote a widely read Washington newspaper:

> When you get right down to it, (Tax Freedom Day) is the running casualty count in the ongoing war between the people's right to pursue their dreams with their own money and Washington's insistence on pursuing its ambitions with the people's money.

So happy Tax Freedom Day. Tomorrow, when you go to work, you are working for yourself, not your Government, for the first time in 1991.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mrs. LLOYD. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore (Mr. POSHARD). Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

SUPPORT ASKED FOR BRADY HANDGUN VIOLENCE PROTECTION ACT

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I rise in support of H.R. 7, the Brady Handgun Violence Protection Act.

Tennesseans have a rich tradition of defending their values in battle; we have great natural beauty and a love of the land; we have a history of sportsmanship. Given all of this, it makes sense that one of the rights that we hold most dear is the right to bear arms—to protect our property and our families; to hunt and to enjoy nature; to engage in legitimate and lawful sportsmanship.

Throughout the years I have served in the Congress, I have maintained that law-abiding citizens have constitutional guarantees to own firearms and that these guarantees should be upheld.

This is still my position. But like most Americans, I have become appalled by the lack of respect for human life which has become more and more evident as crimes of violence are committed day after day in this country. Just last year handgun-related murders killed more than 9,000 Americans. Clearly, this cannot continue. Guns and drugs have pushed our Nation's crime rate to an all-time high. The rights of the innocent victims of violent crime must be protected. We need to act now.

Although Tennessee will be exempt from the Brady bill, because our State already has a 15-day waiting period for handgun purchases, I feel that the rest of the Nation should have the same measure of protection that Tennesseans already have.

I support the Brady bill because it will enhance law enforcement without serious impairment of our constitutional right to bear arms. Passage of the Brady bill will tilt the balance of law enforcement in favor of the potential victim and against the criminal.

Recently, the FBI released its annual crime report. The FBI figures show that the rise in violent crime occurred across the Nation, affecting the country's largest cities and its smallest towns. The figures speak for themselves. Rapes are up 9 percent, murders up 10 percent, aggravated assault up 10 percent, and robberies up 11 percent. Both the overall increase and the percent increases in each of the four types of violent crime were greater last year than for any year since 1986. A major culprit in these crimes is the easy availability of handguns.

The Brady bill makes sure that those who are legally entitled to guns get them. But it also makes sure that criminals, mental incompetents, drug addicts, and others barred by law from the purchase of a handgun do not walk into gun shops and walk away with guns. It also provides a cooling off period that will reduce crimes committed in the heat of passion.

A recent case in Texas points to the importance of this. A man, on the day his wife filed for divorce, went out and purchased a .45 caliber pistol and that same evening shot each of his four children in the head before turning the gun on himself. Maybe this tragedy could have been avoided if the father had not been able to purchase a handgun on the very day he became distraught at his wife's leaving him.

We need a workable, national system for keeping handguns out of the hands of criminals. And we need it now. We have already mandated the development of a Staggers style instant check system, but the Attorney General of the United States has testified that implementing instant check will cost hundreds of millions of dollars and take 3 to 5 years.

I still support an instant check system and will work for its implementation. But realistically, a complete system is years away. The Brady bill makes good sense until a national computer system is ready.

We must take a strong stand for what is right and work for the interests of law-abiding citizens who want to feel safe on their streets and in their homes. The Brady bill will not stop all types of crimes committed with handguns, but it is surely a move in the right direction. We know we have got to take action to address these senseless killings.

It is a moderate measure that will help us keep handguns out of the wrong hands. Reasonable people understand that the Brady bill is not gun control. It is crime control. It will not destroy rights. It will save lives.

Our police put their lives on the line for us each day. They need our support. The major law enforcement organizations in the country have endorsed Brady. These include the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the National Association of Police Organizations, and the National Sheriffs Association.

Recently, I had a letter from a constituent that stated, "As a sportsman and NRA member, my wish is that you vote or do whatever possible to curb crime in our country. * * * Concerning the new proposed hand gun legislation, I just hope that you wade through the arguments on both sides and vote for what you believe is best for us all." I have done just that and I believe the Brady bill fits this criteria.

I urge my colleagues to join with me in supporting the Brady Handgun Violence Protection Act.

□ 1220

NO CRIME CONTROL HERE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, another year of violent crime and we are here haggling over the ineffective Brady bill. Violent crimes were up 10 percent last year, our cities are becoming war zones and murderers are roaming the streets. What are we doing? We are taking away rights from law-abiding citizens.

Last year there were 472 homicides here in our Nation's Capital, a city that has a total ban on all handguns—Mr. Speaker, there is no control in gun control.

My own hometown of Houston saw 568 homicides and we're arguing over a bill that doesn't even require a background check on gun buyers—a bill that makes no improvements in criminal history records, a bill that takes our police away from fighting crime and makes them do more paperwork.

It's time we get back to crime control instead of gun control. It is time we start taking a bite out of crime by passing effective crime fighting legislation instead of taking away citizen's rights.

Waiting periods will not do it. An instant check would help, but we should not stop there. We need to take a look at some effective crime fighting measures. It is time to consider reforming the exclusionary rule or some kind of habeas corpus reform, or maybe even a Federal death penalty.

It is time this Congress takes a hard line toward criminals, not law-abiding citizens.

Vote no on the Brady bill.

CLOSE THE WAGE GAP FOR FEDERAL EMPLOYEES IN CHICAGO

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, today I am introducing legislation which provides an 8-percent pay increase for Federal employees in the metropolitan Chicago area.

According to the President's recent wage study, Federal wages nationwide have fallen more than 28 percent behind the private sector. This is especially true in the large metropolitan areas such as Chicago. Cost of living has out-paced Federal wages dramatically. A recent GAO study revealed that the average private sector annual salary in Chicago is 23.7 percent higher than the comparable Federal pay.

The Federal Government needs to close the wage gap. Otherwise, the Government risks losing many of our most qualified and dedicated employees. Working for the Federal Government should not mean sacrificing decent wages.

It seems most appropriate during Public Employees Recognition Week that the Federal employees in Chicago be afforded the pay increase that they earned.

CRIMINAL CONTROL VERSUS GUN CONTROL

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I rise today in an effort to dispel the Brady bill myth created by the antigun lobby. Using nothing more than an emotionally based argument, the antigun lobby has many Members of this body believing that the Brady bill is an anticrime bill. They will have us believe that the Brady bill will keep firearms out of criminals hands. Mr. Speaker, the Antigun lobby is deceiving us by misrepresenting the Brady bill.

In a recent Washington Post editorial, U.S. Attorney General Dick Thornburgh explains that there are "five stolen or strayed weapons for every weapon openly purchased at a gun store." Mr. Speaker, this means that 5 of every 6 firearms which change hands do so illegally. Can the Members who support the antigun lobby's Brady bill come to the well of the House and cite statistics, rather than emotions, that indicate H.R. 7 is truly the crime control measure they claim?

The suggestion that drug dealers, murderers, and other criminals will be denied firearms under any gun control system is patently silly. Psychotic mass murderers have repeatedly bought guns in States with waiting periods. There is no evidence that waiting periods prevent suicides or domestic homicides. Few, if any, crimes could even theoretically be prevented by a 7-day cooling period.

Mr. Speaker, there is no question that a waiting period between the purchase and delivery of a handgun has strong appeal; violent crime is on the rise in every city in the Nation. The Brady bill supporters will have you believe their legislation is an effective deterrent to the crimewave. This just is not the case.

If we are serious about crime, let us pass a bill to control criminals, not a bill that is incredibly misguided. I urge Members to think this issue through. Please do not let your judgment be clouded by the antigun lobby's emotional banter.

BRADY BILL SEEN AS WASTE OF TIME

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, once again the media has done a number on the American people. But you really cannot blame them. All they did was take propaganda given out by proponents of the Brady bill and from the gun control lobby to do their stories.

That had to be what the media did because if they took time to read the bill, they would have learned that it is not an anticrime bill. It does not even mandate background checks. Quite simply, Mr. Speaker, this bill is not going to do what the American people were told it was going to do.

If the American people knew it would exempt States that currently have a permit system, if the people knew the bill would exempt States that already enforce a 7-day waiting period, if they knew the bill exempts States that have a background checking system in place, and if they knew that high crime cities such as New York City, Washington, DC, Los Angeles, Chicago are exempt from this bill, then they also would not vote for it. The American people are not stupid, Mr. Speaker. Give them the facts and they will make intelligent decisions. Unfortunately, most people and some of my colleagues do not know the facts about the Brady bill. If they did, they would concentrate more on what at the bill has been sold as anticrime legislation.

I urge my colleagues to do something about crime and do not waste any more time on meaningless legislation like the Brady bill.

IN SUPPORT OF THE BRADY BILL

(Mr. UPTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UPTON. Mr. Speaker, I rise today in support of H.R. 7, the Brady bill.

Yes, I come from a rural district and many of my constituents are gunowners and hunters.

Yes, in fact, the NRA taught me how to handle and shoot a rifle safely when I was a boy.

Yes, I respect and support an individual's second amendment right to bear arms.

Yes, I favor a nationwide point of purchase verification system, and yes, I support the Brady bill.

Contrary to certain claims, these things are not mutually exclusive. Like many of my constituents, I support a nationwide point of purchase system, and in fact in 1988 I voted to pursue such a course.

The Brady bill sunsets once this system is complete.

Also, the bill exempts States like Michigan which already have a permit requirement that allows police to run a background check. The Brady bill

makes sure that other States which have done nothing like we have done in Michigan take steps like we have in Michigan.

What could be more reasonable? What it boils down to is putting substance over politics. I am voting for the Brady bill. It is the right thing to do.

INTRODUCTION OF RESOLUTION COMMENDING AMERICA'S CIVIL SERVICE EMPLOYEES

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, we just heard a speech from General Schwarzkopf. he is clearly one of our outstanding military leaders. We are proud of the young men and women who were represented here on the floor and represented the 541,000 Americans who we had in Desert Storm.

Mr. Speaker, I rise today to introduce a resolution honoring and commending America's civil service employees for their contributions to Operation Desert Shield and Operation Desert Storm. They are truly among our Nation's unsung heroes.

General Schwarzkopf when he addressed us thanked those who did not go overseas, but who were in uniform but stayed here to allow those in Desert Shield and Desert Storm to perform their duties, make sure they stayed supplied.

Over 20,000 Federal civilian workers were called to active duty as reservists, and more than 4,000 civilian employees were relocated to the Persian Gulf to assist in the war effort. But hundreds of thousands more Federal workers contributed their time, commitment and hard work, right here at home, to making the war effort a success.

Mr. Speaker, Federal civilian workers helped design and build many of the systems that served our soldiers so well in the field. They accomplished the largest massing and movement of materiel the world has ever seen in such a short period of time. Many Federal workers regularly worked 14-hour days and 7-day weeks during the war to keep supply lines open to our troops. At many shipyards, Air and Army bases, Federal workers worked around the clock to repair damaged equipment and continue shipments to the gulf.

But it is important to note that it was not just Federal civilian employees on military bases that were part of this effort. Doctors, nurses, and health care personnel shared the same long hours away from their families and homes while they worked to ensure the safety of our troops. And our postal employees handled twice the tonnage of mail than was sent during the entire war in Vietnam—all in a period of a couple of months.

Their commitment goes on today. The Army Corps of Engineers is abroad helping to rebuild the war torn country of Kuwait. Health care workers are assisting victims of Saddam Hussein's violence against the Kurdish people. And Department of Veterans Affairs employees are assisting our returning troops every day.

Mr. Speaker, we have and should honor the role our service men and women played in this success effort. But at the same time, let us not forget the tireless contributions of our Federal civilian workers, without whom, there would not have been such a success. Like the men and women in uniform, they are truly American heroes. I urge the House to quickly consider and approve this resolution honoring their service to our country.

□ 1230

STAGGERS BILL FAVORED BY 4-to-1 MARGIN

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, for years proponents of the Brady bill have cited opinion polls which state that anywhere from 85 to 95 percent of the public supports a 7-day waiting period to purchase a handgun. Those of us opposed to Brady have contended that this question is rather simplistic, since it does not discuss the details of the Brady approach. A poll released yesterday shows what supporters of Staggers have insisted all along—once the public understands the specifics of the Brady bill, support for it fades quickly.

When respondents are told that Brady does not mandate background checks on gun purchasers and would pull police off the street to do paperwork checks, support for Brady plummets to less than one-third of the electorate. In contrast, pollsters found that the initial response to the Staggers approach draws support from 83 percent of the American public. After Staggers is explained in detail, support increases to 92 percent of the public. Finally, when given a clear choice between Brady and Staggers, the Staggers bill was favored by a 4-to-1 margin.

Mr. Speaker, the reason we're having this debate today is because the public wants us to do something about crime. Background checks are but a small part of what we need to do to stop crime. Let us support Staggers, which will actually prevent criminals from purchasing handguns, and then pass a crime bill that helps police get criminals off the streets.

AMERICAN RICE AGAINST THE LAW IN JAPAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, at an international food fair recently in Tokyo, Japanese police threatened to arrest Americans who were displaying American rice. The Japanese police said, "Take that rice away. It's against the law in Japan for any other rice other than Japanese rice to be displayed or sold."

I say to colleagues, "If that is not enough to warm your wok, how about all the Toyotas and Toshibas we take in? Sony's and Suzuki's? Free ride. Free ride, no question."

My colleagues, I say today, after the fine speech of General Schwarzkopf, that, before he retires, Congress should send him as Trade Representative to Japan to straighten that trade mess out before we do not have a country or any economy left.

THE REAL AGENDA OF HANDGUN CONTROL, INC.

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, what is the real agenda of Handgun Control, Inc.? Well, if my colleagues look at a letter that was written by Pete Shields, and it is marked confidential, that goes out to each Handgun Control, Inc. member, it talks about raising funds for a brand-new organization and a new initiative. The new organization is the handgun legal action fund, and the new initiative can be summarized by what they plan to spend money for on page 2.

Mr. Speaker, on page 2 it says:

"When we sue a municipality for its negligence in not carefully screening handgun applicants, we show State and local governments all across the Nation that we mean business."

Mr. Speaker, let me just ask my colleagues this question: "Do you want your local police department sued?"

I think it is important to understand the import of this letter and what it means, and this letter is available, and I will be happy to share it with all of my colleagues.

ASIAN/PACIFIC AMERICAN HERITAGE MONTH

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, on April 24, 1991, the House of Representatives unanimously approved May 1991 as Asian/Pacific American Heritage Month.

The importance of Asian and Pacific island Americans to the development of our Nation cannot be understated.

This is particularly true of the Americans of Asian and Pacific island ancestry who have served with honor and distinction in our military.

On May 23, 1991, the city of Los Angeles and Mayor Tom Bradley will honor many of these veterans at the mayor's

13th annual celebration of Asian/Pacific American heritage.

Whether they be Japanese-American veterans of the 442d Regimental Combat Team or the Military Intelligence Service who served so proudly in the Second World War, or the Filipinos who sailed in our Navy during Operation Desert Storm but who are still denied citizenship, Asian/Pacific Americans have put their lives on the line for our country with great distinction.

Mr. Speaker, I salute these American heroes, Mayor Tom Bradley and the people of the city of Los Angeles for their tribute to these veterans on May 23.

THE INCOME-DEPENDENT EDUCATION ASSISTANCE ACT—IDEA

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, one of the major hassles in applying for college student aid is filling out the complicated family needs analysis forms. Everybody hates them—they are intimidating and they invariably have an element of unfairness since they deal with the assets of the parents rather than with the students who, ultimately, are the ones who need the education.

There is a better way.

In the near future I will introduce a major student loan proposal, the Income-Dependent Education Assistance Act [IDEA] for short.

Under IDEA, there will be no need for family needs analysis forms. IDEA loans will be avilable to students without regard to the parents' assets. The speed and effective interest rates at which IDEA loans will be repaid will be determined by the student's income after leaving school.

In fact, we will want students from middle- and upper-income families to participate because, according to census figures, these students stand the best chance of achieving high earnings themselves—which means that their rapid repayment of their IDEA loans will provide a cross subsidy for other IDEA borrowers who are less successful.

I should emphasize that those anticipating high incomes after school will still want to participate because they will still get a better deal under IDEA than they would otherwise.

Further, the IDEA Program will provide student loans at little or no cost to the taxpayers.

IDEA is a carefully crafted program. I urge my colleagues to consider cosponsorship.

THE ROLE OF PEACEMAKERS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, blessed are the peacemakers, for they shall inherit the Earth.

What about the arms merchants who threaten to destroy it?

Mr. Speaker, the United States and its United Nations Security Council partners over the past 15 years sold $165 billion worth of arms to the Middle East, and most of it went to Iraq. What peace benefit did the peacemakers achieve out of that? We kicked Saddam Hussein out of Kuwait, but that little episode cost us billions and billions of dollars in this country and 250 to 300 lives to stop and to fight a country that we gave the arms to.

My colleagues, I ask you, Why don't we take those billions of dollars and give them back to America and Americans where the needs really are? In new roads? And new highways? And new bridges? And new health plans for 38 million people that do not have it? Put it into education, which is on the way; into hunger and for new jobs?

Mr. Speaker, that is a real peacemaker's role.

SUPPORT THE UNITED STATES-MEXICO FREE-TRADE AGREEMENT

(Mr. DREIER of California asked and was given permission to address the House and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, we have all been very privileged to hear the great words of Gen. Norman Schwarzkopf, and we had a wide range of people who came as guests to the House. Two of those are former colleagues of ours, my friend, Skip Bafalis of Florida, and John Rousselot of California. Interestingly enough, they both served as members of the Trade Subcommittee of the Committee on Ways and Means, and I know that they are very concerned about an issue which we in this House are going to be facing within the next 2 weeks, that being the United States-Mexico Free-Trade Agreement.

Mr. Speaker, it is absolutely essential that we provide the President with the support that he needs, that being fast-track provisions, so that he can negotiate an agreement. We can vote for or against that agreement when we get it, but we recognize that there are some people who have been opponents of it, some in agriculture, organized labor, and of course some in the environmental community.

I am very pleased, Mr. Speaker, that in the last couple of days we have seen a very positive response to the letter that President Bush sent us outlining his concern on the environment from the Audubon Society and other environmental organizations.

I believe we have a chance to put this program forward. It is essential that both sides of the aisle provide the support necessary.

AT THE END OF THE DAY PLEASE VOTE FOR BRADY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, later today we will take up the Brady bill, as well as the Staggers substitute to it. Two major arguments will be made during our debate.

One is that people should vote against the Brady bill because it will not solve all the problems, it will not get all the guns off the street, it will not eliminate all crime in our communities. I certainly agree with that conclusion. It will not do all those things. But it will make a contribution to more peaceful communities.

Mr. Speaker, no one thinks it is the be-all or the end-all. It is simply one facet in a multifaceted anticrime program. It is one element of a manifold program to solve crime in the community.

□ 1240

So do not vote against Brady because it is not perfect.

Second, they say vote against Brady because a 7 day delay is too long; a point of purchase check is better.

Mr. Speaker, I agrree. Therefore, in the Brady bill is a sunset provision which suggests that if we can ever get a proper point of purchase system to verify handgun purchases then we will simply eliminate the 7-day waiting period.

Mr. Speaker, in any event, I urge Members to pay attention to the debate and, at the end of the day, please vote Brady up.

THREAT SECOND AMENDMENT THE SAME AS FIRST AMENDMENT

(Mr. WALKER asked and was given permission to address the House for 1 minuter.)

Mr. WALKER. Mr. Speaker, a few months ago we had proposals on the floor to try to limit the work of pornographers in our society, and a number of Members came to our floor and told us about the sacred Bill of Rights that would not permit us to regulate pornography.

A few months ago we had a proposal before the floor that would try to stop flag burners, and we had a number of Members come to the floor and tell us about the sacred Bill of Rights that would not permit us to go after flag burners.

Now we find out that it was just the first amendment and not the Bill of Rights that they were talking about,

because we are now talking about the second amendment.

I wonder what the reaction would be of those people if we, for instance, said you may say anything you want in our society, but first of all there has to be a 7-day cooling off period. Mr. Editor, you can write anything you want in your newspaper, but first of all you have to apply to the Federal Government and tell them what you are going to write before you can write it. If you are going to spread pornography in our society, you have to apply 7 days in advance and tell us what it is you are going to do, and then we will decide whether or not you are a criminal.

My guess is that the people who are now promoting the Brady bill would say that those are terrible kinds of restrictions to put on the Bill of Rights.

Mr. Speaker, I would suggest that the second amendment is a no less important part of the Bill or Rights than the first amendment and ought to be treated similarly.

TRIBUTE TO THE LATE FLOYD McKISSICK, SR.

(Mr. VALENTINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VALENTINE. Mr. Speaker, I rise today both to express my sadness and to pay tribute to a distinguished citizen of the Second District of North Carolina, Floyd McKissick, Sr., who died on April 28. His passing is a great loss not only to my State but to the entire Nation.

Many Americans remember Floyd McKissick as the national director of the Congress Of Racial Equality from 1966 to 1968. In that position, he was a highly visible national figure at a particularly turbulent time in our history.

My own acquaintance with Floyd McKissick goes back many years before that period. In the early 1950's, he was my classmate at the University of North Carolina School of Law. More significantly, he was among the first group of black citizens to be admitted and attend that institution. His dignified conduct in a difficult situation paved the way for subsequent generations of black law students at Chapel Hill.

Floyd McKissick went on from Chapel Hill to a notable career as a civil rights attorney and activist. He was also ordained as a Baptist minister at Union Baptist Church in Durham, NC, in 1979, and served as pastor of the First Baptist Church of Soul City. In addition, last year he was appointed by Gov. Jim Martin to serve as judge in the ninth judicial district of North Carolina.

Floyd McKissick devoted his life to improving the opportunities available to black citizens. As an attorney in Durham and Oxford, NC, he handled a record number of civil rights cases. He was a staunch and effective advocate for black people and, at the same time, an active leader in the larger community. It was through his personal efforts, for example, that Federal funds were granted to establish a regional water supply system that continues to serve both the black and white communities in the cities of Oxford and Henderson.

Not every project Floyd McKissick undertook produced the precise results he envisioned. The Soul City development in Warren County, for instance, did not become the residential-industrial community that was planned, but its founder never gave up looking for ways to improve the lives of black North Carolinians and thereby improve the lives of all North Carolinians.

Floyd McKissick was often controversial. Not everyone agreed with every statement he uttered or supported every cause he took up, but everyone who believes in equality admired and respected him. He earned that respect through a lifetime of commitment and dedication.

I am proud that Floyd McKissick was counted among the citizens that I represent in Washington. He made a difference for citizens of Durham, Warrenton, Oxford, Henderson, and throughout the Second District. He will be missed, but his impact on North Carolina and our Nation will continue to be felt for years to come.

STAGGERS AMENDMENT BEST CHOICE

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, I want to speak for just a second on the reason for supporting the Staggers amendment and voting against the Brady bill. Basically, my first thoughts were to vote against both, because I do believe it is very, very important that we preserve the second amendment rights. After looking at the responsibilities that are called on through the Brady bill to our local governments and our law enforcement agencies to take these applications, and the paperwork fiasco that goes with it, and then to look at the simple bill that Virginia has implemented already, to look at Maryland's bill, which is a waiting period, and see which works best, in my opinion there is no doubt that that of Virginia works best.

Mr. Speaker, I believe there is a great need in this country for us to develop a computer system with the data that we need to know who has problems from criminal records and who has problems from mental illness. We have a right to be able to give our law enforcement officials what they need to be able to pull this up and say this person should or should not be allowed.

Mr. Speaker, neither alternative will solve our problem of guns in the wrong hands, because criminals will simply break into homes or do whatever it takes to steal guns. I ask Members to vote for the Staggers amendment.

H.R. 1: DO WE WANT THE CALIFORNIA EXPERIENCE FOR ALL OF AMERICA?

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, attorneys will be the primary beneficiaries under H.R. 1. To explain this statement, I thought it would be interesting to look at what happened in California where punitive and compensatory damages were allowed for wrongful discharge cases.

A study of California wrongful discharge cases by the highly respected Rand Corp. found that over 50 percent of plaintiffs attorneys who were surveyed charged a 40-percent contingency fee—the fee collected was generally over $119,000 per case. Of course, defense attorneys aren't going to be left behind—they collected an average of $80,000. Incredibly, the study estimated that "defense and plaintiff lawyer fees represent more than half of the money changing hands in this litigation." In other words, the lawyers got more than the wronged employees. I have heard of transactional costs, but this is absurd. Is there any wonder that one California court concluded that the availability of punitive and compensatory damages in these cases created an industry composed of lawyers, personnel administrators, and the courts.

Let us not make the California mistake apply to the whole Nation. Join me in stopping H.R. 1, the attorney employment bill.

U.S. TECHNOLOGICAL COMPETITIVENESS ERODING

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today I read that the Electronic Industries Association of Japan is annoyed by a recent Commerce Department's Bureau of Export Administration report which reveals seven Japanese companies are withholding advanced semiconductor technology from United States chip makers to promote their market share in the United States.

Once again, our trading partner is exercising a strategy which has allowed it to overshadow the Pacific Rim and growing portions of critical technology markets in Europe and the United States. It is the same strategy which

cost them $4 billion in less than 2 years but allowed Japanese companies to dominate, and now largely control, the U.S. semiconductor market.

In an environment of growing unfair competition, deployment of technology is becoming the strategic battlefield of the international marketplace. Unless we act immediately to further our domestic capabilities in critical generic technologies, such as semiconductors, U.S. technological competitiveness will erode further, with disastrous consequences for American jobs, economic growth and national security. General Schwarzkopf just a few minutes ago emphasized the importance to our defense of having weapons systems that are the best in the world. As he said "it is the quality of our Armed Forces that wins wars."

Our trading partners consistently demonstrate they know the difference between theory and reality in the world marketplace. Let us hope the U.S. Government can be equally pragmatic regarding our interests.

MIDDLE EAST STRATEGIC PLANNING AND BRILLIANT EXECUTION ENDED WHEN WAR ENDED

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, this House just had the thrilling experience a few minutes ago of being addressed by Gen. H. Norman Schwarzkopf, the hero of the gulf war. The general put on a spectacular performance of long-term strategic planning and brilliant execution.

Mr. Speaker, it makes one feel that it is a great shame that the brilliant strategizing and that brilliant ability to plan and execute strategy has apparently been lost to this administration since the last hour of the 100-hour war. The ability to plan for this community that we left in turmoil, the ability to plan for an arms denial process for the Middle East, the ability to plan for regional development programs, all of these represented a window of opportunity that has been slammed shut, tragically, sadly.

CALIFORNIA NATIONAL HISTORIC TRAIL AND PONY EXPRESS NATIONAL HISTORIC TRAIL

The SPEAKER pro tempore (Mr. POSHARD). The unfinished business is the question of suspending the rules and passing the bill, H.R. 479, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 479, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 21, as follows:

[Roll No. 78]

YEAS—409

Abercrombie
Ackerman
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Roukema
Rowland
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—21

Alexander
AuCoin
Baker
DeLay
Edwards (OK)
Engel
Ford (MI)
Ford (TN)
Gingrich
Klug
Kolter
Lehman (CA)
Lehman (FL)
Martin
Neal (NC)
Rangel
Ros-Lehtinen
Roth
Roybal
Slattery
Solarz

□ 1308

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SLATTERY. Mr. Speaker, on May 8, 1991, I traveled to Kansas to attend the funeral of Capt. William Grimm, who died while conducting close air support operations over the Kuwaiti theater of operations on January 31, 1991. Captain Grimm was the navigator aboard an AC–130 gunship. He was lost along with all 13 of his fellow crew members.

Captain Grimm was awarded posthumously the Silver Star and the Purple Heart.

His surviving family includes: his wife, Natalie; his daughters, Stephanie and Elizabeth; his father, James Grimm; his mother, Dianne Pattee; his brothers, James and John; his sis-

ters, Agnes Durst and Marsha Grimm; and his grandmother, Elizabeth Snow.

In order to attend the funeral of this brave Kansan, I was forced to miss two rollcall votes and a quorum call. On the California National Historic Trail and Pony Express National Historic Trail Act, H.R. 479, I would have voted "yes." On the closed rule to allow the Brady bill to be considered by the House, I would have voted "no."

□ 1310

MAKING IN ORDER ON THURSDAY, MAY 9, 1991, OR ANY DAY THEREAFTER CONSIDERATION OF H.R. 2251, SUPPLEMENTAL APPROPRIATIONS FOR HUMANITARIAN ASSISTANCE AND PEACEKEEPING ACTIVITIES FOR FISCAL YEAR 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it shall be in order on Thursday, May 9, 1991, or any day thereafter, to consider in the House H.R. 2251, making supplemental appropriations for humanitarian assistance and peacekeeping activities for fiscal year 1991, and for other purposes, and that all points of order against consideration of the bill and against provisions of the bill be waived, and that debate be limited to 1 hour, the time to be equally divided between myself and the gentleman from Pennsylvania [Mr. MCDADE], and that the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 7, BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 144 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 144

Resolved, That at any time after the adoption of this resolution the Speaker, may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7) to amend title 18, United States Code, to require a waiting period before the purchase of a handgun, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except an amendment in the nature of a substitute consisting of the text printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Staggers of West Virginia or his designee, and said amendment shall be considered as having been read. Said amendment shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a Member opposed thereto. Said amendment shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, during consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 144 is the rule providing for the consideration of H.R. 7, the Brady Handgun Violence Prevention Act. The resolution provides for 1 hour of general debate to be equally divided between the chairman and the ranking minority member of the Committee on the Judiciary.

The rule provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Judiciary Committee as original text for the purposes of amendment.

Mr. Speaker, the rule makes in order only one amendment to the bill to be offered by Representative STAGGERS of West Virginia or his designee, that is printed in the Rules Committee report.

The amendment is nonamendable, with 1 hour of general debate equally divided and controlled by the proponent of the amendment and a Member opposed, thereto.

Mr. Speaker, the Staggers amendment would establish a toll-free hotline that firearm dealers would contact to learn if the handgun purchaser is prohibited by Federal law from possessing a handgun.

Finally, Mr. Speaker, the rules provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 7, the Brady Handgun Violence Prevention Act, establishes a minimum 7-day Federal waiting period before a gun dealer can transfer a handgun to a private purchaser.

The bill is intended to allow local law enforcement officials the time to check the background of the purchaser to ensure that the sale would not violate Federal or State law.

Mr. Speaker, the bill provides three exceptions to the 7-day waiting period:

First, if the local law enforcement officials certify that the buyer needs access to a handgun because of a threat to the purchaser's life, or the life of a family member;

Second, if the purchaser has a permit, issued in the past 5 years by the State in which the transfer is to occur; and

Third, if the State already requires a 7-day waiting period or requires law enforcement verification of the individual purchaser's eligibility to receive a handgun.

Also, Mr. Speaker, subsection (E) of the bill provides that the waiting period would be discontinued once there exists a felon identification system pursuant to section 6213(a) of the 1988 Anti-Drug Abuse Act.

Mr. Speaker, when the Rules Committee considered this bill yesterday, the debate focused not only on the merits of the Brady bill, but also on the issue of fairness.

The problem that the Rules Committee faced was how to structure a rule that would allow the House to debate the substantive issues of the legislation rather than getting caught up in a debate on procedure. I believe House Resolution 144 does just that; it allows for the normal legislative procedure for the consideration of this legislation.

Mr. Speaker, I would like to point out to my colleagues that under this rule, the first vote will be on the Staggers amendment.

Members who support the Brady bill must vote "no" on the Staggers amendment in order to get a vote on the 7-day waiting period. This procedure will allow a direct vote on the Brady bill, only if the Staggers substitute is voted down.

The vote will be the vote that identifies who the Brady bill supporters are.

Again, Mr. Speaker, I point out to my colleagues that a "yes" vote on Staggers is in fact a "no" vote on the Brady bill.

Mr. Speaker, when the time comes to vote on the Staggers amendment I will vote "no".

Though I support the idea of instant checks on purchasers, the reality is that the capability to bring this kind of system on line is years away.

When it can be done I will support it. But for now it will not and cannot be effective.

I urge my colleagues to support this rule; vote "no" on the Staggers amendment, and "yes" on final passage for the Brady bill.

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

Mr. Speaker, I would like to commend the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY] and the other members on the majority side of the committee for reporting a fair rule on the Brady bill. I think this is a fair rule. This rule follows the regular order of the House which has been followed for 100 years, by making the Staggers proposal in order as an amendment to the committee reported version.

The rule also provides for the standard motion to recommit with or without instructions, that the minority is entitled to.

Mr. Speaker, if this rule had attempted to modify the regular order so as to disadvantage either side, I believe the rule would have been defeated on the floor of this House, and I would have certainly done everything in my power to see that it was. However, because this rule treats both sides fairly, I support it, and I urge every Member of the House to support it.

My own preference would have no bill at all because I do not want to limit the freedom that Americans have to keep and bear arms. However, in a choice between the Brady 7-day waiting period and the Staggers instant record check proposal, I strongly favor the Staggers bill because it provides the least burden on gun ownership to law-abiding citizens in this country.

The way this rule is structured, Members will have to make a choice between the Staggers approach or the Brady approach. The first vote will occur on Staggers, and those who favor Staggers should vote yes. Those who favor Brady, should vote no.

□ 1320

A vote for Staggers in effect kills the Brady bill, just as a vote against Staggers in effect passes the Brady bill.

Members should be willing to stand up and be counted on this issue. I do not think you ought to be voting yes-yes.

Mr. Speaker, I should note that the President's position on this issue is that the problem of violent crime must be met by the enactment of his Comprehensive Violent Control Act of 1991, which has yet to reach the floor of this House. If the Congress acts favorably on the President's comprehensive crime control package, the President will accept, and I repeat, will accept as part of that bill appropriate measures to identify felons attempting to purchase handguns. However, whatever Congress finally adopts on this subject must be presented to the President as a part of or together with his crime package. The President's senior advisers will recommend that he veto any bill relating to the identification of felons attempting to purchase handguns that is not part of legislation consistent with his comprehensive violent crime control proposal, and I call that to your attention.

Mr. Speaker, I support this rule because it is a fair rule and will permit this House to follow the regular order in deciding between the Staggers approach and the Brady approach. Personally, I really hope the Staggers amendment prevails. You know, many of us like myself live in rural areas of the United States and we do not have the luxury or the safety of a paid police department. My own congressional district, stretching all across northern New York, 8,000 square miles, includes 157 small municipalities having an average of 4,000 people per municipality in about a 100-square-mile area with no police patrols to speak of, no paid police department.

In my own house not too long ago while I was down here and my wife was in New York, in this rural area my house was broken into and bottles of urine were spilled all over the downstairs of the house, probably in retaliation for the random drug testing bills that I have been sponsoring in this House. The High Times Magazine has put out hit lists on people like myself who vote for those pieces of legislation.

We need gun protection in rural America for law-abiding citizens. Guns do not commit crimes people do, and we need tough laws to go after these people who commit those crimes.

So I hope that the Staggers amendment prevails.

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

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise in support of the rule and in favor of the Staggers amendment.

An epidemic of violent crime, rising out of our big cities, is raging across America. Gang warfare over drug turf, senseless shootings by lunatics, and a general increase in urban violence has driven a desperate public to demand that politicians do something—anything.

The scourge of crime and violence however, won't be controlled until we invest in an intense effort to restore the stability of the American family because that's where we learn the social values and patterns of behavior that will determine whether we succeed or fail in our efforts to make our streets and our communities safe, and determine ultimately the very social fiber of our Nation. That is why it is so crucial to invest tax dollars in proven, cost-effective programs including: Head Start and other early childhood development programs; special programs for teenage parents; results-based education; family and medical leave, jobs that will support families; and programs that teach young children why and how to say no to drugs such as the highly acclaimed D.A.R.E. Program [Drug Abuse Resistance Education].

In the meantime we must determine how our resources can best be allocated toward acheiving a national goal to reduce violent crime. Although there are many who feel the Brady bill will reduce violence, I don't believe it will work. A number of current and ex-law enforcement officers tell me they don't have the resources to hire additional people to investigate primarily law-abiding citizens. They would have to take cops off the street, where we need them most, and put them behind desks. Building another layer of bureaucracy is no way to fight crime.

What is worse, not only does the Brady bill set up an inefficient system, it does not even require a background check for every purchase. Actual checks are left up to the discretion of whomever is doing the investigation.

Such a process destroys the normal presumption of innocence, the bedrock of our judicial system. Under Brady, a citizen is forbidden to exercise their constitutional right to bear arms until the police satisfy themselves that the person is not guilty.

The very point of basic rights such as free speech, or free exercise of religion, a woman's right of choice or the right to keep and bear arms, is that a citizen does not need to wait seven days to ask for government approval to exercise those rights. Honest citizens who wish to protect themselves should not have to wait to receive police permission.

The Staggers amendment, on the other hand, provides for the implementation of instant and mandatory ID checks—a system where records which are available can be immediately used to prevent felons from purchasing firearms. While opponents of the legislation are correct in saying we don't yet have the data bases to implement this system, Virginia developed a widely praised instant-check system in 6 months at a cost of less than $500,000. Virginia's system is working well—preventing illegal handgun purchases every day.

If our objective is to combat crime and keep criminals from obtaining guns, then we should focus on the black market where most criminals get their firearms. I favor stiffer penalties for gun theft or transferring of guns to felons. States should follow Virginia's lead and make the sale of a stolen firearm a special, serious offense—because right now, the theft and sale of a $75 gun is generally considered petty larceny. Selling a hot pistol should be a much more serious offense than selling a hot tape recorder. If we are serious about reducing the scourge of crime and violence, we must remove the profit from drugs.

I also support closer monitoring of parolees, more intensive crackdowns on fencing operations for stolen firearms, State or Federal strike forces aimed directly at gun runners and stiffer penalties with no plea bargaining for those who use guns to commit a crime.

Supporting temporary feel good legislation that fails to create real solutions to our serious social problems was not why I was sent to Congress, and why I cannot support the Brady bill.

If we are to deal with crime, our approach should be well thought out and comprehensive. The ideas I have described above are only a beginning. The Staggers bill takes a meaningful step toward keeping guns out of the hands of criminals, while not trampling over the rights of honest Americans. But again, to fight crime and violence, ultimately we must strengthen our families.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Tennessee [Mr. QUILLEN], a member of the Committee on Rules.

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

Mr. Speaker, I think this is a fair rule and I support it.

I also support the Staggers approach to gun control because I think it is the best approach. In Tennessee where I live, we have a waiting period of 15 days before you can purchase firearms, and it is not working; 7 days will not work.

Across the State line from my hometown of Kingsport, TN, in Virginia, the instant check system is working and it is working in two other States.

I think what we need to do is not act emotionally, but be realistic. This great Constitution of ours gives us the privilege of bearing arms. I know in countries where gun control is in existence, the next step is confiscation.

We must forever protect our rights. In the rural areas, in the areas where people love to hunt, and in our own homes for protection, I believe we have a constitutional right to bear arms.

In most of my 29 years here we have talked about gun control. We have been able to defeat proposals in the past, and I hope today that we are able to defeat the Brady approach.

If you believe that an up-or-down vote either way exists today, you are right. The Rules Committee was fair in crafting this rule. If you vote for the Staggers bill, you vote against Brady, and I urge you to vote for Staggers and against Brady.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Nebaska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, we have all received hundreds of phone calls and letters over the past several weeks regarding H.R. 7. One piece of mail that figures prominently to me comes from the American Medical Association.

The Nation's doctors urge us to help them in a vital mission—saving lives. The AMA asks that we act swiftly to put in place a measure to keep guns out of the hands of those who should not have them. That means voting for the Brady bill 7-day waiting period. Brady can be implemented immediately. And cheaply. It also means voting against the Staggers instant check system which will take at least 5 years to implement. America's doctors have asked us for help now, not 5 or 10 years from now.

The AMA tells us that the Justice Department itself reports that an average of 639,000 violent crimes are committed each year with handguns, including more than 9,000 murders and 12,000 rapes.

These numbers are staggering. And think of the strain these crimes place on our health care delivery system. In 1989 the Journal of the American Medical Association found that injuries caused by firearms cost hospitals approximately $429 million. Taxpayers paid more than 85 percent of those costs.

Saving lives is what this is about. Let us listen to our Nation's doctors. They have seen city hospitals turned into MASH units. They need our help to save lives. Let us pass the Brady bill now.

□ 1330

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, Members of the House, the former President of the United States, Ronald Reagan, has committed an act of love and loyalty in coming to the side of the Brady's his longtime friends and associates with whom he suffered that pain of the day that Hinckley used that gun so infamously. And now the proponents of the Brady bill seize upon the Ronald Reagan statements and the Ronald Reagan who has come to the support of the Brady bill as being the last word in support of their proposition that is embodied in this Brady bill.

Mr. Speaker, where were these individuals when Ronald Reagan was proposing the death penalty for individuals who used guns to kill? They scorned him. They laughed at Ronald Reagan. Where were they when Ronald Reagan proposed performing exclusionary rules that gun-carrying criminals could not walk out of court on a technicality? They ridiculed President Reagan and his proposals on the exclusionary rule. Where were they on the whole comprehensive crime package which was sure to focus on the gun-carrying criminal in this country and to try to do something about violence? Nowhere to be found. They laughed at Ronald Reagan.

Mr. Speaker, Ronald Reagan knew all along, as most of us know, that the real answer to gun-carrying criminals is to crack down on them, put them away, mandatory sentences for guns and the use of guns for violent crime, not diverting law enforcement resources to man computers to see whether or not we could catch 1 out of 1,000 who would buy a gun legally. Most of them are bought illegally, and we will never catch them through the computer.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I rise to urge my colleagues to support the Brady bill and to oppose the Staggers amendment. Passage of the Brady bill is the first step, the right step and the best step in ending America's dangerous liaison with gun violence.

I rise, Mr. Speaker, to correct a particular misunderstanding that seems to be going around on the floor today by simply emphasizing that it is utterly inconsistent to believe that one can vote both for the Staggers amendment and the Brady bill. A vote for Staggers is purely and simply a vote to kill the Brady bill. Passage of the Staggers amendment would be a cruel hoax on the American people. They would be urged to believe they were getting safer streets legislation, but what we would really be giving them is a whopping tax bill and a vague background check sometime in the 21st century.

Mr. Speaker, I say to my colleagues, "In casting your vote I urge you to consider one important question: What does Congress want on the books? A solution that's cheap and reliable, or one that's an expensive pipe dream?"

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for the opportunity to speak.

Mr. Speaker, I rise in support of the rule and congratulate the committee on providing this even consideration of these two measures.

Mr. Speaker, I have received a great deal of correspondence from people in Wyoming that have generally been opposed to gun control bills, and I am still opposed to gun control on a Federal level, but I have evaluated these bills closely. I feel that, if my colleagues want to take a bite out of crime, that we ought to have a bill that has some teeth in it. The Brady bill does not. The Brady bill does not even require a background check.

So, I support the Staggers bill, and I support the rule.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, neither the Brady bill, nor the substitute, will have much impact on crime in America. My colleagues know it, and I know it. Today's debate is not about gun laws or waiting periods. Today's debate is: Who in America will write the future gun laws; the U.S. Congress or the National Rifle Association?

Now let us tell it like it is. The Brady bill is a litmus test, and I tell my colleagues one thing. When we look at gun laws in America, let us use the term "compromise." However, my colleagues, it is not compromise any longer. It is surrender. Congress has surrended both to the lobby and to the streets.

Mr. Speaker, there is only one issue today. It is the Constitution.

Who will write the gun laws for America?

I say, "When you have 23,000 murders a year and a policeman killed every second day, if Congress can't meet this token litmus test, a 7-day waiting period, then Congress is incapable of dealing with the great problems that affect this Nation."

Now I have heard all the arguments. They say this:

"If you take away my cop-killer bullet, the next thing you do is take away my shotgun shells. The NRA means well, but they have gone too far, my colleagues. If you take away my bayonet, what's next? You going to take away my grenade launcher? And if you take away my machine gun, then next thing is you'll take away my rifle. Let's get off it."

My colleagues, there are a lot of $5,000 toilet seats in Washington, DC. Today politically my colleagues are either going to have to sit or get off the pot, and I say today, my colleagues, that there is but one vote, one vote, not because Staggers or Brady is all that different, and the gentleman from West Virginia [Mr. STAGGERS] is as fine a Member as we have, but the Staggers bill amendment is the NRA policy, and, regardless if Brady is going to do all that much, I think it is time today for Congress to set the policy.

Mr. Speaker, let me say one last thing. I have a gun. I am a former sheriff. If I catch somebody in my house at 3 o'clock in the morning, I am not going to stop and ask them if they are there representing the Welcome Wagon.

I do not want to take away anybody's guns, and we are not going to take away anybody's guns. But what we are about to do is put some common sense and reason into a policy that is nonexistent, and I think it is time today that Congress faces up to the constitutional mandate.

I am asking my colleagues to vote for and support the Brady bill without any amendments.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I support the rule, but I take this time to say that I plan to vote for the 7-day waiting period, the Brady Handgun Violence Prevention Act.

Mr. Speaker, for nearly 25 years it has been my high honor to serve the people of the 15th District, to be their Representative in Congress. That is a job description that I do not take lightly. I take it very seriously, as a matter of fact.

Recently, I sent out a questionnaire asking the people of my district how they stood on this issue. One item of particular concern to them is that gun crime has risen dramatically in Columbus over the last several years. In the recent questionnaire I said, "Would you favor a 7-day waiting period before a handgun could be purchased?" and an overwhelming 82 percent of my constituents responding said they would.

□ 1340

My survey is also supported by the Gallup Poll which was taken in October and which said that 95 percent of those who responded favored a 7-day waiting period. These figures are a pretty clear indication to me about how the public stands on this issue. The people I represent and the people of the Nation have sent a clear message, it seems to me, that they are fed up and they want something done to make the streets safe again.

One way to accomplish this is to require stiff penalties for those who commit a crime while using a gun. That vote is not before us today. I happen to support that measure and would vote for it if it were here. The measure before us are a 7-day waiting period or a provision put forth by my friend, the gentleman from West Virginia [Mr. STAGGERS] which would set up a so-called national hotline to allow for an immediate background check. We are told that a so-called hotline check might take as much as 5 years to implement.

An estimated 23,000 lives were lost in our country from handguns in 1989. I support H.R. 7 because my constituents say they want it. I happen to think that a 7-day waiting period might just reduce handgun violence and save lives, which is something all Americans support.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, today we will hear wildly conflicting claims of the merits and the demerits of Brady or Staggers, but through all the acrimony and conflicting claims there is one central point of agreement, that the laws that restrict legal gun ownership to responsible citizens should be enforced and should be enforceable. There should be no guns for convicted felons, there should be no guns for the dangerously mentally ill, and there should be no handguns for those under 21 years of age.

That is the law. There is no disagreement there. The question is, Which bill will lead us to best enforce that law? Some think that Brady is a panacea. It is not. It does not require a background check. States such as Virginia, with a point-of-purchase system, will still sell guns over the counter after referring to an admittedly incomplete and inaccurate computer record of felons and mentally ill.

That is the major problem. No comprehensive, accurate system of national criminal records exists. So whether it is the Virginia point-of-purchase check, the Brady approach, or the Oregon 14-day waiting period, we cannot be certain we have stopped all the felons and mentally ill at the point of purchase.

We need an upgraded, comprehensive, accurate Federal system to track felons. Staggers would mandate the foot-draggers down at Justice to put such a system in place.

Some say it cannot be done. I do not believe that. Somehow we can track hundreds of millions of credit card limits second-by-second at the point of purchase, but we cannnot track a few hundred thousand convicted felons.

Mr. Speaker, let us stop criminals and the seriously mentally ill from purchasing guns from legal sources. I ask the Members to vote "no" on Brady and "yes" on Staggers.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distiguished gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I thank the gentleman from yielding this time to me.

Mr. Speaker, let me say that it sounds as if the argument is over whether we have a computer base and how we can best come up with a computer base to decide who the felons are, who the mentally ill are, who the people are that we want to keep guns out of their hands.

How can we best accomplish that? We can best accomplish that by passing the Staggers bill, because it is going to put the pressure on us and the national FBI and everybody else to see that we get that in place as soon as we can. If we pass the Brady bill, we will drag on and on. I oppose all gun waiting periods, but yet I do feel that through Staggers we can have an instant check. We can check within 90 seconds and see whether the person should or should not own a gun.

We will not take the guns out of the criminals' hands because they are going to be bringing them in their homes and they are going to be buying them on the black market. If we cannot control the flow of cocaine in this country, we are not going to be able to control the flow of weapons. We need to get something in place that will let us know who should and who should not be able to buy a gun, and the only way to accomplish that, and accomplish it as soon as possible, is to pass the Staggers amendment.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2½ minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the rule and in support of the Brady bill.

The Members of this House that I serve with are well meaning and intelligent, and yet we are split on this issue. That, frankly, makes no sense to me. We are willing to wait as long as it takes for a background credit check to get a credit card, we docilely wait months for the closing on a house, we wait for driver's license to come because we have to have a background check, but yet when it comes to a lethal weapon that we are trying to keep out of the hands of people that should not have them, we say, 'Oh, no, it is un-American to wait for that."

There is no organized opposition to the other waits that we Americans experience. No, they are necessary and good.

We, those of us who support Brady, do not say that it is going to stop all handgun deaths, but it will stop some. The number of children in the United States today who are caught in the crossfire is staggering. In my own State of New York we read about it every day, of shootouts on the streets when children have been killed, some of them even in their own homes from shots through the wall.

We have laws on the books already to enforce the law and prevent public crime, but the police who are our front line of defense in this country are begging us to pass this bill. They are asking us for a simple bill to help them do their work.

Listen to what the Law Enforcement Steering Committee, which is a consortium of police organizations representing more than 400,000 law enforcement officers from rank-and-file to chiefs, had to say: "It is unlawful for felons to buy a handgun, but in most States we have no mechanism to enforce this law. We need a national minimum standard for handgun purchase."

The National Association of Police Organizations, representing 130,000 rank-and-file police officers, has also endorsed the Brady bill with these words: "Passage of the Brady bill will help protect all Americans, including police officers, from illegal handguns, which are the cause of unnecessary deaths and injuries and crime."

Mr. Speaker, overwhelmingly the American public and overwhelmingly the police agencies support the Brady bill as a way to check handgun violence. I beg my colleagues, let us give Americans a chance to live.

Mr. SOLOMON. Mr. Speaker, from the other side of the aisle and the land of Harry Truman, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, here we go again. Gun control advocates are attempting to blur the distinction between gun control and crime control in a misguided effort to slow violent crime. Gun control and crime control are not the same. Confusing them will not accomplish the goal of preventing criminals from obtaining guns.

There are more than 20,000 gun control laws in effect nationwide. Before we enact yet more gun control restrictions such as H.R. 7, we need to know if gun control measures have had any effect on crime. Certainly the recent release of FBI figures on violent crime does not indicate that waiting periods, or even the most stringent of gun laws has had any impact on violent crime, or of the criminal use of firearms. Those FBI figures show a 10-percent increase in violent crime over last year. According to the FBI, New York City had more murders than any other American city, Los Angeles with a statewide 15 day wait on all guns had 983 murders, Chicago 850 murders, and Washington, DC, where it is illegal to own any firearm, reported in at 472 murders. Gun control laws simply do not work.

What we have before us today are two proposals—H.R. 7, the gun control measure and H.R. 1412, the crime control measure. H.R. 7 requires a waiting period for handgun purchases and gives law enforcement the discretion to conduct a background check. H.R. 1412, the crime control measure, requires a criminal background system which will make it difficult for the small percentage of felons who acquire handguns through legal channels to do so. On the other hand, H.R. 7 will have its greatest impact on already law-abiding citizens alone. H.R. 1412 earmarks Federal resources to address a very real problem, the poor condition of criminal justice records nationwide. H.R. 7 does not address this problem in any way. If we truly want to accomplish crime control by keeping firearms from the few felons stupid enough to buy through legitimate channels, if we want to serve criminal justice by improving the accuracy and availability of our criminal justice records, then a vote for H.R. 1412, the Stagger's substitute is required. H.R. 7 is empty rhetoric that is nothing more than gun control attempting to pass itself off as a crime measure. And so I ask you—will H.R. 7 stop crime? Of course not. The true problem of crime will not be effected until we punish the violent criminals. I urge you to join me in rejecting this misguided and ineffective effort. H.R. 1412, the Stagger's substitute is clearly a better option.

□ 1350

Mr. MOAKLEY. Mr. Speaker, might I inquire how much time is remaining on either side?

The SPEAKER pro tempore (Mr. BRUCE). The gentleman from Massachusetts [Mr. MOAKLEY] has 11½ minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 15½ minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr.GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of the rule, which is a fair one, on H.R. 7, the Brady Handgun Violence Protection Act. This is one issue I was compelled to address as a member of the Judiciary Committee. I say compelled because, as my colleagues know, I am not a gun control advocate. I support the right of sane, law abiding citizens to own guns, and I oppose Federal gun registration. But I have come to the conclusion that this is a sensible and reasonable measure, not inconsistent with my philosophy or the constitutionally protected right to bear arms.

We have already made a Federal law to prohibit criminals, persons judged mentally incompetent, illegal aliens, and minors from purchasing handguns. No one disagrees with these common sense restrictions, but in roughly half our States there is no system in place to enforce them effectively. And in States which already impose a waiting period or require law enforcement to verify a purchaser's eligibility to possess a handgun, thousands of gun sales have been rejected because the purchaser has been considered ineligible to buy a handgun.

Our respected colleague from West Virginia, Mr. STAGGERS, has introduced an amendment to develop a nationwide system to screen the same proscribed purchasers as the Brady bill. Not only do I believe such a system is ideal, but even the drafters of the Brady bill agree, and language has been included in Brady which sunsets, which ends, the 7-day waiting period once a national check system is in place. Let me repeat, the 7-day waiting period ends once the national check system is in place. The problem is it will take years for such a system to be operational.

Clearly, whether you support the Brady bill or the Staggers amendment, we all agree, some type of check is needed. In fact, this body passed language in 1988 requiring the Fedeal Government to implement an instanta-

neous check system once a national system is fully developed. The FBI has been developing this instant check system since 1989. It's already law and it is coming. Brady reaffirms the development of such a system. I urge my colleagues who support the Staggers amendment to realize that if an ideal instant check system is years from being implemented, we must do something in the meantime, however slow and burdensome, to ensure guns are sold only to qualifying individuals.

I have heard from many of my constituents who oppose the Brady bill. Often they speak about their rights as law-abiding citizens to own a gun, and I agree they have a right to such possession. But I am equally concerned about law-abiding citizens who are being killed everyday because handguns are ending up in the wrong hands. Don't they deserve protection, too? A 7-day waiting period, until a national instant check system is in place, is only sensible.

If we believe the bumper sticker claim that people, not guns, are responsible for handgun deaths, then how can we allow a person who everyone concedes should not own a handgun to buy one so easily? Almost half of the States have enacted their own waiting periods, but, as long as this patchwork exists, the background check is easily circumvented by purchasing handguns in nonwaiting period States and carrying them across State lines. I am convinced that a uniform Federal law is necessary if a waiting period is to be effective.

The Brady bill is not gun control but felon control, and it will give law enforcement the opportunity to stop a sale before a gun gets into the wrong hands. Policemen in my hometown of Wichita have told me that the Brady bill is a badly needed tool in police efforts to combat drug trafficking. The support by men and women who put their lives on the line everyday has reinforced my belief that this bill makes good sense and protects the rights of law abiding citizens. I urge my colleagues to support the Brady bill.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, in the House of Representatives we do not vote on concepts. We do not vote on newspaper ads or press releases. We vote on specific pieces of legislation.

The Staggers proposal is being mislabeled here in this debate. First of all, the Staggers proposal does not mandate a background check. There are five exemptions to the background check contained in the Staggers proposal, not the least of which is an exemption if telephone service is not available where the sale is to take place.

If a gun dealer sets up shop in a flea market out in a field where telephone service is not readily available, then there is no background check, and this is exempt under the Staggers proposal.

Second, there is a waiting period in the Staggers proposal as well of 24 hours, where the sale can be postponed for 24 hours if the hotline is not up or does not provide an answer.

Mr. Speaker, I am told that the Brady bill's 7-day wait is a violation of the second amendment. Well, if that is the case, and I do not think so, but if it is, then the Staggers proposal's 24-hour wait is equally violative.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I rise in favor of the Brady bill, and in opposition to the Staggers bill.

Mr. Speaker, I want to compliment Congressman SCHUMER and the members of the Judiciary Committee's Subcommittee on Crime and Criminal Justice for their fine work on H.R. 7.

Mr. Speaker, over 24 States have waiting periods with regard to the puchase of handguns. My home State of California has a 15-day waiting period law. This law has been very successful in preventing hundreds of ineligible persons—each year—from walking off with handguns. For example:

In 1990, California used its waiting period law to prevent 2,182 ineligible persons from purchasing handguns.

In 1989, California found 1,793 persons during routine background checks who were ineligible to purchase handguns, and they were not permitted to purchase them.

In 1988, 1,803 ineligible persons were caught in California trying to purchase handguns, and they were denied purchase.

Who knows how many lives have been saved by California's 15-day waiting period law. But, if just one life has been saved, that law has done its job.

Mr. Speaker, we all know whose responsibility it is to take serious measures to prevent mindless violence in our society. It is ours.

H.R. 7, the "Brady" bill—with its modest 7-day waiting period—represents a proven way to meet that responsibility.

I'm proud to join with Handgun Control, Sarah and Jim Brady, Congressman SCHUMER, Congressman FEIGHAN, and all the other cosponsors of this important legislation in voting for H.R. 7.

I urge all our colleagues to join in voting "aye" today.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, given the carnage that is taking place in the streets of America, the Brady bill is a very modest piece of legislation indeed; a 7-day waiting period to give local police an opportunity to check as to the background of the would-be purchaser, to see whether that person is a convicted felon, or whether that person has been certified to be mentally incompetent.

Mr. Speaker, I can attest to the fact that waiting periods do work. When I served on the city council in New York, I introduced and we passed long firearm legislation with a built-in waiting period. Prior to that time, deranged people would walk into a gun shop in Times Square, plunk down $25, walk out with a cheap rifle and a box of shells, and then start shooting at people on the street. That has not happened since 1957, when that legislation was passed. So there is indeed merit in waiting periods.

Mr. Speaker, Congress has waited a long time—too long—to take control of handgun violence that plagues the streets of America.

Proliferating handgun violence is abominable. Stray bullets have turned mainstreet U.S.A. into a firing range. Handguns have killed thousands of Americans, including a disproportionate number of black youths.

In short, quick and easy access to handguns have helped turn the United States into the homicide capital of the world. How much more will this Congress tolerate?

Although not perfect, the Brady bill is a step in the right direction to take control of that escalating violence. It simply gives police the opportunity to do a background check on a prospective handgun purchaser, during a mandatory 7-day waiting period.

The wisdom of a waiting period is clear. Twenty-five States already have enacted waiting periods, and 21 of those States have laws stronger than the Brady bill.

A key problem the Brady bill addresses is the lack of universality of State gun control laws, which permits gun running and smuggling. As we all know, illegal and out-of-State handguns are involved all too frequently in handgun-related deaths.

The instant background check proposed in the Staggers amendment is not a plausible, solution to today's handgun violence. Attorney General Thornburgh says that the instant check system will take 3 to 5 years to set up. A recent report from the Office of Technology Assessment indicates that such a system is 5 to 10 years away from being implemented. I would also point out that the 1988 Anti-Drug Abuse Act directed FBI to develop an instant check system, but to date has developed none.

But there is another—more cynical—reason the Staggers amendment is being proposed. It is no secret on Capital Hill that the National Rifle Association has been trying to defeat the Brady bill for years.

Now the NRA and its supporters have seen the writing on the wall. There is considerable momentum to pass the

Brady bill, and they have proposed an alternative to defeat it. Frankly, the NRA is a johnny-come-lately to the gun control debate and has lost considerable credibility over the issue. Make no mistake about it, passing the Staggers amendment will mean delay in implementing gun control legislation and time for the NRA to lobby for its repeal.

The priorities for the House should be to pass gun control legislation that is immediately feasible and immediately effective, and that legislation is the Brady bill.

I urge my colleagues to support the wisdom of half the States in the Union and enact a nationwide waiting period. Introduced in 1987, the 7-day waiting period has waited too long to be enacted and too many Americans have died as a result of piecemeal gun laws in this country.

Let's pass the Brady bill and move quickly to tighten other gun laws that threaten—and kill—American lives. Haven't we waited long enough?

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. DREIER of California. Mr. Speaker, I thank the distinguished ranking member of the Committee on Rules for yielding to me.

Mr. Speaker, I do not stand here as an opponent of the Brady bill; I stand here as a proponent of a better alternative. I clearly believe that it is in the best interests of law-abiding citizens throughout this country for us to ensure that they have the opportunity to protect themselves, and I believe that the Staggers amendment offers that.

Mr. Speaker, I would like to compliment the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], for fashioning what I believe is clearly a very fair rule. We often on our side have had criticism leveled at the other side for treatment in the Committee on Rules, but I, for one, have to say that I am very pleased to see the way this rule has come forward. It gives everyone a very clear chance to have an up or down vote.

Mr. Speaker, it was hotly debated as to exactly how this rule would come out. Every Member of this House is going to be able to decide are you going to vote for the Brady amendment, or against it; are you going to vote for the Staggers amendment, or are you going to vote against it. That is what this vote is going to end up being. I hope Members, when we pass this rule, will move ahead and pass what I think is the better alternative, which is the Staggers amendment.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, first I want to congratulate the gentleman from Ohio [Mr. FEIGHAN], for his leadership for many years on Brady. He deserves our accolades. I would like to also congratulate the new chairman of the Subcommittee on Crime, the gentleman from New York [Mr. SCHUMER], for moving this ahead aggressively and putting us in the posture where we are going to vote on this today.

Mr. Speaker, a lot of people have asked whether or not waiting periods work. There really should not be any debate about that. Waiting periods have worked for years.

In my home State of New Jersey, we have disqualified roughly 19,000 people over the last few years, 900 and some people last year, who were not eligible to buy a handgun.

Mr. Speaker, I was fascinated by a story in the Philadelphia paper, my media market in southern New Jersey, about John Claude Pierre Hill, a doctor from rural Virginia, who walked into a gun shop in his backyard back in March, bought two Colt .45's, six cartridges of ammunition, and drove to Philadelphia and shot three people. One died, a businessman from the Philadelphia area, and two others were shot.

Mr. Speaker, he walked into that gun shop and signed a form that asked a number of questions. One was, "Do you have a criminal record?" He said no. One was, "Do you have a mental history?" He said no.

Nobody checks that. In this instance, John Claude Pierre Hill had actually been committed to a mental institution about 2 years before that in 1989.

Mr. Speaker, I asked my staff to call the Virginia authorities to find out if the chief of police or the sheriff of that county had received notification of that application, whether they would have picked that up. My staff talked to one of the deputy sheriffs. Because it is rural, they have no chief of police. He said unquestionably, "We knew him. We knew he had a mental history, and we knew he was a disqualified person."

□ 1400

There is another example, perhaps, of a homicide that we could have prevented just recently.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank my colleague for yielding time to me. I will be speaking later today on general debate, but I do want to rise in support of H.R. 7, the Brady bill. I think it is very fitting that this bill should bear the name Brady, for Jim and Sarah, who have made it their personal cause to provide a vehicle for local law enforcement agencies to prevent gun sales to convicted criminals, addicts, and mentally incapacitated persons.

The alternative to Brady is the amendment offered by my colleague, the gentleman from West Virginia, Mr. HARLEY STAGGERS. Under the rule, it is the only amendment in order. If it passes, there will be no vote on the Brady bill, H.R. 7.

The Staggers substitute has been touted as a way to conduct a background investigation in an instant. Mr. Speaker, we would not need the Brady bill if such a verification system already exists. However, it is many years away from fruition. And that issue will be dealt with at a later time.

I would like to point out that I personally do not believe that a delay in the sale of a handgun is an abrogation of any right to own a handgun. Nothing in the Brady bill will prevent a decent, law-abiding gunowner from buying a handgun to either add to their collection or for personal protection or for use in hunting or sport events.

If anything, this legislation would allow a brief but useful cooling-off period for those who might run out to purchase a handgun after an argument and in the heat of passion commit an act they would later come to regret.

What we all seek is a prohibition of sales to purchasers who pose a threat to society. There is no dispute on this point.

We should be demanding that criminal and mental records be computerized on the Federal, State, and local level and that a quick, reliable, and accurate verification system be in place.

Unfortunately, that is not the case today. But lives can be saved if we do enact the Brady bill now and the only way to do that is to defeat the Staggers amendment.

The SPEAKER pro tempore (Mr. BRUCE). For the information of the Members, the gentleman from Massachusetts [Mr. MOAKLEY] has 5½ minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 11½ minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. INHOFE].

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

Out in Oklahoma, some time ago, we set up a system whereby highway patrolmen in a matter of 60 seconds, just by taking a license number, could get the name of the owner of a vehicle and do a criminal check and can immediately come into some types of response. The interesting thing about the Brady bill is it does not mandate a criminal background check. It talks about it, and those who are promoting it seem to think that is what it does, but it does not. The Staggers bill does do that.

I think that often Members of Congress look for the hidden agenda in some of these bills. In this case, if we look at the Members who are behind the Brady bill, the prime movers, not everyone who has spoken, we find Members who are opposed to the death penalty, Members opposed to the Violent Crime Act, members opposed in general to punishment for a deterrent to crime. I think a far better alternative in approaching the entire problem with crimes committed with guns is good stiff penalties under our law.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. MCEWEN], a member of the Committee on Rules.

Mr. MCEWEN. Mr. Speaker, I thank the gentleman for yielding time to me.

The purpose of my taking the floor at this moment is to say that we understand the Nation is unanimous in the effort to try to do something about controlling handguns. The Nation is very much divided as about how to do that. And just as the Nation is divided, the Congress is divided. There are very strong feelings on both sides. That creates a genuine dilemma for the Rules Committee as to how to bring to the floor those bills that are so different and represent such volatile positions in the House and to treat them fairly.

The only reason I wish to take the floor is not to add significantly to the debate that will take place over the next couple of hours, yet it is to say to the chairman of the committee and the ranking member of the Rules Committee that I believe they have done what is absolutely right.

The Judiciary Committee has presented their alternative, which is referred to as the Brady bill. The chairman of the Rules Committee said, let us bring that to the floor. If the floor wishes to work its will by making an amendment, let them do so, but we will not take a position to prejudice either one.

I congratulate the chairman and the entire Rules Committee.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I would like to engage in a colloquy with the gentleman from West Virginia [Mr. STAGGERS].

Many firearm owners in my district are concerned that H.R. 1412 might authorize the Federal Government to compile a database of firearm purchase using information collected through the instantaneous computer check. Is it the gentleman's understanding that this legislation would not authorize the Federal Government to keep these records?

Mr. STAGGERS. Mr. Speaker, if the gentleman from Texas will yield, yes, that is correct.

Mr. ARMEY. In fact, does the gentleman not specifically intend that this legislation would prevent any Department, agency, officer, or employee of the United States from compiling or recording any record obtained through the instantaneous check?

Mr. STAGGERS. Yes; that is correct. In fact, this legislation is designed to prohibit the use of the hotline to establish any system for the registration of handguns, or handgun owners.

Mr. ARMEY. Mr. Speaker, I thank the gentleman.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SCHAEFER].

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

Mr. Speaker, today we will end a long and contentious debate over two pieces of legislation noble in origin and purpose. Both the Staggers and Brady bills came about in response to the scourge of gun-related violent crime that plagues our Nation. But while each proposes a system designed to achieve the goal of keeping guns out of the hands of felons, only Staggers does so in a way that is not only more effective but constitutionally sound as well.

There is general agreement that background checks would be an important step in preventing criminals from acquiring firearms through legal channels. But a background check is only as good as the quality of information available. Unlike the Brady bill, Staggers recognizes this fact by explicitly providing additional resources for States to improve their records. Mandated background checks of continually updated records are clearly preferable to the Brady system, which at best encourages a check of incomplete and often difficult-to-locate records.

If our goal is truly to implement a system which quickly identifies felons without imposing on law-abiding citizens, our choice is evident. I urge my colleagues to join me in support of the Staggers substitute.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, in a 1-minute speech today I talked about a fundraising letter of Handgun Control, Inc., a letter that comes from Mr. N.T. Pete Shields, and it is marked confidential, but it is in the public domain. And I think that all of my colleagues need to be aware of this particular letter.

It is addressed to Handgun Control, Inc. members. Let me read a couple of paragraphs. It says:

> Because you have been extraordinarily involved and supportive of the efforts of our sister organization, Handgun Control, Inc., I wanted to personally send you this advance notice of a bold new effort by the Center to Prevent Handgun Violence which we have not yet revealed to the press and public.

The question is, What is this bold new initiative? When you go down in the letter, he is quoted as saying, let us "hit them where it hurts." I am going to talk about "them" in just a moment.

> Let us hit them in the pocketbook. That is an old saying which has achieved the status of an axiom where citizen action is concerned. It sums up exactly why our new Handgun Legal Action Fund is so important.

Let us go back to whose pocketbook.

□ 1410

Because on the second page of this letter it talks about whose pocketbook. "When we sue a municipality for its negligence and not carefully screening handgun applicants, we show State and local governments all across the Nation that we mean business," and it goes on.

So I would ask my colleagues: What are you going to say to your constituents when it is your municipality, your police department that is sued? And if you do not think it is easy to make a mistake when trying to verify someone's records, think how easy it is to miss a number when typing in someone's Social Security number or someone's driver's license number. It is not that difficult to make a mistake.

I would just hope that all of my colleagues will read this letter, and I will have it available here for those who wish to review the letter.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. FEIGHAN], who is the author of the Brady bill.

Mr. FEIGHAN. Mr. Speaker, I thank the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], and I particularly want to thank him and the members of the Committee on Rules for a genuine effort in fashioning a very fair rule for us to consider the Brady bill and amendments to it this afternoon.

For me, today marks the end of a very long road. I first introduced the Brady bill in 1987, and today the House is going to decide its fate.

There is really just one point at this stage of the consideration that I want to make, and that is that a vote for the Staggers substitute is plain and simple a vote to kill the Brady bill. If the Staggers amendment prevails, Members have to understand that there will then be no vote on the Brady bill.

I make that clarification, because I think it is important that both Members and the American public clearly understand what is taking place under the rule that is before us this afternoon.

The Staggers amendment is really not an alternative to the Brady bill. It is really a killer amendment designed to eliminate any consideration of the Brady bill, and that, frankly, I think is why it was originally drafted. It is certainly why the National Rifle Association, which so adamantly opposes any

and all forms of gun control, is working so hard to round up the votes for the Staggers alternative. That is because the NRA knows that the instant background check they are proposing is a fantasy. They know that Atty. Gen. Dick Thornburgh told us that implementing the Staggers amendment will take a minimum of 3 to 5 years, and the Office of Technology Assessment went beyond that and testified before the Congress in a draft report that it would probably take a minimum of 8 to 10 years, and then after the investment of literally hundreds of millions of dollars.

Every Member of this House who is at all concerned about the proliferation of handguns in America today, I think, has to be voting against the Staggers substitute. Voting for the Staggers substitute is not going to provide the political cover that someone might be seeking who is going to hear from their constituents about the deadly crime waves that continue to hit virtually every community in this country. Voting for the Staggers amendment is not just a dodge, it is a vote against Brady. Make no mistake about that.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. President, there has been an interesting discussion with regard to the two bills before us.

Thus far, one would think we were debating a crime bill on the floor. The fact is that one of the interesting aspects of all of this is that there are at least some people who are talking about bringing this bill to the floor who see this as a substitute for a crime bill. It is not.

Regardless of what we do today on Brady and/or Staggers, the fact is that what this country really needs is some strong measure against crime. What the American people are concerned about and the reason why they have shown some interest in gun control, is because they are absolutely fearful of the crime going on in the streets of this country. They are fearful of walking in a parking lot of a shopping center at night. They are fearful of walking from their home uptown, and they are disgusted with the fact that we have been unable to deal with criminals in this country.

Some in the Congress would like us to believe that by passing the Brady bill or passing the Staggers bill we will have done something about crime. The fact is we will not. These are bills that will ultimately have their greatest impact on law-abiding citizens. Law-abiding citizens will be asked to go through an additional check in order to purchase a handgun.

The criminals will still be running loose. We will still have the problem of crime in our streets.

What we need out of the Committee on the Judiciary that brings this bill to the floor today is an anticrime bill, namely, the President's anticrime bill. We need to get tough on criminals. We need to have the death penalty on a number of additional crimes. We need to do something about making certain that the innocent are protected while the guilty are prosecuted. We need some more prisons so that we can put people away who are recidivists and put them away for a good long time.

We see nothing of that in the bills that are before us today.

The President has asked this Congress within 100 days to enact a crime bill. We now have about 65 of those days gone. We are doing nothing. We will probably send this bill in some form to the White House and ask the President to sign it. He has already said he will not do that exclusive of his crime bill. That is the only way he will consider gun control—as a part of a crime bill.

The question all of us ought to have on the floor today is: Where is the crime bill? Why can we not get something done against criminals?

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in support of the rule and in strong support of the Brady bill and against the Staggers amendment.

I do so because the Brady bill will make a difference in people's lives. I do so because the American people are crying out for help, and Staggers will not help them.

On Monday I was joined by the majority of chiefs of police in my own congressional district, 13 of 15 who said that their work in helping to fight crime would be aided by a 7-day waiting period.

The Staggers amendment will not deter felons from purchasing handguns. The Staggers amendment is a ploy to gut the Brady bill.

In 1988 the Congress enacted the McCollum provision that directed the Attorney General to implement a nationwide background check as soon as possible. That system is years away and will cost millions of dollars.

Staggers says that this system will be completed within 6 months without authorizing a single dollar for that purpose. Staggers is patently unworkable.

The Brady bill is a commonsense approach to a tragic problem. Children are gunning down other children over a pair of sneakers. Children are dying from stray bullets. The senseless violence must stop.

The Brady bill is a step toward ending this anarchy. I urge my colleagues to support the Brady bill and vote against the Staggers amendment.

Mr. SOLOMON. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, let me first of all say that so far we have had a very, I think, fine debate on this issue. I think it is becoming to the Members of the House. I was a little disturbed by the statements by the gentleman from Ohio [Mr. FEIGHAN] a little bit before when he was sort of critical of the NRA. I would like to just say the National Rifle Association has to be a fine organization.

I happen to be a life member of that organization, and was long before I came to this body 13 years ago. In the 8,000 square miles that I represent in northern New York, we have NRA members that are policemen, ministers, doctors, lawyers, scout leaders, little league coaches, and they are just a cross-section of America. They are people like you and me, and they perform a great service to the people in my area teaching gun safety and teaching gun etiquette to youngsters who want to learn how to use rifles for hunting, fishing, and sport.

So I hope we, during the rest of the debate, keep it on a high plane.

Along that vein, I just want to really thank the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], and the Speaker, because we did bring to this floor a fair rule under regular order which we have operated under for 100 years in this House.

The base bill is the Brady bill, and there is one amendment made in order, and that is the Staggers amendment.

I just hope that all Members really do represent their districts and stand up to be counted.

I think I made a statement up in the Committee on Rules, Let us stand up like a man, and I said at the time, in the context of today's terms, And let us stand up like a woman. The gentlewoman from New York [Ms. SLAUGHTER] said she is, and she does. I admire her for it.

Let us do, let us stand up and be counted, and let us let the chips fall where they may.

We have had a good debate. Let us leave it that way. I certainly hope the Staggers amendment wins though.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the remainder of my time to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. Mr. Speaker, I thank the distinguished chairman for yielding the time, and I rise in support of this very fair rule.

As a gunowner, a gun user, a member of a law enforcement family, and a vigilant defender of the second amendment to the Constitution, I rise today in opposition to the Staggers substitute and in strong support of H.R. 7, the Brady Handgun Protection Act.

In considering the Staggers amendment, I asked myself a few questions: Why vote for a national instant check system which this body has already voted for and passed in the Anti-Drug

Abuse Act of 1988? Why vote again for a system that the Attorney General says is still 3 to 5 years away? Why vote again for a system the Office of Technology Assessment says is 5 to 10 years away?

Mr. Speaker, in time we will have a national instant background check, and if we pass the Brady bill, Brady will phase out at that point in time. In the interim, it can serve us well as a rational response to a national crisis.

My colleagues, no one is so naive as to think the Brady bill is a foolproof solution capable of stopping handgun violence in America. But we have a situation now in many States that makes it convenient for convicted felons or unstable crackpots to purchase weapons with ease and use them with ease. The Brady bill would make it harder, there's no doubt about it. Law-abiding handgun purchasers can still get their weapon, but the lawbreaker has a roadblock. Brady takes away the ease.

Oh, we have all heard the line about Well, the criminals will just get a gun on the street. A couple of points: Thousands of felons have been stopped by waiting periods and background checks, and thousands of weapons flow to the street over store counters where there is no check. Besides, no one here is saying we shouldn't go after the black market harder than ever. If it is all that easy to get a gun on the Street, let us make it easy to bust the sellers.

Mr. Speaker, we should proceed with the creation of a reliable national instant check system. But until that system is in place, we should make the Brady bill the law of the land.

Let us do the responsible thing, the bold thing, the right thing, the law and order thing. Let us begin to take our streets back from the nuts and the thugs and make them safe again for our children and our families. That's what the Staggers amendment wants to do, but doesn't. That's what the Brady bill wants to do and does. Support law enforcement—vote for the Brady bill.

□ 1420

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BRUCE). The question is on the resolution.

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 405, nays 16, not voting 9, as follows:

[Roll No. 79]

YEAS—405

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Doolittle
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—16

Cardin
Collins (MI)
Cox (CA)
Crane
Dannemeyer
Dornan (CA)
Duncan
Gallegly
Goodling
Hancock
Hubbard
Obey
Petri
Rohrabacher
Upton
Williams

NOT VOTING—9

Condit
Dooley
Engel
Gray
Lehman (FL)
Martin
Roybal
Slattery
Washington

□ 1444

Messrs. DORNAN of California, DANNEMEYER, ROHRABACHER, and GALLEGLY changed their vote from "yea" to "nay."

Mr. ANDREWS of Maine changed his vote form "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT OF PLANS OF COMMITTEE ON RULES CONCERNING H.R. 2100, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1992

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I rise today to notify Members of the Rules Committee's plans with respect to H.R.

2100, the National Defense Authorization Act for Fiscal Year 1992.

Today the Armed Services Committee is meeting to order the bill reported. The Rules Committee plans to meet next Thursday, May 16, to take testimony on the bill. To assure fair consideration, the Rules Committee is considering a rule that may structure offering of amendments.

Mr. Speaker, any Member who contemplates offering an amendment to H.R. 2100 should submit 55 copies of the amendment by 5 p.m. on next Tuesday, May 14. The committee offices are in H-312 in the Capitol.

It is my understanding, Mr. Speaker, that the Armed Services Committee will make available in their offices advance copies of the bill and report to Members and staff preparing amendments. An advance copy will be available as early as Friday, May 10.

Mr. Speaker, I have sent a "Dear Colleague" letter to all offices explaining our intentions on this bill. We appreciate the cooperation of all Members in our effort to be fair and orderly in granting a rule.

BRADY HANDGUN VIOLENCE PREVENTION ACT

The SPEAKER pro tempore (Mr. BRUCE). Pursuant to House Resolution 144 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7.

□ 1447

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of bill (H.R. 7) to amend title 18, United States Code, to require a waiting period before the purchase of a handgun, with Mr. HOYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, today on behalf of the Committee on the Judiciary, I bring to the floor the bill H.R. 7, the so-called 7-day waiting period bill. H.R. 7 was ordered reported by the Committee on the Judiciary by a vote of 23 to 11 on April 23.

Essentially, H.R. 7 provides for a waiting period of up to 7 days before an individual may purchase a handgun from a registered gun dealer. During this period, local law enforcement authorities are to be notified by the gun dealer of the prospective purchase. The authorities have the optional opportunity to run a background check on the prospective purchaser and to find out whether he or she would be prohibited from buying a weapon under Federal law.

Mr. Chairman, H.R. 7 is motivated by the understandable and universally held desire to keep handguns out of the hands of criminals. The major question that must confront this body today is how to do this in a manner that is both effective and not an infringement on the rights of law-abiding citizens.

We have two distinct proposed solutions before us today. Both of them are based on the idea of a background check to determine the suitability of the prospective purchaser. But while H.R. 7, as reported by the committee, imposes a 7-day waiting period on all individuals, the proposed substitute to be offered by the gentleman from West Virginia [Mr. STAGGERS] would establish and promote a system of instantaneous point of sale checks. Most important, the Staggers substitute would ensure that the resources are available to put in place such a procedure by requiring the States to devote 10 percent of their criminal justice assistance funds to update and automate their criminal record systems.

I also want to strike a realistic note about what this legislation will do and won't do. The stark fact is that no system of background checks by licensed handgun dealers is going to keep all such weapons out of the hands of criminals. The main market for the purchase and sale of such weapons is the illicit market. We are simply deluding ourselves and the country—and we are doing a disservice to our constituents—if we attempt to paint this bill as an answer to the proliferation of handguns. To the extent that we can address this problem at the point of sale by licensed dealers, it is incumbent on us to do so in the least intrusive manner possible.

In closing, Mr. Chairman, I want to recognize the skillful and professional work of the Subcommittee on Crime and Criminal Justice, chaired by the gentleman from New York [Mr. SCHUMER], in preparing this legislation for consideration by the committee and the full House. I also want to commend the gentleman from Ohio [Mr. FEIGHAN] for his diligence and dedication in championing this legislation. The Members know that I am personally opposed to H.R. 7, on the basis of my concerns over its effectiveness and my belief that it unnecessarily intrudes on the rights of law-abiding citizens. Despite my philosophical disagreement with Mr. FEIGHAN over this legislation, I have the highest respect for his abilities and for the conscientious manner in which he has supported this legislation through several Congresses.

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

□ 1450

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the time has come to pass the Brady bill. The time has come to address the rash of handgun violence in the United States. Waiting periods do prevent people who are ineligible to own firearms from obtaining them. Those who are ineligible include convicted felons, adjudicated mental incompetents, drug addicts, and minors. There is no abridgment in the Brady bill of the right to keep or bear arms. Anybody who can wait 7 days who is not a felon, an adjudicated mental incompetent, a drug addict, or a minor will be able to get their firearms without any restriction whatsoever. The Brady bill sunsets when an instant check system becomes functionally available. We will be hearing a lot of debate on how soon that will be.

Mr. Chairman, I favor an instant check system, but I think the Staggers timeframe is unrealistic. That is why I think the Brady bill should be put in place until the instant check system is available, whether it is 6 months from now, 5 years from now, or 10 years from now, and that is contained in the text of the Brady bill.

The Brady bill is fair and reasonable. It is not unduly bureaucratic. It allows police agencies to decide how to allocate the use of their time, whether to check, as the Brady bill allows them to, or whether to do something else because other matters are more pressing in that police agency. That is why the police support it. Mr. Chairman, it seems to me a little bit inconsistent for people to say not to burden the police with Brady bill checks when most of the organized police agencies in the country are firmly behind the Brady bill and firmly opposed to the Staggers amendment.

Finally, the Staggers amendment is a killer. If the Staggers amendment is adopted 2 hours from now, we will not get to a vote on the Brady bill. The only way to vote on the Brady bill is to defeat the Staggers amendment. So, a vote for Staggers is a vote to kill Brady.

Mr. Chairman, I would urge that the Staggers amendment be defeated and that the Brady bill be passed.

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

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, first let me thank the chairman, the gentleman from Texas [Mr. BROOKS], for yielding this time to me and for the fair and decent way in which he has conducted these proceedings. I would say the same to the Speaker of the House. Both the chairman and the

Speaker have opposed this legislation, but they have been eminently fair.

Mr. Chairman, we live in a country in which a convicted felon can walk into a store and buy several guns at once. I ask my colleagues to clear their minds for one moment of all the arguments they have heard on this issue and consider just that fact, an America in which felons can buy handguns. Mr. Chairman, that is just wrong. It is fundamentally inconsistent with our society's standards and our Government's obligation to protect its citizenry.

Today, Mr. Chairman, we have an opportunity to right this wrong, to correct a flaw, a major flaw, in our criminal justice system. We have an opportunity to make our country a safer place to live. That is what the Brady bill is all about, and that is all it is about. Plain and simple.

Mr. Chairman, the Brady bill is the very model of common sense. It requires nothing more of us than that we treat handguns with the respect and fear that they should command.

But best of all, waiting periods work. In States across the country tens of thousands of felons have been prevented from buying handguns because police were given time to check for criminal records.

Despite all this, despite that every life that has been unknowingly saved is a reason to vote for the Brady bill today, the NRA is opposed. Despite that fact that every child that is still growing up, every cop that still patrols his beat, every family that remains intact needs protection, the NRA is opposed. All of these people, the children, the police, the families, silently plead with us to vote for Brady.

Mr. Chairman, the Brady bill has opponents. The powerful National Rifle Association has offered an amendment, and it is their amendment, that will be a way to defeat the Brady bill.

I ask my colleagues plain and simple to remember once and for all: Pass the Brady bill to save lives.

Mr. Chairman, I have been asked by some of my colleagues from Michigan about what, if any, effect the passage of H.R. 7, the Brady bill, would have on handgun purchases in Michigan. They raised the question of whether handgun purchases in Michigan would be exempt from Brady bill coverage. I am happy to assure them that H.R. 7 exempts handgun transfers if the law of the State provides that a handgun transferee must have a permit to purchase and the permit is issued only after an authorized government official has verified that the information available to that official does not indicate that possession by the transferee would not violate the law. Because Michigan law prohibits the issuance by the police of a license to purchase a handgun to anyone prohibited by law from receiving such a gun, the issuance of such a license would itself be a verification that the transfer would not violate the law. Therefore, handgun purchases in Michigan would be exempt from the 7-day waiting period.

Mr. Chairman, I have been asked by some of my colleagues from North Carolina, in particular Congressman STEPHEN L. NEAL, about what, if any, effect passage of H.R. 7 would have on North Carolina's handgun permit law. They have raised concerns as to whether handgun purchases in North Carolina would be exempt from coverage under the Brady bill.

I want to assure my colleagues from North Carolina that H.R. 7 exempts handgun transfers if the law of the State provides that a handgun transferee must have a permit to purchase, and the permit is issued after an authorized government official has verified that the information available to that official does not indicate that posession by the transferee would violate the law. Because North Carolina has a permit law which prohibits the issuance of a permit to purchase a handgun to anyone prohibited by law from receiving such a gun, the issuance of such a permit would itself be a verification that the transfer would not violate the law. Therefore, handgun purchases in North Carolina would be exempt from the 7-day waiting period.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FISH], the distinguished ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, 10 years ago a bullet pierced the skull of Presidential press secretary James Brady, nearly claiming his life. His courageous battle against practically insurmountable odds; for life, the ability to communicate, the need to feel that he could still contribute to society and his desire to make a difference, has been a true testament to the human spirit.

I would also like to acknowledge the tremendous personal strength demonstrated by another courageous individual—Sarah Brady. It is because of their interest in, and commitment to, this issue that we are here today. A true sign of courage is the ability to stare tragedy straight in the eye and turn it into victory. Jim and Sarah Brady have proved that so well to us all.

I rise today in support of H.R. 7, the Brady bill. It is fitting that this bill should bear the name, Brady for Jim and Sarah have made it their personal cause to provide a vehicle for local law enforcement agencies to prevent gun sales to convicted criminals, addicts, and mentally incapacitated persons.

In addition, I would like to acknowledge the contributions made by my Judiciary Committee colleagues, particularly ED FEIGHAN, whose dedication on this issue, Congress after Congress, has kept us focused on the issue of handgun violence.

This legislation provides for a nationwide 7-day waiting period so that background checks can be made of handgun purchasers by local law enforcement officers. In my own State of New York, we already have gun laws more rigorous than the Brady bill. Under New York law, before a license to possess a gun is issued, a mandatory investigation, including a photograph and fingerprint check, is conducted by the licensing officer. While there is no explicit mandatory waiting period, the background investigation must be completed before a license is issued and the sale completed. This process takes a minimum of 20 days and often takes longer.

The alternative to Brady is the amendment offered by my colleague, HARLEY STAGGERS. Under the rule, this is the only amendment in order and if it passes, there will be no vote on Brady.

This measure is being touted as a way to conduct a background investigation "in an instant." Mr. Chairman, we would not need the Brady bill if such a verification system already exists. Such a system, however, is many years away from fruition.

A centralized system of record checks isn't feasible now because more than 90 percent of arrests and convictions in this country are handled by State and local law enforcement authorities. The Attorney General's task force estimates that, nationwide, 40 to 60 percent of the records of felony convictions are not presently in automated form and thus not immediately available. Approximately 40 States do not have a computerized system already in place to conduct these instant records checks.

A draft congressional study by the Office of Technology Assessment states that records across the country are in such poor shape that it would take "5 to 10 years" to develop a workable system of instant checks. The Brady bill would allow States to use their own verification system. Once the Attorney General determines that an effective verification system is in place in all 50 States, Brady will effectively sunset.

I do not believe that a delay in the sale of a handgun is an abrogation of any right to own a handgun. Nothing in Brady would prevent decent, law-abiding gun owners from buyng a hand gun, to either add to their collection or use for hunting, sporting, or personal protection. If anything, this legislation would allow a brief, but useful, cooling-off period for those who might run out to purchase a handgun after an argument and, in the heat of passion, commit an act they would later come to regret.

What we all seek is a prohibition of sales to purchasers who pose a threat to society. On this point, there is no dispute. We should be demanding that criminal and mental records be computerized at the Federal, State, and local level and a quick, reliable and accurate verification system put in place.

Lives can be saved if we enact the Brady bill now, and while it may be inconvenient for some individuals to have to wait a week before they are able to purchase a handgun, I believe that this short period of time is toler-

able if a few lives are saved as an end result of our efforts.

I urge my colleagues to join me and vote down the Staggers amendment and vote for H.R. 7.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS], the chairman of my committee, for yielding time to me, and I want to thank him also for moving so quickly on this legislation in this Congress. I know we disagree on how best to confront our No. 1 threat to the American way of life, and that is violent crime. Nevertheless, the chairman has been enormously fair in moving and considering this legislation. I thank him for his leadership and his friendship.

I also want to thank the very capable and talented chairman of the subcommittee, the gentleman from New York [Mr. SCHUMER] for making the Brady bill the top priority really in this session of Congress. Most of all, I want to thank Jim and Sarah Brady. Without them we would not be here today. They both decided that after Jim's shooting they would rather light a candle than curse the darkness, and the Brady bill that we have before us today is indeed that candle.

The goal of the bill is really quite simple. The goal is to enforce current Federal law and keep handguns away from criminals, drug addicts, and mental incompetents, and the need for the bill is exceedingly desperate. Since the last time we considered the Brady bill in 1988, 50,000 Americans have died as a result of handgun violence. The American people support the Brady bill overwhelmingly. A poll conducted recently by Gallup showed that 95 percent of the American people support the Brady bill. A TIME–CNN poll recently showed that 87 percent of gun owners support the Brady bill.

We have this instant check being offered as an alternative, but Dick Thornburgh has testified it would take 3 to 5 years to implement. The Office of Technology Assessment has said it would probably take longer, and only after the investment of literally hundreds of millions of dollars.

Mr. Chairman, back in January we cast what clearly was the most controversial vote of this year and certainly of the entire Congress. We voted on authorizing the President to send American forces into war, and for each one of us in the decision leading up to that vote, we went through a period of soul-searching and looking into each of our own consciences. We all strove to do the right thing. We did not consult with lobbies, we did not focus on the next election, but our prime consideration was the young Americans who might lose their lives in any ensuing conflict.

That same consideration should be, and I think will be, on our minds today. From August to March, during the Persian Gulf conflict, some 298 Americans died in that fighting. During that same period, over 1,200 Americans, mostly young Americans, were murdered in New York, 1,200 were murdered in Los Angeles, 400 were murdered in Chicago, and 300 were murdered in that same period right here in the Nation's Capital, most of them with guns.

Mr. Chairman, the Brady bill could have prevented some of them, and I urge my colleagues to vote in favor of the Brady bill this afternoon.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I cannot support either H.R. 7 or H.R. 1412. The Brady bill, H.R. 7, should at best be passed by State legislatures if it is going to be passed at all. The supporters say that we need a national simultaneous check, but the Brady bill does not require law enforcement officers to actually make a check, so that is no simultaneous check.

In addition, where law enforcement officers do check, we do not demand that accountability from them because the Brady bill provides no standards to accept or reject a purchase, no appeal process, and no congressional oversight. In fact, there is not even a cooling-off period that its supporters say is such an important reason to pass it. Because the Brady bill will not apply wherever there is now or may be an instantaneous check, there is no 7-day cooling-off period. Personally, I believe crimes of passion occur immediately with any weapon available, but the 7-day cooling-off period has been effectively taken out of this bill. The Staggers bill would set up a national instantaneous dealer check system, but I think this is a process that would take several years. It cannot be done in 6 months as the bill requires.

Mr. Chairman, in conclusion, I think these bills are honestly debatable. I think the goal of both bills is laudable. It is to keep handguns out of the wrong hands. But we have to ask ourselves, what do we do now if we find handguns in the wrong hands? What do we do now if a convicted felon is found with a handgun? The answer is, little or nothing.

Mr. Chairman, if either the Brady bill or the Staggers bill becomes law, it will mean nothing unless that law and other laws already on the books are actually enforced, a case which does not seem to be happening today.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the chairman of the committee for yielding time to me, and I rise in support of the Staggers amendment and in opposition to the so-called Brady bill.

In so doing, I want to join those who have expressed sympathy for Mr. Brady and for Mrs. Brady for the injuries that he suffered and for the tragedy that both of them have suffered in the traumatic experience they had back in 1981.

Like all Members of Congress, I am concerned about the proliferation of violent crime in the United States. There is no city in which crime is worse than the one in which we live. Violent crime in Washington, DC, has increased every year since I have been here, and Washington, DC, has a handgun control law. In fact, I as a law-abiding citizen cannot bring my handguns to Washington. I protect myself by having shotguns in my house, if necessary. I would much prefer having a handgun in the dresser drawer, as I am accustomed to having out in Arkansas.

But in Arkansas there is not a problem of violent crime. Sure, there are a few violent crimes every year, but the violent crimes occur for the most part in the cities of America, not in the countryside. If we pass the Brady bill, this will not change that problem because it is symbolic. It does not achieve the goal that is intended.

□ 1510

Passing the Brady bill will just be a statement by this Congress that we are opposed to violent crime. What is needed is a crime bill, more prosecutors, more judges, and more prisons for the criminals who should be kept there.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, there is no question but that the American people want this Congress to act on the serious problem of violent crime. How best do we respond to the call of the American public to act on violent crime? For almost two decades now, there have been many Members of Congress who have been struggling valiantly to enact a comprehensive crime bill which would include measures that are targeted toward the violent criminal.

President Ronald Reagan in his two terms of office pleaded with Congress to enact a death penalty bill for people who kill while using guns in the perpetration of robberies and burglaries and violent assaults.

But the very same proponents now of the Brady bill opposed the President in those proposals. In fact, they laughed at President Reagan when he proposed those.

The President then and President Bush now proposed a comprehensive crime control bill that would include a

reform of the exclusionary rule, which allows criminals who tote guns and who kill and maim with guns to escape from the courtroom on a technicality. President Reagan and President Bush now want us to reform that so that that cannot happen, so that the gun wielder will go to jail. But the proponents of the Brady bill today are the very same who rediculed President Reagan and opposed President Bush in his proposal to crack down on these violent criminals. The reason is that gun control means criminal control, mandatory sentences, throw the key away if necessary, strengthen the hand of the Sentencing Commission to deal with those kinds of crimes that kill and maim by the use of a gun.

Mr. Chairman, we need not a Brady bill; we need a crackdown on the violent offender.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Chairman, today we and all Americans watching this debate are presented with a fundamental choice: What are human lives worth when weighed against the inconvenience of waiting 7 days to purchase a handgun? I believe the answer to this question is clear: The time has come for Congress to enact this simple measure, to make national policy out of a practice that has saved untold lives in States where waiting periods exist.

Mr. Chairman, I own firearms and have in the past opposed the outright prohibition on the sale of handguns and most other weapons, as some have advocated. In fact, as chairman of the senate judiciary committee in the Illinois General Assembly, I opposed countless bills that I felt infringed upon the rights of citizens to bear arms. No such infringement exists here, however. The Brady bill simply establishes a maximum 7-day waiting period before purchasing a handgun as the minimum standard for States that do not currently have similar waiting periods or do not conduct some type of background check. Will this inconvenience gunowners? Quite probably, yes. Does this infringe on an individual gunowner's right to bear arms? Decidedly, no.

What, then, do we gain from extending the inconvenience of a 7-day wait to all States? The answer is we save lives—potentially, thousands of lives. It is inconceivable to me that anyone who has seen the overwhelming number of handgun sales prevented because of current State waiting periods and background checks, which allow convicted felons and other ineligible applicants to be identified, can argue that the Brady bill will not save lives. In my own State of Illinois, for example, 2,920 applicants were denied in 1990, and 1,867 permits revoked. Perhaps the most compelling example is that of the State of New Jersey, where, over the past 20 years, more than 10,000 convicted felons have been stopped from purchasing handguns. Think about that: Handguns were kept out of the hands of more than 10,000 felons. And people say the Brady bill will not work.

This evidence is irrefutable and, I believe, renders all other arguments made in the abstract meaningless. As a matter of conscience, I must come down on the side of saving lives.

Support the original Brady bill and save lives.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Chairman, I would like to see the Virginia felon identification system adopted nationwide. Neither Staggers nor Brady will affect Virginia and many other States, but I believe the Staggers bill will accomplish an instant check nationwide in the near term, while the Brady bill may do so over a longer period of time.

Mr. Chairman, while I supported H.R. 7 as a second alternative to Staggers in committee, I am hopeful that Staggers will prevail on the House floor, since it will, to the greatest extent possible, keep firearms out of the hands of felons and require States to improve their criminal justice records.

Mr. Chairman, most criminals obtain guns on the black market, and therefore will not be impeded from buying a gun by either proposal. However, I believe we can make a difference without infringing upon the second amendment by adopting the Virginia system nationwide and through meaningful criminal justice reform such as the major components of the President's crime package. In order to reduce firearms violence we must have tougher penalties for individuals who carry a gun during the commission of a crime.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, I am privileged to serve on the House Judiciary Committee with both Mr. STAGGERS and Mr. SCHUMER. Their constituents can be proud of the gentlemanly manner and yet, tough advocacy, by which they have conducted themselves and orchestrated this debate.

In addition, I acknowledge and commend the fairness displayed by the chairman of the Judiciary Committee, my chairman, Mr. BROOKS, on this issue as well as the work of Speaker FOLEY for his insistence that the House contend with this issue fairly, quickly, and decisively.

Mr. Chairman, all in this Chamber today have the same goal: to eliminate violence in our society. In the Congress' deliberations in search of order in our society, we must assess any proposal in terms of cost. First, of course, there are monetary costs. Monetary costs are a fact of life. And, we have a responsibility to assess the monetary cost and, yes, we certainly have a responsibility to assess the impact on the Federal Treasury.

Just as importantly, we must assess the monetary costs on our State and local governments as well. The reason, of course, is that the taxpayer pays for all government actions regardless of the level of government involved. Moneys to fund government may come from a different pocket; nonetheless the source is the same, the American taxpayer.

We live in a time of severe limits on government spending—at all levels—and we must make certain that we spend taxpayers' money wisely.

There is another cost assessment we must make, as well. And this is the cost to our civil liberties. How much cost to an individual's civil liberties in our society does a proposal for law and order require? This is important. For the question becomes how much government intrusion in the lives of law-abiding Americans will we as a society tolerate in the goal of law and order.

Finally, we must be honest with the American people and not pass measures with catchy phrases and only an appearance of substance. We must provide substance in our proposal and therefore, we must assess whether a particular piece of legislation provides the best means to solve a problem, or whether some other less costly approach and more efficacious means exists in providing for order.

I am supporting Mr. STAGGERS' proposal over the original provisions of H.R. 7. Let me discuss the reasons in context of the above.

It is necessary to understand the distinctions between the two proposals—and the similarities.

First, let me discuss one similarity. Americans should understand that both Staggers and Brady only relate to those handguns purchased at a licensed gun dealer. Everyone in America needs to recognize the significance of this. If either proposal becomes law, no background checks will be conducted on purchasers buying a handgun at a swap meet, flea market, or any other place where the transaction is between individuals. Recognize it won't take long for felons to realize they can no longer go to a licensed dealer to obtain their handgun. They will have to go to the local flea market or swap meet. Those who want to get a handgun will easily and readily be able to obtain one.

This means that neighborhoods will not be safer; Americans should continue to lock their doors. With this reality in mind, we should adopt the least expensive, least intrusive proposal.

The Staggers proposal is less costly monetarily. It does not require every local law enforcement agency in this Nation to perform background checks on potential handgun purchasers. The

Staggers proposal has the licensed gun dealer make the phone call. Local law enforcement agencies will be able to continue to do what they do best: day-to-day police work. Local police forces will not have to join a bureaucratic paper chase.

The Staggers proposal is more honest with the American people because the record checks will be with existing records and not of some mythical records that many people are assuming exist. For example, the Brady bill would require a check to see if the potential purchaser is an illegal alien. I know of no State in our Nation that is keeping such a record.

There is the civil liberties issues as well. The Brady proposal suggests that in the 7-day period a check will be done to see if a potential purchaser is either a dishonorably discharged veteran, an illegal alien, a felon, or mentally defective. The proposal, therefore, encourage States—and the Federal Government—to begin keeping records on the mentally ill. Certainly, we should keep records of felons. I question whether States need to keep lists of dishonorably discharged individuals where the discharge is unrelated to a crime against another person or our Nation. And, I still wonder how we will get a list of illegal aliens.

I find offensive the term "mentally defective." This is a 19th century term for the mentally ill and the mentally handicapped. Those of us who are waging the fight to protect the rights of the mentally ill in this country, to educate our society about mental illness, should never accept this retreat back to this archaic attitude.

Certainly those individuals who have a mental illness and are a danger to themselves and others should not possess a firearm. And this determination should be adjudicated along side the question of whether that person should be committed.

But, Brady goes further. It forever stigmatizes and prohibits an individual who has ever been committed to a mental institution from purchasing a handgun from a licensed gun dealer. I believe such a requirement violates these individuals' right of privacy and impinges on their second amendment rights.

A lot of time, stress, debate, and money is being spent on both sides of H.R. 7. I believe there is a better way to spend this money in the effort to bring about a less violent society. I believe we should spend this money—and more—on our children: on solid education programs, rehabilitation and counseling programs for wayward youth, more intensive and long lasting help for victims of child abuse, and drug and alcohol rehabilitation programs for both children and adults.

With our limited Government dollars, I believe we would create a safer society if we spent our moneys on these kind of programs rather than on such unenforceable laws as H.R. 7.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise to participate in a colloquy with the gentleman from Ohio [Mr. FEIGHAN], to affirm the legislative intent of H.R. 7.

Mr. Chairman, on behalf of myself and the gentleman from Michigan [Mr. HENRY], who shares my concern on this issue, would handgun purchases in Michigan be exempt from operation of the Brady 7-day waiting period?

Mr. FEIGHAN. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Ohio.

Mr. FEIGHAN. Mr. Chairman, yes. H.R. 7 exempts handgun transfers if the law of the State provides that a handgun transferee must have a permit to purchase and the permit is issued only after an authorized Government official has verified that the information available to that official does not indicate that possession by the transferee would violate the law. Because Michigan law prohibits the issuance by the police of a license to purchase a handgun to anyone prohibited by law from receiving such a gun, the issuance of such a license would itself be a verification that the transfer would not violate the law. Therefore, handgun purchases in Michigan would be exempt from the 7-day waiting period.

Mr. UPTON. Mr. Chairman, reclaiming my time, I thank the gentleman from Ohio [Mr. FEIGHAN] for that clarification.

□ 1520

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky, Mr. ROMANO MAZZOLI, a distinguished member of the Committee on the Judiciary.

Mr. MAZZOLI. Mr. Chairman, I rise in support of the Brady bill and against the Staggers amendment. One of the proudest votes I ever cast was in 1988, when I voted for the Brady bill. And I urge my colleagues to join me today in voting proudly for the Brady bill.

Two arguments that we will hear today, one is the Brady bill will not get all the guns off the streets of America, will not make our streets peaceful. That is very true. But it is one step in that direction. It is one facet of a multifaceted anticrime program, and it should be passed.

Another argument is that the waiting period is too long and that a point of purchase verification system is better. And I agree. That is why in the Brady bill is a sunset provision which expunges Brady in the event we come upon a feasible verification system for point of purchase.

I think all the arguments that are made against Brady are fallacious. This is a good bill. We should vote Brady up and vote Staggers down.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in opposition to Brady and in support of Staggers. It is very interesting to note that in the survey of convicted felons, conducted by the Department of Justice, 88 percent of those felons agreed that a criminal who wants a handgun will get one and 82 percent agreed that gun control laws only affect honest citizens.

Perhaps most importantly, almost 40 percent of them said there was at least one time they did not commit a crime because they thought the prospective victim was armed. This should tell us that we need crime control rather than gun control.

The Staggers bill would institute a point of sale check as to whether the purchaser has a criminal record or history of mental illness, while the 7-day cooling period required by Brady is spurious. A criminal who wants a gun will get one.

But for those who want to buy one, the point of sale is the point at which the efficacy of purchase needs to be established.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the distinguished gentleman from Texas, the chairman of the Judiciary Committee, for yielding me this time.

I want to again offer my compliments to Sarah and Jim Brady for bringing us to this position in the debate on the so-called Brady bill, the gentleman from Ohio, Mr. FEIGHAN, and the gentleman from Wisconsin [Mr. SENSENBRENNER] the ranking Republican of the crime subcommittee.

It boils down to this: whether or not we believe that a waiting period, in fact, will save lives. And I do not have to tell Members, some 25 States have had a waiting period of one kind or another for many years. My own State of New Jersey just this past year found almost 1,000 applicants for handguns that were disqualified persons. They would have gotten a handgun if, in fact, no one had run a record check. And that is the secret.

I ask Members, what is such a big deal about waiting 7 days? I cannot get a health certificate to open up a restaurant in many big cities without going through some kind of check. What is so wrong with trying to find out whether the applicant for a handgun has a criminal record or a mental history?

Do Members think they are going to tell the truth on the application? Do Members think somebody with a mental history is going to answer the question, do you have a mental condition, in the affirmative?

I would have to say that he does have a mental problem is he answers it yes because most of them know there is no record check.

Now, the Staggers bill is just another effort to derail. We are going to be back here next year once again because Staggers is anything but Brady. It is an effort to derail, really, the Brady bill. We do not have the capacity, unfortunately, to run a record check and turn around these records simultaneously.

So let us try to move in the direction of stopping the carnage that is taking place every day out there and let us pass this reasonable measure we call the Brady bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman from Wisconsin for yielding time to me, and would take a moment to thank and commend the gentleman on his clear thinking and principled leadership on this issue. Mr. Chairman, I rise in strong support of H.R. 7, the Brady bill. Make no mistake, my colleagues, and let no one tell you otherwise: This bill represents a crucial step in moving to curb handgun crime, and one that our law enforcement officials are calling on us to pass. But beyond that, I would remind each of my colleagues that, ultimately, the Brady bill is a matter of simple common sense. There is no substitute for a 7-day waiting period. The whole debate can be summarized in one sentence: Anyone who needs a gun right now needs a waiting period.

The 7-day waiting period afforded by the Brady bill allows local law enforcement 7 days in which to conduct a background check on a prospective handgun purchaser. In this way, we act to stop the ex-convict, or the mentally incompetent, from simply crossing a State line, putting his cash on the table, and walking away with a handgun. Even more crucial, only the Brady bill allows the waiting period necessary to stop a flash of temper or moment of heated passion from driving a person over the edge, to handgun violence.

It is important for the record to examine objectively the provisions of the Brady bill, to dispel some of the myths that the gun lobby would have us believe. The Brady bill in no way provides for a system of national gun registration—quite the opposite. In every instance where a handgun sale is approved under Brady, law enforcement officers must destroy the information they've been provided within 30 days.

Likewise, there is no case to be made for "unreasonable delay". The Brady bill is clear and explicit: After transmitting the name and address of the purchaser to local law enforcement officials, if the dealer has not heard back from law enforcement after 7 days, positively disallowing the sale, the buyer gets his gun. There is no room for delay—it's that precise.

Finally, this bill has no "new" restriction on gun purchasers in this bill. No one who today is legally entitled to purchase a handgun will be ineligible under Brady. This bill just checks, reinforces, and reaffirms existing handgun law.

Sadly, the list of examples and incidents where the Brady bill might have made a difference grows longer every day. Certainly the most gruesome—White House Press Secretary James Brady—still haunts each of us. The man who shot James Brady and President Reagan testified himself that had a waiting period been in place, he would not have gone ahead with his plan.

One day last year, in Atlanta, GA, a patient was released from a mental hospital. The following day, he drove over the State line into South Carolina, and purchased a handgun on the spot. The next day, he killed one person and wounded four on a shooting spree in an Atlanta shopping mall. The Brady bill, allowing 7 days for police to check the background of a purchaser—including mental history—might have stopped this tragedy.

Last year in Florida, a man who was arrested for murder in 1971, but plea bargained to parole, purchased a handgun and shot dead eight people. Since he was not a formally convicted felon, he slips through the cracks of any instant check system. Only the Brady bill allows local law enforcement the time to check in-depth the background and history of a would-be gun purchaser.

And just 2 weeks ago in Live Oak, TX, the estranged wife of a pediatrician was served divorce papers, and the next day, walked into a local gun shop, purchased a handgun, went to her husband's office and shot him dead. Such a mindless crime of passion again underscores the need for the 7-day cooling off period of the Brady bill.

Each of these examples makes evident the need for the Brady bill, and a 7-day waiting period. The inadequacies of an instant check system, as offered under the Staggers amendment, are painfully obvious.

In considering the legislation before us today, I would also remind my colleagues of the broad coalition of support the Brady bill has garnered. From the State attorneys general to the cop on the beat, the men and women who made crime control their lives' calling are united in their support for Brady.

Every legitimate law enforcement organization has endorsed this common sense, 7-day, waiting period: the Fraternal Order of Police, the National Association of Police Organizations, the Federal Law Enforcement Officers Association, and the International Association of Chiefs of Police are just a few of the many law enforcment agencies to endorse a national waiting period.

More impressive, however, is the grassroots enthusiasm for this bill from our men and women in the field. I have yet to visit a police station in my district where officers did not commend me for my support of the Brady bill. This is the testimony of the frontline troops in the war on crime: How can you my colleagues turn your backs on law enforcement and in support of the gun dealers?

In my own State of New Jersey, a background check has stopped more than 18,000 purchases, and resulted in more than 10,000 arrests. This law has been in effect for 20 years, and I have seen no evidence that it has led to infringement of constitutional guarantees. The Constitution stands, and sportsmen are still getting their guns.

It is unfortunate that any legislative effort to restrict firearms is painted by gun control opponents as an affront to—if not abrogation of—the Constitution. In fact, nothing could be farther from the truth. The Supreme Court of the United States holds that the second amendment does not allow free or unrestricted ownership of any weapon. Rather, the second amendment allows regulation of firearms "so long as the regulation does not impair the maintenance of the active, organized militia of the States"—Miller versus United States, 1939. The Supreme Court has consistently upheld this reasoning for more than 60 years.

There can be no substitute for the Brady bill, which will start saving lives the day after it becomes law. In contrast, the Staggers substitute requires the Justice Department, within 6 months to establish a toll-free hotline for gun dealers to phone in a check. But not even the strongest supporter of Staggers pretends that the computer records on which this hotline is based can be up and running for years—the Attorney General of the United States' report to Congress estimates at least 3 to 5 years for information to be updated; the Office of Technology Assessment's estimates up to 10! When such a system is operative, the Brady bill sunsets, and defers to a complete and accurate instant check system.

But the time it takes to bring a national, instant check system on line is but one of the failings of the Staggers amendment. Even when criminal records are updated to provide complete and accurate information, the Staggers plan cannot and will not screen out the mentally incompetent, or drug abusers; and most important, the Staggers plan allows no cooling off period for crimes of passion. Again, anyone who needs a gun right now needs a waiting period.

Finally, Mr. Chairman, and it pains me to say this, never is my 10 years in the House have I seen such a blatant

ruse as Staggers, an obvious ploy to provide political cover for Members who want to look as though they are voting for handgun control but are actually killing it for years to come. Is it any wonder that the American people are cynical and distrustful of their politicians? I urge my colleagues—stand up to the gun dealers lobby. Follow President Ronald Reagan's example, support law enforcement, and do the right thing for the people.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, I rise in support of the Judiciary Committee's handgun waiting bill, and I urge all of my colleagues to do the same. I want to commend all of the sponsors and all of the Members of the committee on both sides of the aisle that have worked on this important legislation. And the most important reason I will vote for the Brady bill is because it has the strong support of the men and women who wear the uniform, walk the beats, bust the pushers, and put their lives on the line every day. The men and women of law enforcement do not ask for much: a little respect, a little recognition, and a little protection. I think the Brady bill helps to give them that protection. And I will vote with many others here today to give them that protection.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, we are here again to take away a little more freedom, more restrictions, more conditions, more stipulations. We are not here to debate real crime control. If we were debating real crime control measures, we would be talking about locking up felons who use guns.

□ 1530

We would be talking about reforming the appeals process. We would be debating the merits of the Federal death penalty. We would not be holding back law-abiding citizens from doing something they have done freely for over 200 years.

We as a nation, and as a body representing that Nation, treat feedom so cavalierly. I just had lunch with freedom fighters from the Soviet Union, Eastern Europe, and the Baltics, and they listen to us and they just shake their heads. What they say is, "Those Americans, they have had freedom so long they have forgotten how precious it is."

Just this morning we witnessed a magnificent speech by our hero, General Schwarzkopf. Do you know what that speech was all about? It was about freedom and how precious it is.

We know that most felons do not buy their guns from registered dealers. We know that most criminals get their guns on the street and, likewise, we know that a 7-day waiting period will never affect them.

All Brady does is to take a little of that precious freedom away from our fellow Americans. Vote no on the Brady bill.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this is not a Republican or a Democratic issue. It is not a liberal or a conservative vote. It is more a vote on urban versus rural. It is a vote about values and culture.

The Brady bill may be a good provision for New York City or Los Angeles, but for rural States like New Mexico and Montana, it is not going to work. So it is a vote about the cultural values.

Mr. Chairman, both bills are imperfect, but the Staggers provision is better, because it requires criminal record checks while the Brady bill requires no criminal record checks. It is better because it keeps police fighting criminals while the Brady bill ties up a lot of time and red tape.

Mr. Chairman, in my State, there is one policeman per 100 square miles. If that policeman, all he does or she does is do background checks on prospective gun owners, there will be no time to fight crime.

I urge support for the Staggers provision.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I stand here now in support of the Brady bill. I will say very quickly that the paradox of the Brady bill in the long run and the short run is that it will bring the cultures of this country together to ensure the legal purchases of guns will remain and target the true problem which is illegal gun purchases. I stand in support of the Brady bill.

I rise today in opposition to the Staggers amendment and in support of the Brady bill, H.R. 7. I think one thing that everyone has missed in this debate is the fact that we have a perfect analogy for the Brady bill right here on Capitol Hill.

As we walk in and out of the Capitol complex we often see our friends and constituents waiting in long lines to get through the doors, because they have to go through metal detectors to get into the complex. At first this may seem like an undue burden on people who legitimately want to see the Capitol; after all, why should they have to wait? It is their right to see the Capitol.

Additionally, one might claim that the system is not perfect. Metal detectors do not detect plastic explosives, ceramic guns and the like. Perhaps some day there will be a system which is so quick and so effective that no one would have to wait in line, and no weapon could slip through. Do we, then, do away with the metal detectors until such a system is ready?

I support the rights of people who want to own guns for legitimate reasons, just as I believe anyone who wants to see the Capitol should be able to. I would rather people not have to wait in line, just as I would rather legitimate gun buyers not have to wait 7 days. And like the metal detectors, the Brady bill is not perfect; it will not stop all crime. But no one seems to dispute the fact that the McCollum instant check system will not be ready for several years.

Furthermore, I see nothing in the Brady bill which is incompatible with an instantaneous check system; indeed it will give a pro-gun administration additional impetus to set up such a system. But for the moment, the Brady bill provides the best available means to deter criminal gun purchases.

Mr. Chairman, I support the Capitol maintaining the metal detectors until there is a better system available, and I expect everyone agrees with me on that point. I further support passage of the Brady bill as the best available system until a Staggers-like system is ready and I urge my colleagues to see the wisdom of that point as well.

The paradox of the Brady bill is that it will ensure the continued legal purchase of firearms and enhance the quality of debate, which is necessary, to solve the problem of illegal gun traffickers.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in support of the Staggers bill.

In Virginia, it is working. We have instant check. Over 1,500 people who should not own firearms have been denied under the Virginia system in the short time that it has been in effect, while not a single law abiding citizen has been inconvenienced. If Virginia and Delaware can do this and get it computerized and do it in short time order, there is no reason that the rest of the country cannot do it as well.

To say that it cannot be done, I say, look at what happens when you go and make a purchase in a store anywhere in this country, anywhere in the world, you hand them a credit card and they do an instant check on you right then. If you can do it for that, you certainly can do it for the purchase of firearms.

I would also like to say that the Brady bill is flawed in that you do not have to have a check, as the gentleman from New Mexico just pointed out.

But one other thing I would like to point out: Domestic violence. A woman is married to a man who is an alcoholic. He gets drunk, he abuses her, he abuses the children. Finally, she screws up enough courage and throws him out of the house. He threatens to come back and kill them all. She needs a gun. Brady is in effect; she goes to the police chief and asks for a waiver. He does not have to give it.

Mr. Chairman, I do not want to be here and us having passed that and it becomes law and that woman is denied

the right to protect her family if she feels she needs a gun to do it.

Ladies and gentlemen, please support Staggers and reject Brady. It is the right way to go.

Finally, we know that if this bill passes in any form and is sent to the President without his crime package, he is going to veto it, and he will be sustained.

Let us get on with the President's crime package. Let us enact it into law.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, it would be ridiculous for us to argue that the freedoms we enjoy under our bill of rights should not be restricted. There are obvious restrictions. One cannot endanger the safety of other citizens through free speech. One cannot libel or slander through the freedom of the press.

We are not arguing against all restrictions on the freedom to keep and bear arms.

Both bills contain some restrictions, but the bottomline question is: Which of the bills before us seeks to accomplish the purpose of keeping handguns from criminals while placing the least restrictions upon the second amendment rights of the 99.9 percent of Americans who keep and bear arms responsibly?

I believe that bill is the Staggers bill. Whenever we seek to limit any constitutional freedom, whether we agree with that freedom or not, we should be equally careful about the effects of that restriction upon the responsible people as well as the irresponsible.

I have weighed and balanced for many weeks the various considerations surrounding the vote on the Brady bill. These are my concerns. Let me first of all frame my concerns from a constitutional viewpoint.

In researching the writings, particularly of Hamilton and Adams in the Federalist papers, which explain the constitutional writers' intent with regard to the second amendment, I have concluded, and the Federal courts have never ruled to the contrary, that individual citizens do have the right to keep and bear arms. They have retained that freedom for over 200 years now.

But that freedom in itself is not being debated here, only the limitation of that freedom. It would be useless to argue that there should be no restrictions on our freedoms, because absolute freedom is license and anarchy would result. As an example, one cannot endanger the safety of others through free speech, one cannot slander the reputation of another through free press, and so forth.

So the valid question here is not the limitation upon second amendment freedoms, but how much limitation is necessary to accomplish the objective of keeping criminals and others from committing hangun violence while at the same time placing the least restrictions possible upon the second amendment freedoms of responsible Americans who keep and bear arms.

Clearly, in terms of the constitutional test of least restrictions upon individual freedoms to accomplish a societal need, the Brady bill is greatly inferior to the Staggers bill.

The Brady bill requires all citizens to wait 7 days for a criminal background check which is optional, not mandatory, while the Staggers bill requires an immediate background check, thus less restrictions upon the great majority who are responsible.

Supporters of the Brady bill make the argument that this 7 day waiting period acts as a cooling off period for angry or depressed people. This may be true. But this is clearly a case of presumed guilt or presumed criminal intent before any act has taken place.

We cannot suddenly start making laws based upon presumption of guilt as opposed to presumption of innocence upon which our entire legal system is based. This is clearly a constitutional argument that could only be settled by the Supreme Court.

Now to the pragmatic concerns.

The Brady bill does not require criminal background checks but makes them optional by the local police. If the bill is going to mean anything in regard to keeping handguns out of the hands of criminals, then it seems to me a background check would be necessary.

The Staggers bill requires an immediate background check through a computerized national data base. Each State contributes to a central data base the names of all criminal felons arrested in their respective States. Each handgun salesman would have a computer tied into this base and anyone wishing to purchase a handgun must be cleared through the system. If he has a criminal background record, he is denied the purchase.

The State of Virginia has successfully employed this system for years. This works exactly the way your credit card works when you go to the local store and make a purchase.

The Brady bill would put the responsibility for criminal background checks on the local police departments. In my district most of the police departments are two and three person operations which neither have the time nor resources to devote to expensive and costly criminal background checks.

Remember also, that the Brady bill only applies to handgun purchases. If a criminal or emotionally disturbed person wished to purchase any other type of weapon, such as a shotgun, rifle, and so forth, he would not be forbidden to do so.

It seems to me that an immediate and required background check does less damage to the constitutional freedom of responsible Americans, enables our local police departments to spend their time on law enforcement as opposed to paperwork, and yet accomplishes the needed objective of keeping firearms out of the hands of potential abusers.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, the basic question that we need to answer today is which of the two approaches before us, the Staggers amendment or the Brady bill, is the best way to prevent criminals from obtaining guns legally. Notice that I say legally, because there is not anything that we are going to vote on today that can prevent them from obtaining a handgun illegally.

In my opinion, the Staggers amendment is the best approach and probably the only approach that would prevent a criminal from being able to legally obtain a handgun.

The Brady bill, while well intentioned, does not require any kind of background check. It simply requires a waiting period.

Staggers, on the other hand, requires an instantaneous background check at point of purchase. The issue about how long it is going to take to implement the Staggers amendment is irrelevant, because no matter what we do, the Justice Department, working with the various enforcement agencies in the States and local governments, is upgrading their data base and hopefully sooner rather than later we will have sufficient data base that will allow the background check to be implemented.

Mr. Chairman, I plan to vote for Staggers, and I would encourage my colleagues to vote likewise.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED], a distinguished member of the committee.

Mr. REED. Mr. Chairman, I rise in support of H.R. 7, the Brady bill.

I recognize the second amendment right of Americans to bear arms. As a veteran of 12 years in the Army, I am familiar with firearms. But it scares me that, especially in our central cities, our safety is threatened today by young people who seem to carry more firepower than my entire platoon from the 82d Airborne.

Today's debate is not about alternative methods of gun control, because we will only be considering one realistic gun control proposal—the Brady bill. The question before us today is whether we will impose moderate, reasonable restraints on access to handguns.

In Rhode Island we already have a law that mandates a 7-day waiting period before the purchase of a handgun. This law has worked so well in Rhode Island that the police chief from my hometown of Cranston asked me to support the Brady bill here in Congress.

Indeed, the most compelling testimony in support of the Brady bill comes from the thousands of police officers across the country who really are on the firing line.

If the vote on this issue were put to police officers, I have no doubt that they would vote overwhelmingly in favor of the Brady bill. For them this isn't political—it is quite literally a matter of life and death.

A 7-day waiting period accomplishes several important objectives. It gives police the chance to perform a back-

ground check on potential gun purchasers and provides an important cooling-off period.

Our first vote today will be on the Staggers alternative. This proposal is not a real alternative. It is an elaborate, expensive system designed never to be implemented.

And I hope that no one is kidding themselves into thinking they can vote for Staggers and say they also supported the Brady bill. A vote for Staggers is a vote against the Brady bill. The choice is very simple.

The Staggers bill offers up an instant-check system that even the Attorney General has said would take years to develop. The instant check system is a myth.

Forty States do not have completely automated criminal history record files. Three States do not have any records on computer.

Those States that supporters of the Staggers bill offer as an example—Florida, Delaware, and Virginia—all provide longer than 24 hours to perform the background check. In Florida, officials have up to 3 days to check their records and the Brady bill exempts States that can check their records in under 7 days.

The supporters of the Staggers bill speak of a person's right to purchase a gun. But under this legislation, anyone could buy a $10 gun dealers license and access confidential records. Those who support the Staggers bill are willing to play fast and loose with another constitutional right, the right to privacy, in order to facilitate the sale of guns.

The Brady bill is a very modest, reasonable measure. I don't think 7 days is too long to wait to save a life.

I ask my colleagues to vote "no" on Staggers and support the Brady bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, neither the Feighan bill nor the Staggers bill will put an end to drive-by shootings, random acts of violence, assassination attempts, or the grisly, execution-style murders that testify to the competitiveness of drug traffickers.

Let no one here hold out the false promise that we have discovered a panacea for the violence. We have not. For all the reasons we have heard heretofore and the rest of the afternoon, it will only affect a small percentage of the gun purchases that result in violence.

As we will hear time and time again today, the guns used to commit these crimes are rarely purchased at the local gun shop. Rather they are bought on the black market or through these so-called straw men. Neither the Feighan bill nor the Staggers bill will close off these gun pipelines that are supplying the great majority of criminals.

Instead, the Feighan and Staggers bills focus on the relatively small percentage of guns that are purchased through legal channels by people who are not legally entitled to own a gun. If our goal today is to shut off this narrow supply route, then the task before the House is to choose between the two proposals.

Given Virginia's positive experience with an instantaneous check system, I believe the Staggers bill offers the best hope of achieving the short-term and limited goal before us today. It cannot, however, address our long-term need to discourage violent, criminal behavior.

The Attorney General, who happens to have a great deal of experience prosecuting criminals, has put together a comprehensive plan to address violent crime over the long haul. Among other things, that plan calls for a stiff mandatory minimum sentence, with no plea bargaining and no parole, for anyone who commits a crime with a gun. Its unambiguous. Criminals will understand it and fear it. We could establish a real deterrence to crime.

In closing, I would like to stress that the crime that plagues our society is of concern to us all; everyone on this floor today wants to stop the violence in our streets. However, neither of these bills will be the cure for this deadly disease; neither bill will heal the terrible wounds of violent acts, but at least the Staggers proposal will do something. Like a man who hurries home with an intense headache, we should vote for the aspirin named Staggers with the knowledge that it will give mild relief.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. DERRICK], a member of the Committee on Rules.

Mr. DERRICK. Mr. Chairman, I have hunted and fished all my life. When I grew up, everyone had a shotgun in the back hall. That is what we did when November came, we hunted.

I have been around guns all my life. The district that I represent is a big hunting and fishing district. However, I stand here today to tell Members that I will vote against the Staggers bill and for the Brady bill. Every night on the streets, the byways and highways of this country, it is the O.K. Corral, the St. Valentine's Day Massacre. I will tell Members that on the streets of this country, in any given 10 days, there are more people killed in this country by handguns than were killed in the entire Desert Storm operation.

It is time for Members to do something about it. It is time, and the American people want Members to do something about it. I have not had one person that can argue with this: Who in the world, in this body or in this country, can argue with the fact that we should have a waiting period of 7 days, to find out if someone has been in a mental institution, or if someone has a criminal record, before we sell them a handgun?

If they need a handgun any quicker than that, they do not need it.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, is the Brady bill firearms control? You bet. Some who have spoken on the floor today have said as much. I quote:

> It's time we control handguns; it's time we control crime by controlling handguns.

Of course, Handgun Control Inc., wants the Brady bill passed. That is exactly why. Handgun control.

Is the Brady bill firearm regulation? You bet. Any time we have to ask a branch of Federal, State, or municipal government for a permit to buy a firearm, that is regulation. Any time that we have to ask Daryl Gates and his Gang of Four of the Los Angeles Police Department for a permit to purchase a firearm or a handgun, that is regulation.

That potential for abuse is exactly why we put and have a second amendment to the Constitution. However, say the supporters of gun control, after 7 days, they can purchase a handgun. What can be wrong with waiting just 7 days?

Let me ask this question: What happens after 7 days? Many times we cannot even get a letter across this city with the Postal Department in less than 7 days. What happens after 14 days and a person does not have a permit? Will the firearms dealer sell me a firearm? Do Members think that any licensed firearms dealer in his right mind would want the liability of selling a person a handgun, if they did not have a permit? Do Members think a law enforcement officer wants the liability of issuing a permit, if he did not have all the information base? It is much safer not to respond at all, and let the dealer shoulder the responsibility. Some say, it will not affect our State. We have a waiting period. My response is yes, but if abuse occurs in those jurisdictions, a citizen has relief through rebellion, recall, or referendum. They would have the opportunity to repeal State laws.

I ask my colleagues, who will be the first Congressman to vote for registration and regulation of firearms? Defeat Brady.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself one-half minute to rebut the gentleman from Alabama.

The 7-day period starts when the prospective purchaser fills out the form that is to be submitted to the police department. At the end of 7 days, if the licensed gun dealer does not hear anything to the contrary from the police department, the sale goes through. There is no administrative denial on the Brady bill through inaction. At the end of 7 days, if nothing happens, a sale is perfectly legal.

I hope that all Members are very clear on that point.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from Iowa [Mr. SMITH], the distinguished chairman of the Subcommittee on Commerce, Justice, State, and Judiciary.

Mr. SMITH of Iowa. Mr. Chairman, in listening to the debate concerning the gun bill, it is apparent a good many Members labor under the assumption that disarming everyone makes people equal in strength. To some extent that may be relatively true for those who live where a scream can be heard by enough people to assure immediate help. However, especially in rural areas disarming everyone does not make everyone equal. Elderly couples without a gun in a rural area are not equal in strength to an unarmed 18 year old thug who wants to break into their house. A 5 foot 6 inches 150-pound person is not equal in strength to a 6 foot 6 inches, 250-pound man when they are the only ones around. Also, most average size unarmed women do not have an equal chance to overcome or resist an average size rapist. That is the reason guns are called equalizers.

Some have said that guns kill, but in fact guns also keep people from being killed, or robbed or raped. Of course guns do kill but automobiles are the instrument involved in killing many more times than guns are, and sometimes they kill people within the first 7 days of ownership, but we don't hear a proposal to delay the purchase of an automobile by 7 days or that it would reduce the number of people killed by automobiles.

There is also an assumption in these arguments in favor of the Brady bill that law enforcement agencies can be relied upon to protect people from being victimized. In the vast majority of cases law enforcement agencies are helpless to prevent murder, rape or robbery. They merely arrive after the crime has occurred and try to catch the culprit. They cannot restore the victims' rights or the victim to his or her status prior to being victimized. In too many cases even if the murderer or rapist is caught, it only prevents reoccurrence so long as the robber, murderer or rapist is in prison.

From all of the above it is obvious to me that disarming law abiding citizens who need a gun as insurance against being victimized does not disarm the criminal; and to claim that merely making them wait 7 days when there is no national registry to check against and no requirement that such a check be made, will not prevent people from getting guns who want a gun.

I think some of the problem in this whole argument is that some people who live in densely populated urban areas simply do not understand that living in rural areas is much different. Fashioning a law that may on the average be good for the 70 percent of the people who live in urban areas ignores the very different needs existing for the 30 percent who live in rural areas and does not pass the mustard for a national law in a country where 75 million people do not live in urban areas. The needs and situation for 75 million people should not be ignored just because they are in the minority.

The people who support this bill cite very real problems existing in this country relative to violence but they have not been able to explain how this bill is a solution to those problems. In fact most of the ones I have talked to really want to ban the ownership of all such guns by anyone. If they are opposed to such ownership they should say so and admit that is the goal. If they are not, why don't they include a provision confirming the right of all citizens to own arms who do not live in congested areas and do not have a criminal record.

To make any national gun control law effective, we need a national registry. The fact is we are trying to establish a National Identification Center and have appropriated the money in last year's supplemental to establish it in Parkersburg, WV. It is to be completed in 1995. It is amazing to me that many of the same editorialists who criticized establishing that national center which when completed will permit local law enforcement agencies to make instant fingerprint identification checks are the same ones who opposed the funding to establish the center. Until such a center is established, control will depend upon State laws and there are 30 States who do not have a permit and instant identification program. Until the National Identification Center is operating, the effort being expended on this bill could better be expended at getting a registry system in those 30 States. That still would not solve the problem of some criminals moving from one State or another and not being in the identification files of the latest State of residence, but at least it would make a contribution whereas, simply establishing a waiting period when we have no national registry to examine during the waiting period is not only a nonsolution, but in fact may lull people in to mistakenly believing the problem has been solved in all 50 States. Until there is a national registry, no national bill will accomplish the objectives of either one of these bills.

Mr. BROOKS. Mr. Chairman, I yield 45 seconds to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, I rise in support of the Brady bill. I have always opposed gun control. As a prosecutor in Houston, as an avid hunter, I have always felt that gun control laws tend to restrict and hurt lawful gun owners, as opposed to criminals.

The Justice Department study, though, is in, and it is conclusive. The Staggers approach may be millions of dollars and years away from being operational.

The Brady bill is not a panacea for crime. Tough criminal laws surely are. It will, however, help our police, and they need our help.

It makes me angry, in Texas today, that a felon or a drug addict can walk into a gun store and falsely fill out a form and walk away with a handgun. That is wrong.

What the Brady approach does is a moderate, common-sense way to give our police department an opportunity to check those weapons until we have an operational computer system nationwide.

□ 1550

Gun ownership has a long and proud tradition in Texas, so does law and order. Responsibility is an important part of our right to own firearms, and so is common sense.

People do not fish with dynamite in my State. They do not yell, "fire" in a crowded theater. These are common-sense rules that we apply to ourselves. That is what the Brady bill is all about, and I urge its passage.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, in listening to this debate, I think we have heard the Staggers bill described as something that it is not. Before getting to the debate on Staggers, the air ought to be cleared. The Staggers bill is not the mandatory background check that its supporters say it will be. The first two pages contained in the Rules Committee report are riddled with exemptions on when the background does not have to take place, and even once this system is on line, which will be years away, perhaps 1995 according to the gentleman from Iowa [Mr. SMITH], there is an exemption where telephone service is not readily available.

A lot of firearms are sold at gun shows and flea markets that are held out of doors in fields, behind barns and the like. There is no telephone service that is readily available there, and as a result any transfer that takes place under those circumstances would not require a background check.

Second, there is an exemption where the hot line is not available. We do not know when this hot line is going to be available, so that means that with this exemption if the Staggers bill is passed and 6 months elapses and the hot line is not available, there is no regulation whatsoever on the transfer of firearms.

The Staggers bill is a sham. It is so riddled with exemptions that it really is not effective.

What it will do is mandate the spending of hundreds of millions of dollars in putting these criminal justice records into automated form to get something

that will be on line at some undetermined date in the future.

I hope that the House will not be stampeded by the fancy and glitzy ads.

One of the jobs for us to do here is to read the bills, and all you need to do is look at the text of the Staggers bill that is printed in the Rules Committee report, House Report No. 102-52, to show that the rhetoric and the text do not meet up.

I would hope that the Staggers amendment would be rejected and the Brady bill, which is reasonable and not oversold, can be adopted.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Mississippi [Mr. ESPY].

Mr. HAYES of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ESPY. I yield to the gentleman from Illinois.

Mr. HAYES of Illinois. Mr. Chairman, I rise today in support of H.R. 7, the Brady Handgun Violence Protection Act. I have always been troubled by the senseless gun-related violence that is running rampant throughout our cities. But, what troubles me even more is the gun-related violence that is ruining the African-American communities in this country. I represent a district that covers most of the South Side of Chicago, an area with a high crime rate, and my constituents are fed-up with the violence. I know that my colleagues are also fed-up with the violence in this country, so the issue today is how to effectively address this problem. We have been debating for years as to the most effective way to curb violence in our streets and many of my colleagues have stated that it is our moral obligation to do just that—now it is time to put your money where your mouth is—today we will get the chance to say no to violence and yes to life.

In the African-American community homicide is the leading cause of death for males aged 15 to 24; with firearms being involved in 78 percent of those homicides. African-Americans are also three times as likely as whites to be victims of a violent crime committed with a handgun. These are alarming statistics and something must be done. I realize that the Brady bill is not a cure all, but it is one step in the right direction that can contribute to decreasing the gun-related violence that plagues our communities.

We all know that the Brady bill would establish a national 7-day waiting period to allow for a background check on the handgun purchaser. The bottom line today is, can 7 days save a life? I believe that it can and the preservation of even one life is something that we all should value. It is a sad day when it is more likely for an African-American male between his 15th and 25th birthday to die from homicide than it was for a United States soldier to be killed in Vietnam. The Brady bill is not a total cure for this epidemic of violence in our streets, but something must be done. States that are presently enforcing waiting periods and background checks report that thousands of criminals have been caught buying handguns. This is testament to the need for this legislation.

I wholeheartedly support this bill and ask that my colleagues do the same.

Mr. ESPY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is another issue which will generate more heat than light. We are all frustrated. We want to do something. We want to end the violence. We know that 23,600 people were murdered last year. We want to do something about it. It is just like the theme from the movie, "The Network." We are mad as hell and we are not going to take it anymore; but I want to advise my colleagues that in our zeal to do something, we should not just react. We should forsake the cosmetics for the substantive, the imaginative for the real. We should forsake the perception of action and do something to act instead. Neither approach really attacks the real problem. We know that five out of six criminals in this Nation do not buy their guns from the market. They purchase their guns illegally. They are obtained through black market channels, and if you want to do something, let us do something about expanding economic opportunity. Let us do something about expanding education. Let us do something about expanding.

Mr. Chairman, I do not have much time, but may I just say that the real difference between the two is that to me Staggers is mandatory and the other is optional.

Mr. Chairman, I support the Staggers approach.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman I thank the gentleman for yielding me this time. In 30 seconds, let me tell you a quick story.

About 10 years ago when Florida had bioption county waiting periods, Dade County in Florida had a 3-day one. Broward County, my home county, did not. An elderly man in Dade County went to three verified places to buy a gun, and he could not. He came to Broward County, went in the first shop he found, which was across the street from my distict office, walked in, walked out with a gun, walked across the street to a parking lot and blew his brains out.

If he would have been prevented, and he was mentally unstable at the time, he probably could not have purchased that gun if there was a statewide ban or a national 7-day waiting period, but he was able to buy it and he killed himself.

Most crimes are family crimes, crimes of passion, crimes of the moment when it comes to handguns.

We need the Brady approach. Staggers does not work, will not work and frankly, is a ruse.

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

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today on Capitol Hill is a very courageous and great American leader. He is a man whose leadership can and will make a great difference in our society. That man is Jim Brady. He has persuaded the American people to support the Brady bill. The American people are ahead of the Congress on the issue of gun control. Let us catch up with the American people. Let us do something real. Let us support the Brady bill. I urge my colleagues to do that and to defeat the Staggers bill.

Mr. Chairman, I commend Congressman SCHUMER, chairman of the Subcommittee on Crime, Congressman SENSENBRENNER, the ranking member of the subcommittee, and Congressman FEIGHAN, the principal sponsor of the Brady bill, for their leadership and dedication in bringing this important legislation to the floor.

Mr. Chairman, the Brady bill is the only measure before the House today which will help to keep handguns out of the hands of criminals. The Staggers substitute fails this critical test for three reasons.

Congress has already passed, and the President has signed, the McCollum amendment to the Anti-Drug Abuse Act of 1988 to implement a national instant check system for the purchase of all firearms, not just handguns.

A national instant check system is years away. Thus the Staggers substitute will, in effect, not require a mandatory background check because it will be impossible to perform for at least 5 years.

The Staggers substitute is a budget buster. Realistic estimates by the Attorney General, the Congressional Budget Office, and the Office of Technology Assessment put the cost of a crash-course attempt to implement an instant check system within 6 months at hundreds of millions of dollars. To appropriate that much money would violate last year's budget agreement and trigger sequestration.

Therefore, the only choice that the Staggers substitute offers to this body is a choice to substitute empty promises for real gun control.

The Brady bill, unlike the Staggers substitute, can and will work by implementing a national policy for slowing the spread of handguns. According to the Bureau of Alcohol, Tobacco and Firearms [BATF], criminals are able to skirt handgun control laws, put in place by some localities, by purchasing their guns in States without handgun controls. For example, a BATF study found that 96 percent and 92 percent of crime handguns in New York City and Detroit, cities with strict handgun controls, came primarily from States without handgun controls.

Mr. Chairman, with violent crime at record levels, the Nation needs a credible and effective system to stop criminals from entering a gun store and walking out with a handgun. I urge my colleagues to vote for the Brady bill and against the Staggers substitute.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I thank the gentleman for yielding me this time.

I have been advised, Mr. Chairman, by the Subcommittee on Crime and Criminal Justice that North Carolina, which has a comprehensive gun control measure in existence for many years, that the State would be exempt from the provisions of the Brady bill, if the Brady bill passes.

I will ask the chairman of the subcommittee if he will respond to that, and yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I would say to the gentleman from North Carolina, he is entirely correct. North Carolina would be exempt from the Brady provisions under its own law.

Mr. VALENTINE. With that, Mr. Chairman, I would like to express my opposition to the Staggers amendment and wholeheartedly support the Brady bill. It will be for me the first vote in the Congress of this kind.

Mr. Chairman, the issue of requiring a waiting period for most handgun purchases has been debated since before I came to Congress. It is time to act.

Over the past several months—indeed over the past several years—we have heard a number of arguments against the 7-day waiting period. On closer inspection, some of the most prominent arguments turn out to be more emotional than logical.

For example, we are told that the Brady bill will not end violent crime. Of course it will not. Sophisticated criminals will still be able to obtain firearms. The Brady bill is not a panacea, but it is worth trying. The cooling-off period it provides will almost certainly save some lives.

I prefer the North Carolina system, which requires a responsible public offiical, usually the sheriff, to make a positive determination that an applicant is qualified to purchase a handgun.

If this procedure, which is presently in place in North Carolina, were to be superseded and replaced by the 7-day waiting period, it would be difficult for me to support the Brady bill. I have been advised by the Subcommittee on Crime and Criminal Justice that North Carolina would be exempt from the Brady provisions. I would appreciate the subcommittee chairman confirming this exemption.

Finally, we are told that the instant background check proposed in the alternative would provide a better method of screening out convicted criminals. Again, I agree. But such a system appears to be many years and many billions of dollars away from implementation. For the immediate future, the instant background check would exist only on paper.

Two years ago I voted to direct the FBI to develop a system that would permit instant background checks. No such system has yet been implemented. For those who would favor such a system over the waiting period, it is important to note that the Brady provisions would be in effect only until a national felon identification system is in operation. Until that time, however, we should not pretend that such a system is in effect.

Mr. Chairman, I am a gun owner and collector. I have been a hunter. I may even be what some people refer to as a "gun nut." I firmly support the right of law-abiding citizens to own and use firearms for lawful purposes.

With that background—perhaps even because of that background—I believe that the Brady bill makes sense, at least for those States that do not have an effective system in place now.

The Brady bill is not the solution to the crime problem plaguing the Nation. But the evidence indicates that it will save innocent lives without preventing responsible citizens from owning firearms for legitimate purposes. The vast majority of Americans want this bill. I urge my colleagues to pass it.

Mr. BROOKS. Mr. Chairman, I yield 45 seconds to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, has the NRA no shame? They have spent millions of dollars trying to convince the American people how responsible and responsive Virginia's background check system is in an attempt to defeat the Brady bill; yet the sponsor of Virginia's bill opposes the Staggers substitute and is a strong supporter of the Brady bill. In fact, the NRA told the Virginia Pilot Newspaper when Virginia's law was passed over their opposition, let us not be under any delusions that this will stop anything.

Mr. Chairman, that is why we oppose the Staggers substitute, because it will not stop the crime wave that is flooding our country with 23,000 handgun deaths a year.

According to the FBI and the Office of Technology Assessment, it will take 5 to 10 years and millions of State and Federal dollars to implement the Staggers bill. Staggers does not even provide penalties to gun dealers who knowingly and willingly violate this law.

Mr. Chairman, we owe it to the American people and to Jim and Sarah Brady and all those 23,000 victims of handgun deaths a year to pass the Brady bill and defeat the Staggers substitute.

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Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. I thank the gentleman for yielding.

Mr. Chairman, I think it is time to bring some sanity to the crime that is plaguing all of our communities. The Brady bill is not the whole answer, but is it not reasonable to ask someone just to wait 7 days to purchase a gun?

It is time for us to act today. I oppose the Staggers bill. I ask my colleagues to join me in strong support of the Brady bill.

Mr. Chairman, almost 10,000 people are murdered with handguns every year in our country. Every single year, more than 12,000 Americans are raped by handgun-wielding criminals, over 210,000 are robbed, and upward of 400,000 are assaulted. Make no mistake about it, handguns—while not the only weapon used by criminals—contribute significantly to the fear that grips our cities. They add to the lawlessness and desperation which make so many of the streets around our Nation unsafe.

We have an opportunity today to bring some sanity to this situation, to throw a few sensible obstacles into the paths of criminals seeking to buy the guns with which they terrorize law-abiding citizens. This is not a lot to ask, and 95 percent of the people in this country support the Brady bill because they realize that this handgun madness has got to stop. But we here in Congress are involved in heated debate over this basic anticrime legislation because a well-funded, well-orchestrated special interest group doesn't like it.

We cannot be intimidated by the National Rifle Association. We cannot allow them to deter us from doing what is right for the people of this country.

The NRA doesn't represent what's right for America, they don't represent the opinions of the majority of people in this country, and—in fact—they don't even represent many of their own members on this issue. As I travel around my district, countries people have told me that they are NRA members, but that they support the Brady bill. Law abiding gun owners don't mind having to wait a week to get a handgun, because they realize that's its going to make their communities safer.

Any fear that we feel as we vote today should not be fear of the NRA instead we should be afraid that if we do not act, more of our constituents are going to be killed by handguns, afraid that some handgun-wielding, drug-crazed madman is going to ruin the life of one of our friends or neighbors, afraid that more police officers are going to be cut down in the line of duty as they try to clean up the mess that these handguns have helped to bring about.

The Brady bill won't cure all of these problems. I don't dispute that, and I intend to continue working hard to put more police officers on the streets and more criminals behind bars. But the Brady bill will work. It will make it harder for crooks to arm themselves, and easier for law-abiding people in our society to live in safety and without fear.

Because of a waiting period, more than 10,000 convicted felons have been caught trying to purchase handguns in New Jersey. California's waiting period stopped over 2,000 illegal handgun purchases in 1990 alone. Indiana law enforcement officials were able to stop over 11,000 handguns from going into the hands of people who shouldn't be allowed to have dangerous weapons. And the list goes on. Criminals have been caught and crimes prevented, because waiting periods work.

Let's stand up for the people of this Nation and pass the Brady bill. It will save lives.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Chairman, I rise in strong support of the Staggers bill.

I was surprised when my fellow prosecutor, my colleague from Houston, said if a criminal came in and falsified records, the Brady bill would prevent

that from happening. I have thought over the years that I prosecuted many crimes committed by guns, and I cannot think of a single murder or assault to murder—and I convicted many of them—not one can I think of would have been prevented under the Brady bill.

So I oppose it.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, when I was 12 years old, I wanted to go hunting. I found out I had to get a hunting license.

When I was 16 years old, I wanted to drive a car. I found out I had to get a drivers license to drive that car.

When I was 21, I wanted to vote. I found out that I had to be registered to vote.

Was that convenient? No, it was not. It was inconvenient, but something we had to do. Was it worth it? Yes, I think it was.

Is it inconvenient to ask somebody to wait 7 days to buy a handgun? Yes, that is inconvenient.

Is it worth it? I believe that in terms of the lives of hundreds of law enforcement personnel and innocent people which may be saved, yes, it is worthwhile.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, today I rise in strong support of my right and privilege to keep and bear arms. I hunted in northern Indiana as a young boy, and I hope someday my children have that same right. But it is also a right for our children to be protected from crime and from criminals. I believe that using the commonsense approach that we have done in Indiana for a 7-day waiting period to prevent those people who have been in a State mental institution or in a Federal penitentiary from getting that gun is a small step in the right direction. It is not a panacea. We need to come to this floor and vote for strong crime bills. That will be part of the answer as well, too.

We vote for a boat day and a goat day in this body; let us be tough and take a small step to reduce crime.

Mr. Chairman, I rise today in support of H.R. 7, the Brady bill, along with many of my colleagues who have cosponsored this important piece of legislation.

One element in today's debate is clear: Our country needs help in battling crime. We can no longer tolerate the fact that an average of 639,000 violent crimes per year are committed by offenders wielding a handgun. Nor can we tolerate the fact that almost 42 percent of the violent crimes committed with a handgun occur on the street with another 11 percent happening near a victim's home. These statistics illustrate that we desperately need help in erasing violence from America's streets, sidewalks, and neighborhoods.

The Brady bill should be the first step in our renewed fight against crime. Its main premise is quite basic. It mandates a 7-day cooling off period to allow local law enforcement officials the opportunity to conduct background checks on those people wanting to purchase handguns.

We know today that waiting periods work. Twenty-four States now have some form of waiting period for handgun purchases. My home State of Indiana has a 7-day waiting period to ensure that people unfit to carry handguns do not have the opportunity to purchase them.

What has been most telling to me in this debate—which did not begin today, but rather, has been the topic of conversations and public forums in the Third District of Indiana for some time—is that law enforcement officials see this as a clear indication that State actions are not the only instruments to be used in our battle against crime. Passage of a national 7-day waiting period would send a forceful signal to States that the Federal Government is now willing to join in the fight.

The State of Indiana took the lead in battling crime nearly 8 years ago when it passed legislation mandating a 7-day waiting period, coupled with a background check. In doing so, Indiana ensured that its citizens were protected from known criminal felons who might attempt to carry handguns. The Indiana State police reported recently that last year they halted the sale of handguns to numerous people who, under State law, were prohibited from carrying a sidearm weapon. It is difficult to determine whether any member of this group would have committed a crime, but the message is clear—the State of Indiana goes to extraordinary lengths to protect its citizens.

I urge my colleagues to finish the work that nearly half of the States in this country have initiated by passing the Brady bill and ensuring that the criminal that Indiana stops from purchasing a handgun cannot travel to a nearby State, without a waiting period, to complete his potentially deadly transaction.

The intent of the proposal before us at this time, H.R. 1412, is one we can all agree with. It aims to instantly check all those people wishing to purchase a handgun. However, there are clearly some serious practical problems with this proposal. The Department of Justice has said that this system, while ideal, will not be fully operational for at least 5 more years. Needless to say, we need help now. Until such a national "instant check" system is completely functional, let us have a 7-day waiting period. It makes sense. It makes sense to former Presidents Reagan and Nixon.

The Brady bill should be the first measure passed by this Congress to end the epidemic of crime which is spreading rapidly through our cities and towns. The fight will not be easy but it must begin with this piece of legislation and followed by a comprehensive and tough crime package.

We must, when given the opportunity, enact a comprehensive piece of legislation that will enhance the penalties for those who use firearms to commit crimes, end the injustice caused by the exclusionary rule which all too often lets criminals go free on technicalities, strengthen the death penalty, expand victim's rights, and reform criminal procedures which cause unnecessary delay and injustice within our criminal justice system. We need the Brady bill ala tough anticrime bill.

Today, we have the opportunity to set forth on a path that will, no doubt, be difficult. But, we must make the first step to stop violence. We need to set the tone for a safer and stronger America.

For these reasons, I urge my colleagues to take swift action upon this legislation. The Brady bill confirms what my home State of Indiana has known for years—waiting periods work. Let us pass the Brady bill.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I rise in support of the Brady bill.

Mr. Chairman, I have been asked by some of my constituents about what effect, if any, passage of H.R. 7, the Brady bill, would have on Indiana law. Under Indiana law, a potential handgun purchaser can obtain a license to carry a handgun after undergoing a background check. Indiana law also waives the State's 7-day waiting period for any person who has been issued such a license to carry a handgun. Because of the importance of this issue, I raised the question of whether H.R. 7 would preempt Indiana law with Congressman CHARLES SCHUMER, chairman of the Subcommittee on Crime and Criminal Justice.

Chairman SCHUMER has informed me that Indiana law will not be preempted by the passage of H.R. 7. The Brady bill will not change the Indiana law, which allows law-abiding citizens to purchase handguns without waiting if they have already obtained the handgun permit. Subsequent to my inquiry, the Judiciary Committee filed its report on H.R. 7, and, for the record, I would note the report language which explicitly addresses the concerns I have raised:

> It is the Committee's intent that States with a waiting period of seven days or longer, or which require a background check before the transfer of a handgun from a gun dealer to a purchaser, are specifically exempt from coverage of this bill . . . The Committee understands that some States which have waiting periods of seven days or longer exempt from that requirement persons who have been issued permits or licenses to possess or carry handguns for which the person has to undergo a background check. Handgun purchasers in such States are to be exempt from the waiting period requirements of the Brady bill.

This language clearly reflects the committee's intent that H.R. 7 not preempt State laws such as the one in Indiana. I have been informed that the inclusion of this explanatory report language is due, in large measure, to the concerns I raised about the effect of H.R. 7 on Indiana law.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Staggers bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield my final 3 minutes to the

gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Chairman, of all the arguments that have been presented on this question, none is more important than whether what we do today violates the Constitution of the United States.

Each one of us should take that obligation extremely seriously.

For those of my colleagues who are in doubt because of the question of what the second amendment provides, I have asked for this time to lay before you the very clear facts of what the Supreme Court has interpreted and what reason tells us the second amendment means.

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

In the entire history of the United States, the Supreme Court has elucidated this constitutional amendment only once, in 1937 in the United States versus Miller opinion.

In that opinion the Supreme Court told us that phrase, "a well-regulated militia," was not put in there for excessive verbiage, that the right was explicit to the creation and regulation of the militia.

As a result, the court upheld this body's decision to outlaw sawed-off shotguns. I put to you that if the second amendment is the issue on the basis of which some of our colleagues are holding back, you ought not.

But let us move on beyond 1937. This issue has been presented to several U.S. courts of appeals and district courts. In the history of every one of those cases there is not one example where a restriction on gun ownership or use has been struck down under the second amendment.

I am not speaking today of some cases one way and some the other. Today I am telling you of a record without exception, case after case, court after court, unanimous, that this constitutional amendment deals with militia and does not prohibit us from imposing reasonable restraints upon weapons.

I also note this, that in adjudicating these questions, the courts have spoken about that kind of weapons are appropriate to militia. The Seventh Circuit, in the case of Quilici versus the Village of Morton Grove told us that a handgun was the weapon of the militia; the handgun is not what the framers had in mind when they created this amendment, but rather it was a weapon capable of doing much harm that would be appropriate to restrict.

In conclusion, if the Constitution is the issue which causes some of us hesitation, recognize that the courts, given the obligation as are we to interpret and apply the constitution, have had no hesitation. They have seen their obligation, the courts have met their duty.

What remains is for the Congress to do its duty. And as between Staggers and the Brady bill, if you believe the Constitution is an obstacle, then one is as unacceptable as the other; if you may not regulate, you may not regulate.

So please put to one side what is not an issue and recognize the time has come to do our constitutional obligation in full compliance with the second amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I rise in opposition to both Brady and Staggers.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman. I rise in support of the Brady bill, unamended.

Mr. DOWNEY. Mr. Chairman: I rise today in strong support of the Brady bill. This proposal will help to ensure that the wrong people—drug traffickers, criminals, terrorists, mentally disturbed or incompetent persons—do not get their hands on guns that they have no legitimate use for. Despite all the rhetoric from the gun lobby, the fact is that the vast majority of law enforcement officials and most of the American public supports this bill.

Every day of the week, there is ample evidence that the ease of purchasing a handgun has made us a nation under siege. Throughout the country, Americans are being held hostage by fear. Older citizens are forced to stay in their homes at night behind locked doors, while criminals rule the streets. Innocent children are terrorized and threatened. Once quiet neighborhoods have become bloody battlegrounds.

The gun lobby's favorite line is that guns do not kill, people do. If they truly believe this, then they should support a 7-day waiting period because it provides a valuable safeguard for ensuring that people—the wrong people—do not have handguns.

Let us not forget Jim Brady. He knows only too well the importance of a 7-day waiting period. He understands the importance of acting now to control the availability of dangerous weapons. Let us inject a little reality into our anticrime policy. Let us keep handguns out of the hands of the wrong people. Let us make sure that Jim Brady's suffering was not in vain. Let us pass the Brady bill.

Mr. BACCHUS. Mr. Chairman, I am voting in favor of H.R. 7 today because I believe it will save lives.

I have no illusions that the 7-day waiting period mandated by this bill will solve all our problems with crime. But I believe a cooling-off period, in and of itself, is worthwhile because it will stop some otherwise law-abiding citizens from obtaining and using a handgun to commit a crime in a moment of emotional upheaval. Even if we had a national computerized system in place to conduct instant background checks, a brief waiting period still would be useful in preventing such crimes of passion.

I support this legislation although it would not apply to my home State of Florida, which recently enacted a 3-day waiting period as well as an instant check system. Florida's approach is an excellent model for the Nation that provides for both a brief cooling-off period and a background check on gun purchasers. However, most States currently do not have the capacity to conduct such background checks. H.R. 7 is a necessary interim measure until we have such a system in place nationwide.

A waiting period would not restrict gun ownership for sportsmen, gun collectors, and other law-abiding citizens. It asks only that they endure a minor inconvenience for the sake of saving lives. This is not an unreasonable request.

I also believe we must address the broader issue of crime prevention. While I believe H.R. 7 merits passage as an independent measure, I also believe the Congress must take additional steps to combat crime. Toward that end, I support much of the President's crime package, including increasing the number of Federal crimes punishable by death, reforming and limiting the number of appeals for death row inmates, and allowing the use of evidence discovered by police during warrantless searches conducted in good faith.

I look forward to debating these issues in the coming weeks. Today, the issue before us is the 7-day waiting period for handgun purchasers, and I wholeheartedly support it as a necessary step in saving lives.

Mr. WELDON. Mr. Chairman, I rise today as someone who sees merit in both the Brady bill and the Staggers bill. While both have limitations and problems, between the two there lies a commonsense approach to reducing gun violence in America.

Yesterday I testified before the Rules Committee and sought the opportunity to bring such a compromise to the House floor today. My Handgun Compromise Act of 1991 would have combined the best features of both bills by allowing a 6-month period for the development of an instant check system, while retaining the Brady 7-day waiting period if the development of the instant check system lagged. However, the Rules Committee in its infinite wisdom did not make my amendment in order. So today Congress will have just two choices: the Brady bill and the Staggers bill.

Over the past several weeks we all have been deluged by hundreds of constituent letters and phone calls. The special interests groups supporting Brady bill and the Staggers bill have polarized Members of Congress on both sides of the issue. As a result, there is no middle ground. My Compromise Act of 1991 would have provided much needed middle ground and a much needed commonsense approach.

Today, despite the blood, sweat, toil and tears, Congress may not be able to pass a handgun restrictions bill. Felons will continue to purchase handguns over the counter and gun violence will continue, business as usual.

My commonsense Compromise Act would have provided a rational solution to our divided Congress. Middle ground language would have provided the 102d Congress the opportunity to overwhelmingly enact legislation to prevent felons from purchasing handguns.

I fully support the concept of a point of sale check system. However, establishing and operating an instant check system may be years away. The Anti-Drug Abuse Act of 1988 contains instant check language and directs the Department of Justice to develop a point of sale check system.

Americans cannot wait any longer. For this reason, I plan on supporting H.R. 7, the Brady bill, offered by Representative EDWARD FEIGHAN. The Brady bill is not going to end all handgun violence in America. The lives of innocent victims are worth the wait, until the time when a point of check system is implemented.

The Brady bill provides many exemptions and incentives. States with background check systems are exempt from the 7-day waiting period, which currently includes Virginia and Florida. The Brady bill provides States the incentives to modernize their record keeping systems at their own pace and convert to a point of sale check system. The Brady bill does not require States to perform a background check. If the handgun dealer does not get a response in 7 days, the sale goes through. If the dealer gets a response in less than 7 days, the sale may go through earlier.

The Brady bill provides five main exemptions for the 7-day waiting period. First, threat to one's life or member of the household. Second, valid permit issued within the previous 5 years. Third, State with its own background check and waiting period. Fourth, dealer has received a response from a nationwide background check system. Fifth, intrastate mail orders, complying with State regulations.

The technology for implementing a point of check system exists. When an instant check system is in place, the Brady bill will cease when a nationwide system begins to operate.

The Compromise Act of 1991 would have allowed proponents of the instant check the opportunity to install and implement the system. Six months after enactment, the Attorney General would report to Congress whether or not an instant check system was operational. If the Attorney General declared an instant check system was operational, then our Nation would function under a nationwide instant check system. If the Attorney General declared an instant check system was not yet ready, then the Brady bill language would immediately go into effect. Once a nationwide system went into effect, the Brady bill would be immediately repealed.

I think this approach is simple commonsense. Yet today there is no such middle ground. Instead, I will be forced to support the Brady bill over the Staggers bill, although both systems have strengths and weaknesses. If the Brady bill does pass, I will continue to encourage the Department of Justice to implement a nationwide system and our Commonwealth to develop an instant system as soon as possible.

Mr. LAGOMARSINO. Mr. Chairman, let's not forget the real purpose behind this debate. It is not about special interest groups or public polls. It is about crime, and it is about what this Congress can do to fight violent crime in the United States.

The residents of my district need more than the Brady bill has to offer. California already has a 15-day waiting period, and would be exempt from the Brady bill. However, while nearly 1,800 potential handgun purchases in California were denied in 1989 under the 15-day waiting period, reported violent crimes increased 12.2 percent in the same year. That is an increase of almost 21,000 homicides, rapes, robberies, and aggravated assaults in 1 year.

My constituents need this Congress to pass a tough, comprehensive anticrime bill that will ensure the certain apprehension, prosecution, and incarceration of violent criminals. My constituents need this Congress to pass an anticrime bill that includes a Federal death penalty for heinous acts of murder and terrorism, and that closes the loopholes in the judicial process that allow convicted criminals to beat the system and walk the streets. The message that this Congress must send to criminals is simple, if you commit a crime, you will be caught. If you are guilty, you will be punished.

Again, I urge my colleagues to remember the real reasons behind the Brady bill and the Staggers criminal background check bill. The real goal here is to fight crime, and the only way to reach that goal is to pass a comprehensive anticrime package.

Mr. SERRANO. Mr. Chairman, 96 percent of the handguns used in crimes in New York City are purchased outside New York State. The implications of this statistic are powerful: While New York's tough gun control laws have proven extremely effective, my home and my constituents are endangered by the failure of other jurisdictions to enact similar laws.

New York's experience is by no means unique. A Federal Government study has found the same pattern recurring across the country. Local crime control measures are undermined by the lack of a nationwide gun control standard, with deadly consequences.

Mr. Chairman, a solution to this problem is at hand. The Brady bill, H.R. 7, would impose a waiting period of up to 7 days on the purchase of a handgun. This waiting period would afford local law enforcement agencies the opportunity to conduct background checks to determine if the purchaser is eligible to own a gun. Similar legislation at the State level has prevented thousands of illegal handgun sales each year.

The Gun Control Act of 1968 prohibits felons, fugitives, drug addicts, and the mentally ill from purchasing or owning firearms, but no national legislation exists to enforce it. I urge my colleagues to support the Brady bill, a crime control measure that is much needed and long overdue.

I would also like to express my strong opposition to the Staggers bill, which is being offered as a substitute to the Brady bill. The Staggers bill calls for the establishment within 6 months of a nationwide instant check hotline that gun dealers could call to verify that a prospective gun purchaser is not a convicted felon.

There is nothing wrong with this plan in principle. Such an instant check system is already being developed under the Anti-Drug Abuse Act of 1988, and the Brady bill will sunset once this system becomes operational. Unfortunately, the instant check system envisioned by the Staggers bill may not become operable for another decade.

The 6-month timeframe envisioned by the Staggers bill is unrealistic at best. Many other features of the Staggers bill indicate that it is not and was never intended to be a serious, viable alternative to the Brady bill.

Mr. Chairman, my colleagues, the Brady bill is but a first step in your Nation's journey toward a society free of handgun violence, and no one suggests that it will solve the problem by itself. But no one can deny that it would soon have a very significant, beneficial impact. The same cannot be said of the Staggers bill.

There are too many lives at stake across the country to allow the Staggers bill to distract and delay us in our efforts to enact effective gun control legislation. Let us pass the Brady bill now and begin to restore sanity and security to our troubled streets and homes.

Mr. PANETTA Mr. Chairman, today I am compelled to rise to state my support for H.R. 7, the Brady Handgun Violence Prevention Act. I commend my colleague, Representative FEIGHAN and the members of the Judiciary Committee for their hard work in bringing this bill to the floor. I also thank you, Mr. Chairman, for allowing H.R. 7 to be scheduled this Congress.

Nearly every time Congress considers gun control, a strange phenomenon occurs. We seem to have common sense on one hand, and political mischief on the other. Every one of us knows that the United States has the highest homicide rate involving a handgun in the industrailized world, and each of us would like to do something about these frightening statistics. We are presented today with that chance.

Common sense tells us that waiting periods are logical. We live in a very high stress Nation where millions of people are known to lack healthy coping skills and thousands turn to guns for solutions to their problems, to use against themselves or others. Many of these individuals have criminal records, but many also do not. The State of California realized the need to address both concerns and implemented a 15-day waiting period with a background check for the purchase of a handgun. Some would argue that California's waiting period does not work because it has not experienced a lower crime rate since the enactment of the legislation. To a degree, that is true if you do not take note that two out of its three border States do not have waiting periods or background checks—a problem the Brady bill would take care of. Even taking this into account, however, it stopped 2,182 prohibited handgun sales during 1990. One can only predict the possible number of murders or injuries this number represents that were stopped because of a waiting period.

California now has a new State law which extends the waiting period for not only handgun purchases, but all firearm purchases. This new law has stopped 1,275 criminals from purchasing any type of firearm in the first 3 months of this year. Heading the top of the denial list were prospective buyers with criminal records for assault. California is expecting 5,000 denials this year. Was it easy to pass this bill in California, which now has around 30 million people residing in it and a strong gun owner constituency? No, in fact it barely passed. Even for those who voted against the bill, you can bet that they are personally elat-

ed with the new statistics and feel their families may be safer because of this law. Having to leave my family every week, I know that I am grateful for California's waiting period and background check.

It is ironic that statistic such as California's are examples of what opposers of the Brady bill refuse to acknowledge—that waiting periods do catch criminals. I feel it is highly important to point out that statistics have shown that around one in six criminals who have committed crimes with handguns bought their weapons from a licensed dealer. The facts are that 25 States have some types of waiting period or background check at this time. Some may argue that there is no need for Members to vote for the Brady bill if they are from one of these States. They say that it would not affect them even if enacted. This argument is little more than hogwash. It is remarkable that these States, like California, catch so many criminals when so many of their border States do not have waiting periods or background checks. The sad truth is that the States that do not have a system to check or deter criminals, or those who purchase handguns in the heat of anger or desperation, are seriously putting their fellow States' citizens in danger.

For instance, New York City had the highest murder rate in the United States in 1990—2,245. However, 90 percent of all handguns used in crime in the city came from States without waiting periods and background checks. Of all the handguns used in crime in Detroit, only 8 percent were bought in Michigan. Detroit has the fourth largest murder rate in the United States. Yet, opposers of the Brady bill somehow close their eyes to these statistics. Waiting periods and background checks do deter criminals, but right now they are deterring them to States that do not have these systems in place.

These facts make obvious that waiting periods and background checks make sense—perfect, clear, logical sense. They make sense to most of us here in Congess, most of our constituents, most gun owners, most organizations of all backgounds, and all of our living ex-Presidents. Why then the politcal mischief?

I am appalled by the way the Brady bill and the Staggers' substitute, which come down to saving lives, not giving favors, are being politically manhandled. Our country is in a sorry state when its leaders look at saving lives as a choice between lobbying groups. Formulating a budget for this country is difficult enough, and believe me, there are thousands of groups who have their own agendas to give us on it. The Brady bill, however, is clear cut as to who wants it passed and who does not. The polls have shown us what the American people want. They want a system in place that works now, not in 6 months, and not when a crime package is approved by our President.

I, along with all of you, have received the many National Rifle Association backed letters urging me to vote against the Brady bill and for the Staggers' substitute. They say they want to catch criminals and the best way to do this is through an instantaneous check. My biggest problem with their position is the fact that voting for the Staggers' substitute automatically delays an instant check for 3 to 5 years, if not longer. Our own Attorney General has told us the facts on when an instant check can become workable. It seems that opposers of the Brady bill are not serious about saving lives or an instantaneous check. Does it have to come down to the sick coldness of having to estimate how many people will die in those 3 to 5 years to make people vote for the Brady bill and against the Staggers' smokescreen substitute?

Some gunowners have even expressed the opinion that law-abiding citizens will be inconvenienced and stripped of their rights to purchase guns if there is a national waiting period legislated. It is plain and simple that nothing is stopping a purchase of a gun except a criminal record. The inconvenience, well, I can think of no one more inconvenienced than someone who is injured by a gun that could have been stopped by a waiting period, or the family of someone murdered in a moment of anger and desperation. For those who need a gun for protection, the Brady bill provides that law enforcement officers can waive the waiting period in those cases.

Mr. Chairman, in good conscience, I cannot go along with even a very vocal population of my constituency on this issue simply to garner or sustain votes for the next election. I do agree that an instant check system is desperately needed and will be the best vehicle for curbing the increasing crime in this country. I do not see this as a battle, though, between stopping criminals right now until the Attorney General implements a national system, and voting for a substitute that realistically will do nothing except jeopardize more lives. I simply cannot shield my eyes from reality and be inadvertently responsible for more needless deaths and injuries in this country.

Mr. FAZIO. Mr. Chairman, I rise today in support of the Brady bill and in opposition to the Staggers amendment.

The Brady legislation is currently our best effort toward stemming gun-related violence. It is the most realistic, efficient, accurate option currently available to us.

The Staggers amendment, on the other hand, is not an effective measure. It does not move us toward stemming gun-related violence. Its endorsement of a nationwide instant check system adds no value because the Attorney General is already authorized to implement such a system. Regardless, however, implementation of such a system is currently impractical, inaccurate and extremely costly.

Supporting the Brady bill is the best step that we as a nation can take in the progressing effort to keep guns out of the wrong hands, and preventing the tragedy that results from the easy availability of guns to potential purchasers who are in any of the legally prohibited categories: felons, drug addicts, mental incompetents and minors.

The Brady bill's 7-day waiting period provides a national standard for all handgun purchases. It gives us a very rational way to prevent some of the violence that occurs when the wrong people—people who currently do not have the right to bear arms in many of our States—are allowed to own them. Quickie, over-the-counter handgun sales, when allowed in certain jurisdictions, undermine the laws of other States where waiting periods are in effect. A 7-day wait, however, gives us consistency among States.

Law enforcement officials will also have the opportunity to conduct background checks to prevent the sale of handguns to legally prohibited groups. The waiting period will additionally provide a cooling-off period for those who may be temporarily distressed. Yet, waiting periods do not take away the right of handgun ownership for those who are legally entitled to own them.

Jurisdictions which have imposed waiting periods report a decrease in violent crime associated with handguns. In California, where there is a 15-day waiting period, the Office of the Attorney General reports that 1,793 prohibited handgun sales were prevented in 1989 as a result of background checks performed during the 15-day waiting period.

It should be noted that the Brady bill has the support of every major law enforcement organization in our country. According to a September 1990 Gallup Poll, 95 percent of Americans favor a national 7-day waiting period. Is not it interesting that this sound concept—which the National Rifle Association has so strongly opposed and has been so critical of me and others for supporting—is now so overwhelmingly endorsed by the American people? Perhaps this is just further evidence how the NRA, a group that once advocated a waiting period, is becoming increasingly out of step with the rest of the Nation.

A national waiting period—a delay of a few days—is a small price to pay to curb the unnecessary and senseless violence caused by handguns. It is time for Congress to say no to those who reject the arguments of law enforcement agencies across the land—the NRA first and foremost—and enact this important public safety legislation.

Mrs. BOXER. Mr. Chairman, today I had the privilege to shake hands with a man who knows better than any other of us that a 7-day waiting period for a handgun will save lives, save agony, and will be a law that we can all be proud of. We have a very clear responsibility to pass the Brady bill. It's simple and it's smart; it steps on no one's rights.

I am pleased to support the Brady bill.

Mr. ATKINS. Mr. Chairman, I am proud to rise in support of legislation backed by former Presidents Ronald Reagan, Jimmy Carter, Gerald Ford, and Richard Nixon, especially when the issue is arms control—domestic arms control.

Mr. Chairman, now it is our turn. Today Congress has a choice to make on two opposing gun bills. H.R. 7, known as the Brady bill, will establish a 7-day waiting period so law enforcement officials can conduct a background check on handgun purchasers. H.R. 1412, which is backed by the National Rifle Association, promises to keep gun shops from selling to criminals through an instant computer hotline system. It is a promise that everyone in this Chamber knows the NRA cannot keep.

Current law makes it illegal for convicted felons and those judged by law to be mentally ill to buy a handgun. But, many States, like Ohio and New Hampshire, only require prospective buyers to fill out a form stating that they have never been convicted of a felony or judged mentally ill. This is a law with no teeth that is designed not to work.

But the NRA bill would not work either. It will take at least 5 years, and more likely 10,

to put criminal records on a national data base—a necessity to make the instant hotline work. Three States currently use this system, but even they couple it with a 3-day waiting period.

On the other hand, California's waiting period stopped 2,182 felons from buying a handgun in 1990. During the 1980's, Indiana's waiting period caught 11,158 individuals. In 1989, New Jersey's waiting period nabbed 961 people.

The Brady bill is not a magic wand to end violent crime, but it will make it much more difficult for criminals to acquire guns over the counter—the Attorney General estimates that 1 out of 6 guns used in crimes were bought through licensed gun dealers. A national waiting period will seriously hinder interstate gunrunning by felons who readily buy guns in New Hampshire, Ohio, West Virginia, Georgia, and Texas and deliver them to street gangs in Boston, Lowell, Lawrence and cities and towns across the Nation. After reading today's Washington Post article on interstate gunrunning can anyone continue to ignore the tremendous loophole that our national gun laws create to make gun dealing as simple as filling out an order form from the want ads section of a mercenary magazine?

The NRA vehemently opposes the Brady bill just like it once opposed the instant background check before they saw it as an alternative to the waiting period. The NRA is not being fickle. With skyrocketing crime, an endorsement of the Brady bill by former President Reagan and changing public opinion regarding guns, the NRA sees the writing on the wall. Now it is Congress' turn to read the writing and pass the Brady bill.

Mr. MILLER of Ohio. Mr. Chairman, I have grave reservations regarding both of the bills being considered before us today. I see both of them as being only Band-Aids on a much larger problem. If we are truly to deal with the crime problem in this country we must deal with the President's crime proposal which deals with habeas corpus reform and the death penalty. Constituents in my district oppose piecemeal legislation which mainly targets law-abiding citizens. They demand true reform of our criminal justice system.

However, if we must do something today I feel the Staggers amendment to H.R. 7 is more likely to accomplish the goal of preventing felons from purchasing firearms from dealers. The Staggers amendment requires that a background check be done on handgun purchasers and it will allow and encourage States to move forward and improve and automate their criminal records systems. The benefits of States improving their records and passing that information on to the FBI will definitely improve the information available from the National Crime Information Center telecommunications system and will have a very positive effect on all aspects of crime fighting.

I urge my colleagues to support the Staggers amendment.

Mr. GRADISON. Mr. Chairman, I rise in support of H.R. 7, the Brady Handgun Violence Prevention Act, and in opposition to the Staggers substitute.

The question of violent crime in our society, with all of its ramifications, is one of the most pressing issues on the mind of the country. Over the last few years, the Congress has moved toward strengthening the Federal Criminal Code, particularly in the area of illegal drugs, by increasing penalties, toughening sentencing guidelines, and providing additional resources for prosecutions. I have supported these efforts.

The President's view is that we need to do more. I agree. The Congress needs to address the President's comprehensive violent crime package. The questions of providing for a Federal death penalty, habeas corpus reform, mandatory sentencing, and reform of the exclusionary rule, among other things, are critically important to stemming violent crime effectively

However, the issue before the House today is much more narrowly focused. What we are debating is how best, at the present time, to identify felons and other individuals who are barred by statute from purchasing firearms. The Gun Control Act of 1968 requires handgun purchasers to complete a form stating that they are not a felon, fugitive, drug addict, or mentally incompetent. After completing the form, the purchaser can buy a gun. Although gun dealers are required to keep these statements on file, no check is done to make certain that the information is truthful.

Mr. Chairman, there has been a great deal of hyperbole on both sides of this debate. The issue is not comprehensive violent crime control. The issue is not eradicating handgun violence. The issue is not repeal of the second amendment. The issue is how to strengthen existing Federal law in a reasonable fashion. I believe the Brady bill would more effectively accomplish this end.

H.R. 7 effectively establishes a national 7-day waiting period for handgun purchases. This would permit law enforcement officials to run background checks, if they opt to do so, on handgun purchasers. There are some notable exceptions to the waiting period. For example, the bill waives the requirement for the waiting period for those who feel their life has been threatened.

The most important exception is found in section 2(a) of the bill. Under that section, the Brady bill sunsets when an instant point-of-sale background check can be implemented under the provisions of section 6213(a) of the Anti-Drug Abuse Act of 1988, otherwise known as the McCollum amendment.

Three years ago, the Congress required the Attorney General to develop a system for gun dealers to conduct background checks on gun purchasers at the point of sale. The Attorney General has recently indicated his preference for the development of an instant check system similar to the one currently in use in Virginia. However, the Attorney General has made clear that for the system to be effective, criminal history and other records at the State and Federal level must be upgraded. Over the last 3 years, the Federal Government has spent $27 million to assist States in computerizing their criminal records. This year alone, the FBI will spend $12 million to upgrade its own records.

Yet, for all the progress recently made in the development of an instant check system, serious problems remain. Forty States have not completely computerized their records and three States—West Virginia, Maine, and Mississippi—have not even begun. The Attorney General has indicated that a national, instant check system cannot be in place for several years. The Congressional Office of Technology Assessment concurs. The OTA estimates that the system is at least 5 to 10 years from completion.

Congress continues to fund the development of an instant check system. In the end, the Nation will have it. The question is what to do in the intervening 5 to 10 years. Frankly, I do not understand the controversy.

Twenty-five States have already enacted waiting periods for handgun purchases. In 1989, the last year for which figures are available, California stopped 1,793 illegal purchases. That same year, Illinois denied 2,920 purchases and revoked 1,867 permits. Three States—Virginia, Delaware, and Florida—have instant checks. Those States have been equally successful in preventing illegal purchases. While it is true that not all criminals buy weapons in gun stores from legitimate dealers, it is clear that waiting periods and instant check systems work—not perfectly, to be sure, but they do work. Neither a waiting period nor an instant check system is a panacea for preventing crime. The Brady bill is merely a bridge to a better system.

The alternative offered by Mr. STAGGERS is little more than an amendment designed to kill the bill. The Staggers substitute requires that the Attorney General have the instant check system contained in the amendment up and running in 6 months. This is technically impossible. The State of Florida took 20 months to implement an obviously more limited instant check system.

In addition, the Staggers amendment provides no authorization for funding of its crash program, let alone an appropriation. The Attorney General recently estimated the annual operating cost of an instant check system to be $70 million. In addition, the Department of Justice would need to spend an additional $40 million to complete its upgrade of its criminal records and $35 million in one-time startup costs. Mr. STAGGERS' proposal is silent on the funding question.

On a technical level, the Staggers substitute may be impossible to implement, particularly given the crash nature of the program it envisions. The amendment requires an accuracy standard of at least 98 percent. The Attorney General would have to ensure that no more than 2 percent of the background checks are initially falsely denied. Yet, the Attorney General and the National Rifle Association, one of the primary sponsors of the Staggers approach, have argued for at least 2 years that the rate of false denials under a national check system will be in excess of 2 percent. In short, the Staggers substitute is flawed.

Mr. Chairman, 95 percent of the American people, according to a Gallup poll, believe a 7-day waiting period is a reasonable approach. A Time/CNN poll found that 87 percent of gun owners feel the same way. The Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the National Association of Police Organizations, the National Sheriffs' Association, and the Police Foundation all support the Brady bill. While I do not believe we should conduct the Nation's affairs

by poll, I believe the overwhelming judgment of the public and of law enforcement officials is wise and should be heeded.

I urge my colleagues to support the Brady bill.

Mr. KLECZKA. Mr. Chairman, after years of attempting to bring the Brady Handgun Violence Control Act to the House floor for a vote, it is at last before us today.

Three people deserve special recognition for this achievement: Representative EDWARD FEIGHAN, the measure's author, and Jim and Sarah Brady. Through their persistence, they have overcome many odds and kept handgun control a priority item on the congressional agenda.

The absolute necessity of a handgun waiting period is reflected in the grim statistics on homicides compiled each year by the U.S. Department of Justice. In 1990, approximately 9,200 Americans were murdered by a killer wielding a handgun. According to the Wisconsin Office of Justice Assistance, between 78 and 88 of these victims lived in the city of Milwaukee, a portion of which I represent. Although Wisconsin's 2-day waiting period is a step in the right direction, it was not strong enough to prevent these senseless tragedies in Milwaukee.

The Brady bill—H.R. 7—on the other hand, makes acquiring a handgun much less attractive and more difficult for felons and hotheads. The measure forces a prospective handgun purchaser to sign a sworn statement verifying his identity and eligibility to buy a firearm, and requires him to wait 7 days before taking possession of it. During this cooling off period, local law enforcement officials may conduct a background check to determine whether the applicant is barred by Federal or State law from buying a handgun. If the Brady bill had been law in 1990, fewer people would have been killed in Milwaukee and elsewhere.

This bill is not a cure-all for our national violent crime problem. However, it guarantees that thorough background checks on prospective handgun buyers will be conducted until a speedier computerized check system is feasible. It should be noted that such an alternative is recognized and exempted under the Brady bill. This provision is especially important to Wisconsin residents. Once the State's newly approved, computerized instant check system takes effect, the Brady bill's 7-day waiting period would no longer apply. However, the new Wisconsin background check system may not be operational until December 1. In the interim, the Brady bill is essential to protect residents of Wisconsin from violent crime.

The Staggers substitute, by contrast, is completely unnecessary. The Department of Justice is already required to establish a national instant check system under the Anti-Drug Act of 1988. As soon as it is feasible, computerized instant checks will be implemented under this existing law.

Staying within this present framework is the soundest approach to developing an accurate and effective national check program. According to the Congressional Office of Technology Assessment [OTA], forcing an instant check system prematurely on States—unlike Wisconsin—unprepared for it, "could result in large numbers of false hits, frustrated criminal records officials, and outraged gun purchasers." Moreover, a national instant check system cannot be established in the 6-month period mandated by the Staggers amendment. OTA projects such a feat requires at least 5 or 10 years to accomplish.

As for funding of the Staggers substitute, the Department of Justice estimates more than $1 billion is needed just to automate all State and Federal criminal history records. Another $320 million is necessary to computerize this incredible number of records. Establishing a telephone check bureaucracy requires $35 million, and at least $70 million would be demanded each year to maintain this system. Which Federal programs will have their budgets cut or eliminated to finance this effort? The Brady bill, it should be noted, gets results with little to no Federal expenditures, costing the States less than $10 million a year.

Another major flaw of the Staggers substitute is its lack of a meaningful waiting to compensate for incomplete or inaccurate criminal history files. Without this crucial safeguard, a killer may easily obtain a gun and turn yet another innocent American life into a grim statistic.

Equally disturbing is the ease with which gun dealers may gain access to sensitive personal information about prospective gun purchasers under the Staggers substitute. This measure requires the seller to obtain detailed, personal identification data about the purchaser, including race. Unlike the law enforcement officials responsible for conducting background checks under the Brady bill, gun dealers have no professional duty to shield personal privacy. For this reason, they are wholly unqualified in my view to receive such information.

Most compelling, however, is the fact that Americans simply do not want the Staggers substitute. A September 1990 Gallup poll showed that an overwhelming 95 percent of Americans favor the Brady bill's 7-day waiting period. A recent CNN-Time poll revealed that even 87 percent of gun owners support the Brady bill. Indeed, even all ex-Presidents alive today endorse passage of the Brady bill.

Colleagues, I urge you to take direct aim against crime, vote for passage of the Brady Handgun Violence Control Act—H.R. 7. When it comes to stopping illegal handgun sales, the Staggers substitute is just shooting blanks.

Ms. SNOWE. Mr. Chairman, I rise in opposition to H.R. 7, the Brady bill, which would impose a national 7-day waiting period on anyone trying to purchase a handgun. While everyone shares the desire of this bill's proponents to reduce violent crimes, the Brady bill should be defeated because it simply won't be effective in reducing crimes committed by people with guns.

In recent years, gun control organizations have claimed that the Brady bill will reduce violent crimes by allowing local police departments to conduct background checks on people buying handguns. If the police discover that the prospective purchaser is a felon or is mentally ill, the proponents of H.R. 7 argue, their legislation will allow the police to prevent them from buying handguns.

However, it is unlikely that the Brady bill will have the impact on violent crime that its proponents envision.

For example, a 1986 Justice Department study found that five out of six convicted felons illegally purchased, on the black market, the handguns they used to commit their crimes. Thus, under the Brady bill, police would be unable to conduct background checks on the vast majority, 83 percent, of criminals buying handguns.

Supporters of H.R. 7 also claim that its enactment would prevent people with a history of mental illness from buying a handgun, but this claim doesn't withstand scrutiny either.

In our society, an individual's medical records are protected by privacy laws. Only someone who has been adjudicated by a court of law as mentally ill would they be prevented from buying a handgun under H.R. 7.

Are the Brady bill's supporters willing to erode the right to privacy to make their proposal work? I certainly hope not.

As an example, even if a national 7-day waiting period had been in effect in 1981, it wouldn't have prevented John Hinckley from buying the gun he used tragically to wound President Reagan, White House Press Secretary Jim Brady, a Secret Service agent and a local policeman.

It wouldn't have worked because, at the time, John Hinckley wasn't a convicted felon and hadn't been ruled mentally ill by a court of law.

People supporting H.R. 7 also claim that it would prevent gun purchases by people like Patrick Purdy, the troubled young man who killed several school children in Stockton, CA.

Yet, Patrick Purdy was still able to buy the gun he used in this vicious crime after undergoing a 15-day waiting period. A number of serious crimes he committed in prior years were reduced to misdemeanors through plea bargaining. So, California's attempt to prevent criminals like him from buying guns failed in tragedy.

More specifically, under H.R. 7, a background check is not even mandatory. Rather, the decision to conduct such a check is left up to the discretion of a town's law enforcement agents. If the police don't have the desire, time, personnel, or funds to conduct such a check, it won't be done.

However, in those cases when a background check is conducted and the police reject the proposed sale, H.R. 7 does not provide for any mechanism by which someone can appeal the decision. If a mistake has been made, under H.R. 7, a law-abiding citizen has no recourse to overturn such a decision.

I will be supporting H.R. 1412, the substitute amendment offered by Congressman STAGGERS. This measure requires the Justice Department to create a toll-free hotline telephone system that firearms dealers could use to conduct point-of-sale background checks on prospective handgun purchasers.

The State of Virginia, Delaware, and Florida have all recently implemented an instant-background check program of their own. In Virginia and Delaware, these programs were designed and implemented in less than 6 months, and Virginia's program even cost less than $500,000 to start up.

The Staggers amendment is a more acceptable alternative that has been designed to prevent those people who shouldn't buy guns from buying them, without unduly infringing on

the constitutional rights of law-abiding citizens who wish to purchase firearms. I urge all of my colleagues to join me in opposing H.R. 7 and supporting the Staggers substitute.

Mrs. KENNELLY. Mr. Chairman, in the United States today, every 20 seconds there is a violent crime. Every 25 minutes there is a murder. We have all heard the statistics; they are frightening and they are real. And few dispute that in these violent crimes, guns are the weapons of choice.

Today we are considering very reasonable gun control legislation. A 7-day waiting period before the purchase of a handgun is a reasonable, responsible and practical approach to ensuring that guns are kept out of the hands of criminals.

There are many sportsmen and women in this country who use firearms responsibly. This legislation is not intended to punish these individuals. Similarly, this legislation is careful not to punish States that have already taken steps to ensure that handgun sales are conducted responsibly. States which have a waiting period of at least 7 days, or a mandatory background check are exempted from the Brady bill. I am proud of my own State of Connecticut which has a 2 week waiting period before the sale or transfer of a handgun. The licensing procedure is a reasonable one and I am encouraged that with this legislation all States will be brought up to such a level of responsibility.

Regarding the Staggers substitute, Chairman SCHUMER of the Crime and Criminal Justice Subcommittee put it best: "the Staggers amendment is not meant to stop handgun violence, it is meant to stop the Brady bill." In theory, an instantaneous check may sound reasonable. And given a world with unlimited resources, it may well be. However in this world, the experts agree: in the near future such a program is simply not feasible. As Sarah Brady puts it, "the Staggers bill is much like mandating that all cars get 500 miles to the gallon—a worthy goal, but far from realistic." In a world in which crime is a reality, solutions must not only sound reasonable—they must work.

I urge my colleagues to defeat the Staggers amendment and pass the Brady bill.

Mr. ACKERMAN. Mr. Chairman, I rise in strong support of H.R. 7, The Brady Handgun Violence Prevention Act. This important legislation would require a 7-day waiting period before the sale of a handgun, to allow local law enforcement authorities to conduct a criminal background check on purchasers. Since many criminals purchase handguns over the counter, this new requirement would help stop thousands of illegal purchases and should be enacted.

Waiting periods are working well in many States already. But the current patchwork of handgun laws leaves loopholes so large that criminals, thwarted in their determination to acquire even some of the most dangerous weapons, often need only to drive across a State line to a more accommodating jurisdiction, and buy a gun on the spot. In my hometown of New York City, where handgun laws are among the Nation's toughest, police report that about 96 percent of handguns used in crimes are illegally transported from States without waiting periods or background checks.

In States where waiting periods and/or background checks are required, thousands of prohibited handgun purchasers are caught each year trying to buy guns through legitimate channels of commerce. In 1989 alone, California stopped 1,793 illegal purchases, Illinois denied 2,920 permits and revoked 1,867; and New Jersey stopped 961 purchases.

A national waiting period would ensure that guns are not bought in States without background checks and then transferred across State lines. It would also provide a cooling-off interval to reduce impulse purchases by those consumed by violent passion. New York and other States with tougher gun-purchase standards shouldn't be the victims of other States' gun-control loopholes.

The Staggers substitute, which will be offered today, calls for a Federal instant background check system to be instituted within 6 months. An instant check sounds great, but the Attorney General has testified before the House Judiciary Subcommittee on Crime and Criminal Justice that an instantaneous system will take years to achieve. An instant records check requires that criminal history records be computerized, complete and accessible to every law-enforcement agency. But 40 percent of the criminal records in this country have not been entered into any computer database. Most States are only partially automated, and eight States do not have any of their criminal history records on computer.

Likewise, a recent draft report issued by the Office of Technology Assessment [OTA] confirmed that the Staggers proposal is unworkable. The report found that it would take 5 to 10 years for Federal and State criminal records to be organized into a usable system for instant background checks on criminal records. The OTA study also estimates that criminals buy at least 50,000 firearms a year from gun stores.

Mr. Chairman, we must take steps now to keep dangerous individuals who are already barred from purchasing handguns from doing so. I urge my colleagues to support passage of the Brady bill, and accept no substitute for this vitally important public safety measure. The Brady bill is a reasonable protection that the American people deserve.

Mr. ANNUNZIO. Mr. Chairman, we've all heard the old saying that an ounce of prevention is worth a pound of cure. By the same token, the Brady Handgun Violence Protection Act won't eliminate firearm abuse—but it will provide a simple, effective way for us to begin saving the lives of innocent people across this country.

The growing death toll from handgun violence in cities and towns across America speaks volumes about the need for this law that will provide a nationwide, 7-day waiting period for handgun purchases. According to the Bureau of Justice Statistics, handguns are involved in an average of 9,200 murders each year. The number of nonlethal crimes involving handguns is much higher. Handguns are involved in over 15,000 injuries, 407,600 assaults, 210,000 robberies and 12,100 rapes per year.

In States such as California, New Jersey, and Illinois, existing handgun waiting period laws have kept guns out of the hands of thousands of potential killers without denying law-abiding citizens the right to defend themselves. But the problem with these State laws is that criminals can beat the system by simply going to a State that doesn't require a handgun waiting period. The Brady bill, House Resolution 7, will eliminate this loophole that gives criminals easy access to handguns.

Aside from reducing gun-related crime, the bill's cooling off period could save thousands of lives by making people think twice before resorting to handguns to solve their problems. How often do police in cities and towns across this country respond to emergency calls only to find they're too late to save a distraught person from committing suicide or killing a loved one in a domestic dispute. The Brady bill won't eliminate these problems, but it will provide a starting point for reducing handgun violence.

Law enforcement officials across this country agree that the Brady bill will save lives. The professional groups that have endorsed this legislation include the Fraternal Order of Police, the International Brotherhood of Police Officers, the National Association of Police Organizations, the National Sheriffs Association, the International Association of Chiefs of Police and the Federal Law Enforcement Officer's Association.

Nonetheless, Congressman STAGGERS and the National Rifle Association have told us we should go one step further by instituting an instant criminal-records check on all gun purchasers across this country. I like the idea—but the technology needed to set up such a system is at least 3 to 5 years away. In addition, the cost of installing the system could run to $35 million, and another $70 million may be needed for first year operating costs.

My concern is this: How can we prevent crime today by enacting a criminal record check that won't become operational for several years? Why should we wait for Chicago and other major cities to set new records for homicides, while the Federal Government goes about installing a high-technology system for monitoring handgun purchases? If the Brady bill were enacted this afternoon, it could begin saving lives within hours instead of years as the Staggers bill would do. And the Brady bill is expected to cost State and local governments a relatively minor sum of $5 million to $10 million per year.

The Brady bill is a bargain when one considers the need to curb handgun violence. The commonsense approach of the Brady bill has convinced many supporters of gun owners' rights, including Ronald Reagan, to endorse the concept of a waiting period for handgun purchases. Mr. Reagan knows only too well that such a waiting period might have prevented John Hinckley from shooting the former President, two law enforcement officers and Press Secretary Jim Brady on March 30, 1981. In a sworn affidavit, Mr. Hinckley has said that a waiting period would have made him think twice about his scheme to assassinate President Reagan.

Perhaps better than anyone else, Jim Brady understands the need to keep handguns away from people like Mr. Hinckley. Those who are mentally ill or have felony records can easily dodge today's patchwork of State laws that limit handgun purchases. But a nationwide waiting period of up to 7 days would give po-

lice a much better chance to prevent such sales.

Finally, Americans who feel their lives are in danger needn't fear the Brady bill. The law includes a provision that would enable police to waive the waiting period if they determine that a citizen needs a handgun for personal protection.

In short, Mr. Chairman, the arguments against the Brady bill just don't hold water. The time has come for those who talk about fighting crime to vote for a bill that will do just that. Finding a way to rid our country of crime is still an elusive goal, but we have an opportunity before us today to prevent crime. Don't we owe it to Mr. Brady and the tens of thousands of other victims of handgun violence to take this modest step forward? I urge my colleagues to support H.R. 7.

Mr. GEJDENSON. Mr. Chairman, I rise today in support of H.R. 7, the Brady bill, and in opposition to the Staggers substitute.

In Connecticut, we know that a waiting period and background check system works. Connecticut State law provides for a 14-day waiting period for police to perform a background check. In this fiscal year alone, this system has caught and prevented more than one hundred criminals from purchasing firearms in Connecticut.

Unfortunately, until now, criminals could avoid Connecticut's law by simply going to a nearby state without a waiting period. With passage of the Brady bill, Connecticut's law will become even more effective. When a national waiting period and background check are instituted, Connecticut law could no longer be evaded by going to another State.

We all know that no point-of-purchase background check system is a panacea, but we also know that waiting periods and background checks catch criminals. In the larger States, like California, the numbers are impressive; 1,793 illegal purchases stopped in 1989, and 2,182 in 1990.

The waiting period does not jeopardize the ability of legitimate sportsmen and hunters to acquire firearms to pursue their interests. Hunting, and target shooting are alive and well in Connecticut, where a 1-week handgun waiting period went into effect in 1965, and was extended to 2 weeks in 1975.

I oppose the Staggers substitute because it would leave the status quo in place: it merely relegislates provisions of the 1988 Anti-Drug Act by calling for a computerized, instant background check. The Attorney General has been working on such a system since Congress mandated it. All our offices have received reports from the Attorney General's Task Force on Felon Identification in Firearm Sales. We all know that a workable system is still years away, partly because many States don't have computerized criminal records. The Attorney General says this system will not be ready in 6 months, and passing the Staggers bill will not make it so.

I'm for keeping guns away from criminals. Without point-of-purchase checks, we already have a waiting period: wait until the criminal walks into a gun store, buys a weapon, and goes out and commits a crime. The Brady bill will put more teeth into laws which prohibit criminals from owning guns. We will never know exactly how many tragedies the Brady bill will ultimately prevent, but whatever the number, we will have the satisfaction of knowing that this bill spared many lives from the anguish of gun violence.

GENERAL LEAVE

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today to join many of my colleagues in voicing support for H.R. 7, the Brady bill. Since it was first introduced in the 100th Congress, this bill has had a simple, straightforward goal—to reduce the number of violent crimes in this country. The Brady bill seeks to curb the horror stories that are becoming a reality for too many Americans. It would do this by simply giving law enforcement officials a 7-day period in which to determine whether or not an individual applying for a handgun has a previous criminal record that should prevent them from obtaining the weapon.

Considering the statistics, we cannot in good conscience remain unresponsive to this critical situation any longer. Each year, 639,000 Americans are victims of violent crimes in which a handgun is involved. Last year, handguns were responsible for 23,000 deaths in the United States. Recently, the Secretary of the Department of Health and Human Services, Dr. Louis Sullivan, announced an alarming new fact—America's teenage boys, black and white, are dying more from gunshots than from all natural causes combined.

In my hometown of Chicago, guns and gun violence are rampant. There has been a 15-percent increase in the number of shootings already this year over last year and in just 1 day, the Chicago police seized 300 illegally owned guns in the city. When we look at these statistics individually, in terms of losses experienced by families and personal tragedies, the figures are staggering.

What more is it going to take to get us to stop the violence? Will we each have to lose a loved one before we decide its time to act? Will we have to get caught in the crossfire of gang violence? Will a stray bullet through the living room window do it? What is wrong with this country that we place a mere 7-day wait for a weapon above the lives of our citizens?

I am aware that this legislation will neither radically reduce nor completely eliminate the number of violent incidents involving handguns. However, preventing these targeted individuals from purchasing a handgun is an important, logical and necessasry step toward curbing the madness that is terrorizing America. It simply makes good sense to pass the Brady bill. When we consider the number of lives that have been cut short or shattered by handgun violence, it is more than good sense, it is the right thing to do.

Mr. Chairman, I wish to particularly express my support for H.R. 7 in contrast to another bill, H.R. 1412, which is being offered as a valid alternative to the Brady bill. In truth, H.R. 1412 is neither. The provisions of the Brady bill would take effect within a few months after it becomes law. Since the Office of Technology Assessment estimates that it would take between 5 to 10 years to implement the provisions of H.R. 1412, it can hardly be labeled an alternative to the Brady bill for addressing the pressing problem of violent crime in this country.

Moreover, each day and week that passes without action by Congress, more Americans become victims of murder, rape, robbery or assault involving handguns. Passing a bill that would address this most urgent problem 5 to 10 years down the road is therefore neither a valid nor respectable legislative response by this Congress. If the Brady bill saves just one life a year for the next 5 to 10 years—the optimistic projection for how long it will take the Staggers proposal to get up and running—then that is 5 to 10 lives that would otherwise have been lost.

No, the Brady bill will not stop all violent crimes involving guns, neither will the Staggers' proposal. But if we can't even pass a law that will mandate a simple 7-day wait, how in the world do we expect to be able to enact legislation that would have a real, dramatic impact on the proliferation of guns in this society? I join with the mayor of my hometown, Mayor Richard Daley of Chicago, who said at his recent inauguration, "With blood running in America's streets, it's time to seriously consider a total ban on the manufacture and sale of handguns in this country." Mayor Daley went on to say, "Yes, it's a drastic measure. But with handguns becoming the leading cause of death in our communities, we need drastic action."

In conclusion, Mr. Chairman, I find little logic in the arguments against the Brady bill and in support of the Staggers' proposal. I have heard no credible case made for waiting many years instead of several months to try to bring the rampage to an end. As parents, as citizens, as legislators, we owe it to our families, our constituents and our Nation—I urge my colleagues to do the right thing today and support the right bill, H.R. 7.

Mr. STOKES. Mr. Chairman, I rise today in support of H.R. 7, the Brady Handgun Violence Protection Act. I want to commend my colleague from Ohio, Mr. FEIGHAN, for his leadership in sponsoring this crucial legislation.

We are facing a crime epidemic in our Nation, Mr. Chairman. Crime has totally permeated the fabric of American life. The statistics are mind-boggling. In fact, in the year 1990, America set a national record in its number of murders, rapes, assaults, and robberies. A recent Justice Department study indicates that 639,000 Americans are confronted each year by criminals carrying handguns—9,200 are killed and 15,000 are wounded during these confrontations. Tragically, many of the victims of handgun violence are young, African-American males.

The evidence is all too clear. The unrestricted acquisition and use of handguns takes a horrifying toll in American lives. We must deal with handgun violence as quickly as we dealt with Saddam Hussein and his Republican Guard.

H.R. 7, known as the Brady bill, is one step in the right direction in finding a cure for this crime epidemic. It requires a 7-day waiting period prior to purchase of a handgun, to permit local law enforcement authorities to check to ensure that the purchase would not violate Federal or State law. As mandated by the Anti-Drug Abuse Act of 1988, the FBI is now in the process of developing a national instant background check system. The 7-day waiting

period would be phased out when the national system is implemented. However, Attorney General Thornburgh has testified that such a system is 3 to 5 years away.

The Brady bill does not unconstitutionally infringe on the right of law-abiding citizens to buy a handgun. It simply requires purchasers to wait 7 days. Is that an inconvenience? Perhaps, but that 7-day inconvenience must be weighed against the permanent inconvenience to people like Jim Brady who is confined to a wheelchair for the rest of his life, or the thousands of Americans who have died from handgun violence.

As a matter of public policy, I think we all agree that there should be a system to check handgun purchasers. The alternative measure offered by my colleague from West Virginia, Mr. STAGGERS, sounds good. If we can eventually do in 7 minutes what the Brady bill will do in 7 days, then let's do it. However, there is no system in place to accomplish a 7-minute check now and we cannot afford to wait. Each day we wait means more lives are added to the list of 50,000 Americans killed in handgun violence since the Brady bill was first voted down in this Chamber in 1988.

The Brady bill is not a panacea. Handgun violence will not magically cease upon passage of the Brady bill. It will not stop criminals from stealing guns or purchasing them from other criminals. However, 1 in every 6 criminals do buy guns from licensed dealers. Waiting periods in several States are already working—thousands of felons across our Nation reportedly have been stopped from buying guns.

It is time for Congress to answer the pleas of the overwhelming majority of Americans who want us to act now to stop handgun violence. We must begin to restore safety and sanity to our streets. We cannot afford to wait another day. This is a matter of life and death. Mr. Chairman, I urge my colleagues to vote in favor of H.R. 7.

Mr. COYNE. Mr. Chairman, today, the House has an opportunity to debate a clear cut law and order question: What is the most effective way of keeping handguns out of the hands of felons? On one hand, we have the Brady bill which would mandate a 7-day waiting period, while as an alternative, we have the promise of a Federal computer system that provides an instant check of all criminal records.

I support the idea of a waiting period, especially since this waiting period provides local law enforcement officials time to ensure that felons and other individuals barred from handgun possession are not allowed to purchase such weapons. I have joined as a cosponsor of the Brady bill, because I believe this bill offers a reasonable way to support law enforcement officers and prevent felons from illegally purchasing guns. I would also like to note that the Commonwealth of Pennsylvania currently has a waiting period for the purchase of handguns.

Clearly, a 7-day waiting period will not eliminate all crime in America, but it seems that saving even one life is worth this effort. Several States which have waiting periods have reported numerous occasions when felons have been stopped from illegally purchasing a handgun.

The Brady bill protects law-abiding citizens who feel that they cannot wait to purchase a handgun due to a threat against their safety. In such cases, these citizens would simply contact their local law enforcement officials to have the waiting period waived. States which have instant check systems are exempted from the 7-day waiting requirements of the Brady bill. In addition, as other States acquire and implement this technology, they would also be exempted.

The alternative amendment calling for a nationwide instant identification check for handgun purchases within 6 months sounds good, but it can't live up the promises of the media campaign blasting across America's television screens. Attorney General Thornburgh has testified that implementation of a national instant check system is at least 3 to 5 yeras away and carries a cost of as much as $1 billion. An Office of Technology Assessment draft report estimates that such a system will not be ready for 5 to 10 yeras. The FBI has estimated that it will take as long as 5 years to computerize all of the over 8.8 million records which are currently in manual form.

The fact is that the House has already set in motion the development of a Federal instant check system. In 1988, Congress enacted the McCollum amendment which provides for the development of a nationwide instant felon identification system. The Justice Department is still in the process of developing such a program. Until that system is implemented, the Brady bill would provide an important tool for law enforcement officers to keep felons from illegally purchasing handguns. Why do the opponents of the Brady bill believe that the Justice Department can do in 6 months what the Department has been unable to do since 1988?

If the House wants to take a strong law and order position, then Members should pass the Brady bill and defeat the amendment offered by the gentleman from West Virginia. Voting for the illusionary promise of an instant check system will not provide police officers with the ability they need to control the purchase of handguns by felons.

Support for the Brady bill is widespread among many organizations representing members of the law enforcement community, such as the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the National Association of Police Organizations, the National Sheriff's Association, the Police Foundation and many others. In addition, this bill has been endorsed by a large number of public and private groups and individuals, including the U.S. Conference of Mayors, the American Medical Association, the National Congress of Parents and Teachers, and former President Ronald Reagan.

Mr. Chairman, the Brady bill is the most effective means we have today of keeping handguns out of the hands of felons. It is not a perfect solution, but passage of the Brady bill will mean that the House has finally found the will to distinguish between illusion and effective law enforcement.

Mr. ROHRABACHER. Mr. Chairman, I rise in strong opposition to the Brady bill and note that:

"Guns don't kill people, people kill people."

"We need crime control, not gun control."

"If we outlaw guns, only outlaws will own guns."

Mr. Chairman, some people call these cliche's but that doesn't mean they aren't true.

Gun control is based on the faulty notion that the American people are too stupid, timid, and ill-tempered to be trusted with firearms. The Brady bill is no exception. Its sights are set on honest citizens, assuming they are criminals. That is why the Brady bill effectively misses the target in preventing gun violence. Drug dealers and murderers do not purchase their handguns from legal channels.

There are millions of Americans that exercise their constitutional rights to own a firearm. They use their guns for a variety of purposes. Some hunt, some collect guns, others target shoot and take part in formal competition. A large number of Americans need a gun as a form of self-defense. The vast majority of these Americans are honest, law-abiding citizens and Congress should leave them alone. Why are we taking aim at them instead of hardened criminals?

States that have imposed waiting periods on the purchase of a firearm have already had an effect—they have cost innocent lives. Deborah Randall of Virginia, Bonnie Elmasri of Wisconsin, and Igor Hutorsky of Brooklyn, NY, have all lost their lives waiting for the firearms they needed to defend themselves.

Experience has shown that sure punishment for illegal use of firearms is the most effective deterrent to gun abuse and violent crime. We must limit plea bargaining, and impose stiff, mandatory sentences on those perpetrating violent or drug trafficking acts. Congress should also establish laws that deny prison furloughs, parole, and probation to violent criminals. Finally, we need a Federal death penalty law for those who murder law enforcement officers and innocent citizens. Instead, we are brought H.R. 7, which would do nothing to prevent criminals from obtaining firearms. It is also interesting to note that a large number of supporters of the Brady bill oppose the imposition of the death penalty and other "get tough" measures with criminals.

Some will claim that the Brady bill is not real gun control. They suggested that the bill if passed would only delay our second amendment rights for 7 days. I would like to know how many Members would suggest that our first amendment rights should be delayed; but more importantly, this hurdle, nuisance, or whatever we call it is aimed at honest citizens.

Mr. Chairman, let us defeat the attempt to take target practice with our constitutional rights. Let us not put a bullet hole in the second amendment of the Constitution. Let's attack criminals, not waste the time of police and criminal justice system regulating the behavior of honest citizens.

Mr. MCGRATH. Mr. Chairman, I want to take this opportunity to voice my strong support for H.R. 7, the Brady Handgun Violence Prevention Act.

The Brady bill is designed simply to establish a national 7-day waiting period and allow police organizations to perform a background check for individuals wishing to purchase a handgun. However, we all know that the National Rifle Association obviously opposes the Brady bill. With its intransigent opposition to

almost any kind of gun regulation, the NRA should not, however, object to the Brady bill because the legislation's purpose is not to keep legitimate guns from legitimate gun owners. And the legitimate owners—target shooters and collectors among them—should not object either, because buying a weapon is hardly a matter of urgency.

Several people have conveyed to me that my home State, New York, has strict handgun laws and the Brady bill will be ineffective in our area. While initially this is true, unfortunately, there are many States where criminals can legally purchase firearms. Only 4 percent of the 10,744 handguns recovered by the New York City Police Department in 1989 were purchased in New York State.

Additionally, much has also been made of the system currently being employed in Virginia. In that State, an individual is subject to an instant background check when attempting to purchase a handgun. Unlike the Brady bill, a simple background check does not give law enforcement the opportunity to determine whether a prospective handgun purchaser is prohibited from possessing a firearm because of drug addiction or mental incapacity. Only those who have been committed to a mental institution as part of a criminal arrest show up on Virginia's computer.

States with waiting period laws have not been tremendously successful in stopping felons and other prohibited persons attempting to purchase handguns. In California, 1,763 proscribed purchasers were stopped from buying a handgun in 1989. In that same year, New Jersey prohibited 961 from buying a handgun. Last year, Maryland waiting period laws stopped 1,300 illegal would-be handgun buyers.

Very shortly, we will have the opportunity to cast a vote instrumental in the battle against handgun crime. The Brady bill is a first step—not a first step in abolishing second amendment rights as its opponents have led us to believe—but a step in the right direction to a sensible approach to handgun crime.

Mr. LENT. Mr. Chairman, it has been said that "guns don't kill people, people kill people". I believe a more accurate statement of fact would be "people and guns kill people". In fact, the majority of the American public would agree with the latter statement. A recent poll demonstrated that 95 percent of Americans favor a 7-day waiting period for handgun purchases, recognizing the need for such restrictions to reduce handgun violence.

The so-called Brady bill, H.R. 7, would promote public safety by providing law enforcement with the opportunity to conduct background checks on handgun purchasers which will stop thousands of handgun purchases by those who have no business buying a handgun. The measure will also provide a cooling off period for individuals acting in the heat of passion or the depths of depression.

I understand that some honest gun purchasers may find the 7-day waiting period inconvenient. But, given the countless number of families who have lost loved ones to handgun violence, 7 days seems a small price to pay for improved public safety.

As one who has consistently supported the constitutional right to bear arms, I find nothing threatening in the Brady bill. Simply waiting 7 days before acquiring a handgun may seem an inconvenience to some but it certainly cannot be construed as an infringement of constitutional rights. In fact, I would argue that it actually promotes citizens' rights to safety and security under the law.

We cannot—and should not—ignore the public consensus of opinion that a 7-day waiting period for handgun purchases is necessary to combat the escalation in violence and bloodshed. Unfortunately, H.R. 7 is not a panacea for the nationwide problems of crime and violence. However, the Brady bill is certainly part of the solution and represents a very good first step toward reducing the numbers of deaths each year from handgun violence. If we are truly representatives of the people then we should heed the mandate and vote for H.R. 7.

Mr. GOSS. Mr. Chairman, I rise today as a cosponsor of the Brady bill—legislation whose primary importance lies in the context of our battle against crime—not in its specific significance to lobbyists on either side of the gun control issue.

I must say that I am deeply troubled by the extent to which this entire debate—raging on telephone lines, fax machines, news coverage, and dear colleagues in recent weeks—has become much ado about next to nothing. The fact is that the Brady bill is designed to set up a framework in which background checks or cooling off periods might be addressed—it does not infringe upon States' rights to do their own thing—in fact, my home State of Florida is exempt under the Brady bill because we already have a system in place seeking to prevent guns from falling into criminals' hands. The Brady bill will not infringe upon law-abiding citizens' undeniable constitutional right to own a gun for lawful purposes. And it is not, nor did we ever intend it to be, the answer to our Nation's terrible crime problem. On the other hand, the Staggers substitute looks toward a time when we have the resources and the capability to conduct accurate, reliable point-of-sale background checks without imposing a purchase delay—it's a wonderful idea, and that's why this Congress approved it as part of the 1988 crime bill—and that's also why the Brady bill's provisions would sunset once such a system is brought on line. Unfortunately, we are years and millions of dollars away from making such a system a reality for the entire Nation.

Mr. Chairman, I am saddened that a feeding frenzy of half-truths, hype and misinformation has supplanted legitimate debate on the real issue: This Congress must summon the strength and the courage to pass meaningful, comprehensive crime control legislation. There is no excuse for allowing the dog-and-pony show over the Brady bill versus the Staggers bill to sidetrack us from our broader mission. President Bush has laid a proposal on the table to beef up law enforcement, make tough punishments stick, and strengthen our judicial hand in getting criminals off the street—it's time we stopped worrying about special interest litmus tests and symbolism and started addressing the real issue. Yes, I support the Brady bill because I think it gives most State and local law enforcement a modest extra tool in their fight against violent crime—and because it could help to save lives. But we will have done a great disservice to the American people if we allow our interest in meaningful crime control to start and finish here.

Mr. DORGAN of North Dakota. Mr. Chairman, the House today is making a choice between two alternatives, both of which attempt to prevent criminals from being able to purchase handguns.

The underlying bill is H.R. 7, the Brady bill, which would impose a 7-day waiting period for the purchase of a handgun. The purpose of the waiting period would be to require the gun store owner to send the name of the prospective purchaser to the local law enforcement authority so that they could determine if the person was legally entitled to purchase a gun. Convicted felons and selected others are legally prohibited from purchasing firearms in the United States.

The Staggers bill, H.R. 1412, will be offered as a substitute to the Brady bill. The Staggers proposal requires the development of a national registry of convicted felons. It would require a gun dealer to conduct a check against a computer list of convicted felons before selling a handgun. The purpose of that background check is to make certain that those who are trying to purchase a handgun are not convicted felons.

Both of these proposals attempt to address a serious problem in our country. Unfortunately, both the Brady bill and the Staggers alternative have been mischaracterized by their respective opponents.

The Brady bill has been characterized by its opponents as the first step in an attempt to confiscate guns that Americans are constitutionally entitled to own. That simply misstates the case with respect to the Brady bill. On the other hand, the Staggers amendment is described as a "sham" by its opponents. "It won't work, and it is too costly, and is simply a ploy to the National Rifle Association," they say. That also misstates the case. Both the Brady and the Staggers proposals address a problem that I think needs addressing. The question before Congress is not whether to take action, but what action to take. The question is what can we do that might meet with some success.

My family has had some firsthand experience with crime. My mother was killed nearly 5 years ago. The person who was convicted of manslaughter in her death was accompanied on the night of the crime by two other persons. There were no guns involved in the crime, but persons with criminal records were involved.

When I reviewed their criminal records, it was the first time I had ever seen a police record. It was a sobering experience.

I discovered something in reviewing the criminal records that was very disturbing. One of the people that was involved in the crime that took my mother's life had a rather lengthy record. When I reviewed his criminal record, I found that he had been previously convicted of a felony and had been sentenced to serve time at the State penitentiary. He was subsequently paroled from the State penitentiary and sometime later was picked up for the same type of felony. On his second conviction, he was sentenced to probation. When I tried to find out how someone who had been found guilty of a second felony was given probation,

I was told that the judge was unaware of the previous conviction. I asked how on Earth could that happen, and I was told that it was not so unusual. The criminal records of Federal, State, and local governments were in terrible disarray I was told.

It was obvious to me from that one evaluation of several criminal records that this country was sadly deficient in its ability to keep records of, and keep track of convicted felons.

I plan today to support the Staggers substitute because I think that we need to create in this country a national registration of felons so that, not only for gun purchases, but for other multiple uses by law enforcement authorities, we will have an updated listing of convicted felons.

There simply is no excuse that we do not have ready access to the records of convicted felons for the purposes of screening gun purchases, or for the purposes of conducting a presentence investigation on someone who has been convicted of another crime.

Passage of the Staggers bill will force that result to occur, whereas passage of the Brady bill will not. That is the reason I have chosen to support the Staggers proposal.

I come from a State that has no waiting period for the purchase of guns, and yet has one of the lowest crime rates in the country. However, to serve in Congress I must live some of the time in one of the Nation's largest cities and, tragically, one of the bloodiest.

There is no question that we need to find an effective approach to prevent convicted felons from acquiring guns. But we need to do much more if we are to address this crime problem in a meaningful way.

We must put the career criminals in jail and keep them there. Two-thirds of the violent crime in America is committed by 8 percent of the criminals—these are the "career criminals." If we are going to start reversing the crime problem in America, we must expect our criminal justice system to put the career criminal in jail and keep them there.

Mr. BALLENGER. Mr. Chairman, I would like to voice my opposition to H.R. 7, the so-called Brady bill, and to express my support for the only logical alternative, H.R. 1412, introduced by Mr. STAGGERS.

In my view, gun control legislation infringes on the rights of law-abiding citizens. In this respect, there is no question that H.R. 1412, the Staggers bill, is the better of the two proposals. The Staggers bill would require an instantaneous background check for anyone attempting to purchase a handgun. Gun dealers would call a hotline for information on the purchaser, at which point the sale would be approved or denied. This manner of checking for felons would ensure that criminals do not obtain guns, without infringing on the rights of law-abiding citizens.

In fact, the Brady bill does not even require a background check. It merely allows law enforcement officials 7 days to carry out such a check should they deem it necessary. This not only penalizes law-abiding citizens, but it does not even ensure that a check is done. Technically, a felon could still obtain a gun. Further, this system allows room for discrimination by local law enforcement officials. The Staggers alternative allows neither.

Finally, H.R. 1412 would help establish a national standard of up-to-date criminal records to be used for the instant check. As required by the Omnibus Crime Control Act of 1990, the Justice Department has begun a $40 million initiative to update and automate criminal records. Approval of H.R. 1412 would direct a greater percentage of the funds toward completing the update more quickly—to ensure the establishment of the hotline within the 6 months required by the measure. I am convinced the State of North Carolina could meet this requirement through the police information network that already exists.

The Staggers bill is an effective, fair, and technically feasible alternative to the Brady bill that will actually stop felons from legally purchasing guns. I plan to support this legislation and to continue to push for the consideration of the President's anticrime legislation.

Mr. MILLER of Washington. I urge my colleagues to join me in supporting the Brady Handgun Violence Prevention Act, H.R. 7.

The Brady bill is very simple. In 1968, Congress passed the Gun Act, prohibiting convicts, fugitives, drug addicts, mental incompetents, illegal aliens, and those dishonorably discharged from possessing firearms.

There is, however, no Federal enforcement of this law. Convicts, fugitives, drug addicts, mental incompetents, illegal aliens and those dishonorably discharged are on the honor system. All you are required to do before purchasing a gun is fill out a form, and this form is not even reviewed before the sale.

Mr. Chairman, we can trace an illegal gun sale after the fact, but current Federal enforcement doesn't even try to prevent an illegal firearm sale.

The Brady bill simply gives law enforcement a 7-day waiting period during which they may enforce the existing law. That's all. Moreover, the Brady bill will sunset once an instantaneous, national system is available to more effectively enforce the same existing prohibitions.

The Brady bill's 7-day waiting period is a simple interim step between no enforcement of existing law and a national hotline system. It is simple common sense, and it deserves our support.

Let me conclude by reaffirming my belief in firm and certain punishment as the way to prevent violent crime. We must support stiffer and more uniform sentencing for those convicted of violent crimes or drug trafficking offenses involving the use or possession of a weapon. We must support the President's anticrime package. But let us pass the Brady bill and take at least a modest step to control handgun violence.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 7

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 "Brady Handgun Violence Prevention Act".

SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 7 days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Amendments Act of 1988, that available information does not in-

dicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) Paragraph (1) shall not be interpreted to require any action by a chief law enforcement officer which is not otherwise required.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that the transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made the statement, destroy the copy and any record containing information derived from the statement.

"(7) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(8) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(9) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.".

(b) HANDGUN DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(s) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to conduct engaged in 90 or more days after the date of the enactment of this Act.

The CHAIRMAN. No amendment to said substitute is in order except an amendment in the nature of a substitute printed in House Report 101-52 by, and if offered by, the gentleman from West Virginia [Mr. STAGGERS] or his designee, which shall be considered as read. Said amendment is not subject to amendment and shall be debatable for 1 hour, equally divided and controlled by the proponent of the amendment and a member opposed thereto.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, pursuant to the rule, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. STAGGERS: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Felon Handgun Purchase Prevention Act of 1991".

SEC. 2. FEDERAL FIREARMS LICENSEE REQUIRED TO CONTACT NATIONAL HOTLINE BEFORE TRANSFER OF HANDGUN TO NONLICENSEE.

(a) IN GENERAL.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

"(1)(1) Except as provided in paragraph (2) of this subsection, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a handgun from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the hotline established pursuant to section 3 of the Felon Handgun Purchase Prevention Act of 1991; and

"(B)(i) the hotline notifies the licensee that—

"(I) the information available to the hotline does not demonstrate that the receipt of a handgun by such other person would violate section 922 of this title; or

"(II) the hotline will not be able to respond to the licensee before the end of the next business day of the licensee; or

"(ii)(I) at least 24 hours have elapsed since the licensee first contacted the hotline with respect to the transfer; and

"(II) the hotline has not notified the licensee that the information available to the hotline demonstrates that the receipt of a handgun by such other person would violate such section 922.

"(2) Paragraph (1) shall not apply to a handgun transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) the Secretary has, under section 5812 of the Internal Revenue Code of 1986, approved the transfer;

"(C) telephone service is not provided to the premises where the licensee conducts business subject to such license, and is not generally available to the public in the area in which such premises are located;

"(D) the ability of the licensee to exchange information with the hotline referred to in paragraph (1) is impaired due to circumstances beyond the control of licensee; or

"(E) the licensee, pursuant to State law, notifies State law enforcement authorities of the proposed transfer, and such authorities approve the transfer or determine that receipt of a handgun by such other person would not violate State law.

"(3) If the hotline referred to in paragraph (1) of this subsection notifies the licensee that the information available to the hotline does not demonstrate that the receipt of a handgun by such other person would violate section 922 of this title, and the licensee transfers a handgun to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the hotline with respect to the transfer.

"(4) If the licensee knowingly transfers a handgun to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the hotline referred to in such paragraph (1) was operating and information was available to the hotline demonstrating that receipt of a handgun by such other person would violate section 922 of this title, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000. The Secretary's action under this paragraph may be reviewed as provided in paragraph (5) of this subsection.

"(5) Paragraphs (1), (2), and (3) of subsection (f) shall apply to any action taken by the Secretary under paragraph (4) of this subsection, in the same manner in which such paragraphs apply to actions taken by the Secretary under subsection (e).".

(b) HANDGUN DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(29) the term 'handgun' means—

"(A) a firearm (other than an antique firearm, or a curio or relic as the Secretary shall be regulation define) designed and intended to be fired by the use of a single hand; and

"(B) any combination of parts designed and intended to be assembled into a firearm described in subparagraph (A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 6-month period that begins on the date of the enactment of this Act.

SEC. 3. NATIONAL HOTLINE.

(a) ESTABLISHMENT OF THE HOTLINE.—

(1) IN GENERAL.—The Attorney General of the United States shall establish a telephone hotline that any licensee may contact for information on whether receipt of a handgun by a prospective transferee thereof would violate section 922 of title 18, United States Code.

(2) TOLL-FREE TELEPHONE NUMBER.—The Attorney General shall arrange for the hotline to operate by means of a telephone number which may be called without charge to the caller and by the use of which a call may be placed to the hotline throughout the United States.

(3) CONTINUOUS OPERATION.—The Attorney General shall take such steps as may be necessary to ensure that the hotline operates continuously.

(4) ACCURACY OF RESPONSES.—The Attorney General shall take such steps as may be necessary to ensure that not more than 2 percent of the initial telephone responses of the hotline contain erroneous determinations receipt of a handgun by a prospective handgun transferee would violate section 922 of title 18, United States Code.

(b) NOTIFICATION OF LICENSEES.—On establishment of the hotline under this section, the Attorney General shall notify each licensee of the existence and purpose of the hotline and the toll-free telephone number which may be used to contact the hotline.

(c) OPERATION OF THE HOTLINE.—

(1) REQUIREMENTS FOR PROVISION OF INFORMATION.—The hotline established under this section shall not provide information to any person who places a telephone call to the hotline with respect to any other person, unless—

(A) the hotline verifies, in accordance with regulations prescribed by the Attorney General, that the caller is a licensee; and

(B) the caller states—

(i) that such other person seeks to obtain a handgun from the caller;

(ii) the name and date of birth of such other person; and

(iii) the social security number of, or (if such other person has no such number) other identifying information about, such other person.

(2) INFORMATION TO BE PROVIDED.—

(A) IN GENERAL.—If the hotline receives a telephone call with respect to the transfer of a handgun to a person and the requirements of paragraph (1) of this subsection are met, the hotline shall, in accordance with subparagraph (B) of this paragraph—

(i) inform the caller whether the information available to the hotline demonstrates that the receipt of a handgun by the person would violate section 922 of title 18, United States Code; and

(ii) if such a receipt would not violate such section—

(I) assign a unique identification number to the transfer;

(II) provide the caller with the number; and

(III) destroy all records of the hotline with respect to the call (other than the identifying number and the date the call was received) and all records of the hotline relating to the person.

(B) TIMING.—

(i) PROMPT RESPONSE REQUIRED.—The hotline shall make every effort to provide to the caller the information required by subparagraph (A) immediately or by return telephone call without delay.

(ii) RULES GOVERNING DELAYED RESPONSES.—If the hotline is unable to comply with clause (i) due to circumstances beyond the control of the hotline, the hotline shall—

(I) advise the caller that the response of the hotline will be delayed and the reasons therefor, and of the probable length of the delay; and

(II) make every effort to provide the information required by subparagraph (A) within 24 hours after the caller first contacted the hotline with respect to the transfer.

(d) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other provision of law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a handgun would violate section 922 of title 18, United States Code, as may be necessary to enable the hotline established under this section to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the hotline.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as may be necessary to establish and operate the hotline in accordance with this section.

(e) CORRECTION OF ERRONEOUS HOTLINE INFORMATION.—If the hotline established under this section informs a caller of the hotline that receipt of a handgun by another person would violate section 922 of title 18, United States Code, such other person may request the Attorney General to provide such other person with the reasons therefor. Within 5 days after receipt of such a request, the Attorney General shall comply with the request. Such other person may submit to the Attorney General information which may correct, clarify, or supplement records of the hotline with respect to such other person. Within 5 days after receipt of such information, the Attorney General shall consider such information, investigate the matter further, and correct all erroneous Federal records relating to such other person and notify any Federal department or agency or any State that was the source of such erroneous records of such errors.

(f) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe such regulations as may be necessary to ensure the privacy and security of the information of the hotline established under this section.

(g) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO HANDGUNS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the hotline established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the hotline established under this section to establish any system for the registration of handguns, handgun owners, or handgun transactions or dispositions, except with respect to persons prohibited by section 922 of title 18, United States Code, from receiving a handgun.

(h) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer.

(2) OTHER TERMS.—The terms "licensed importer", "licensed manufacturer", "licensed dealer", and "handgun" shall have the meanings given such terms, respectively, by section 921(a) of title 18, United States Code.

(i) EFFECTIVE DATE.—This section shall take effect 6 months after the date of the enactment of this Act.

SEC. 4. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

(a) IN GENERAL.—Section 509 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended—

(1) in subsection (a) by striking "5 percent" and by inserting "10 percent"; and

(2) in subsection (b)—

(A) in paragraph (2) by striking the "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(4) the sharing of all of the above records with the United States Attorney General for use by the national hotline established under section 3 of the Felon Handgun Purchase Prevention Act of 1991.".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply with respect to any fiscal year beginning after the date of the enactment of this Act.

Mr. SCHUMER. Mr. Chairman, I request the 30 minutes in opposition to the amendment.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. SCHUMER. I am in opposition, Mr. Chairman.

The CHAIRMAN. The gentleman from New York [Mr. SCHUMER] will be recognized for 30 minutes.

Under the rule, the gentleman from West Virginia [Mr. STAGGERS] is recognized for 30 minutes.

Mr. STAGGERS. Mr. Chairman, I yield 15 minutes to the gentleman from Texas [Mr. FIELDS], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. SCHUMER. Mr. Chairman, I yield 15 minutes of my 30 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], and I ask unanimous consent that he may yield time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from West Virginia [Mr. STAGGERS] will be recognized for 15 minutes, the gentleman from New York [Mr. SCHUMER] will be recognized for 15 minutes, the gentleman from Texas [Mr. FIELDS] will be recognized for 15 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. STAGGERS].

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Mr. STAGGERS. Mr. Chairman, we all know that the problem of violent crime has increased across this country, and it is the role of Congress to address pressing social concerns which have so dramatically affected the value of our human lives. While we are charged with writing laws to combat this emotional and vexing problem, we must also be willing to put emotions aside to craft effective and substantive legislation. I say to my colleagues,

today you will have a choice between emotion and substance.

H.R. 7, the Brady bill, is an emotionally charged paper tiger designed to make one think that they are doing something to prevent criminals from buying handguns through licensed gun dealers. Yet it is anything but substantive. The Brady bill does not—I repeat—does not require that any criminal history background check be conducted on prospective purchasers. On the issue of criminal records data base, again Brady is all bark and no bite. Those who would oppose my bill would tell my colleagues that it is not workable because the national data base is not wholly in place, and that leaves my colleagues with the impression that they have some special set of records that they will check, and they do not.

Not only will my bill utilize the same records that Brady may or may not, but my bill provides the resources to improve the records and, at the same time, conduct more background checks than Brady and also faster than Brady. My opponents offer nothing but good intentions. In fact, they take away resources because police officers will spend time conducting background checks that they should spend protecting our streets.

Mr. Chairman, there is no end to the distortions streaming from the other side. In this hand I have a leaflet supplied by Handgun Control that claims that my bill costs a billion dollars. In this other hand I have a letter from the Congressional Budget Office to the gentleman from New York [Mr. SCHUMER] which states that my bill will cost between $5 and $10 million a year, and that includes implementation.

My bill is a simple alternative. It will use existent technology the same way that we use a credit card transaction or use a telephone. One will either be approved or disapproved. My alternative will accelerate the automation of criminal records. My alternative will not shift the costs to State and local governments which do not have the resources or the manpower.

Emotional issues are hard to deal with, and there are no real simple answers. A 7-day waiting period is a simplistic answer. In the same logic, if we would wait, say, 7 days to purchase cocaine, we could solve the drug problem. The same logic is that if in fact we said to journalists, "Wait 7 days before you file your stories," we would have no libel suits. Now I assume that if we could wait 7 days, the same logic, for our second amendment rights, the same logic would say we can wait 7 days for our first amendment rights. Obviously that is not right, and we would not accept that.

My alternative may not be perfect. Neither of the alternatives will end crime. I just believe that mine is an alternative, and I will reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I rise in reluctant opposition to the Staggers amendment, and I have to say that with all sincerity I would love to be able to stand up here and support the amendment of the gentleman from West Virginia. He is a good Member here. He is conscientious, and he puts this amendment forward in good faith. I just am concerned that it will not work. At least it will not work now.

Yes, Mr. Chairman, it may work in 5 or 10 years, and for that I think we have to give the gentleman from West Virginia [Mr. STAGGERS] credit for pushing beyond the envelope and trying to reach a reasonable conclusion. But the fact is the world has changed. The good guys now are outgunned by the bad guys. If any of my colleagues saw just a few years ago the shootout that the FBI had down in Maimi where literally the bad guys outgunned the FBI, the FBI has come now to change their procedures. Every agent has to wear a bullet-proof vest, carry a shotgun in a car. That was never the case before.

Mr. Chairman, that is how much the world has changed. Thousands of people, particularly police officers, every day are put at risk because of gun-toting parasites and criminals who would take their very lives.

So, the world really has changed, and now do we best address the problem of keeping people who are under a legal disability to get a gun? I would suggest that the Brady substitute, the Brady bill, is not a perfect solution either. That is clear. But in my estimation, if we could create a perfect world, at least from my vantage point we would have a combination. That is the Brady bill would go into effect until such time as we had a database available for an instant check under the Staggers substitute.

Mr. Chairman, that makes a great deal of sense. My friend, the gentleman from Pennsylvania [Mr. WELDON], offered that amendment to the Committee on Rules. It apparently made too much sense because it was not made in order today during the debate. But I think it makes a great deal of sense, solves a lot of problems in the implementation and in many ways saves lives while we are waiting for that to come into being.

Add to that, and I think without precedent we will see this, the crime bill that the President has proposed. Now somewhere along the legislative process the crime bill that the President asked this Congress to enact will be attached to whatever vehicle comes out of this House. I think that is good. I think it makes it a better bill. I think it makes it more likely the President will sign it.

Let us put that combination together where we can have the approach of the Brady bill, which will expire, sunset, when the Staggers provision becomes effective, as designated by the Attorney General, add the President's crime control package, and then we have got something, it seems to me, that does something, and I am very, very hopeful that that will be the case. Let us try to do a small step for trying to keep those kinds of weapons out of the hands of criminals. If we do that, we will have at least made a reasonable opportunity for our citizens to feel a little bit safer in the streets.

My colleagues talk about polls. I did a poll of my district; 79 percent of the people in my rural district support a 7-day waiting period.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I would like to speak directly to my colleagues who are feeling uneasy right now because of what they already know about the amendment of the gentleman from West Virginia [Mr. STAGGERS]. They know that Staggers is not instant, is not mandatory. Staggers is not anything, at least not for the foreseeable future, because the Office of Technology Assessment says that it will be as long as 5 years before it is implemented. My colleagues know that that means that in the meantime Staggers will accomplish absolutely nothing except for one thing. It kills the Brady amendment.

Two years ago, my colleagues, I knew these things, too. But I voted against Brady because I had always voted against gun control. I want to tell my colleagues that was the worst mistake of my life.

To those of my colleagues who are where I was 2 years ago I say, "I urge you not to make the same mistake I did. Twenty thousand Amercians have been killed by handguns since the Brady bill was killed 2 years ago. Think of how many more will be killed if there's another 5-year delay."

Mr. Chairman, my simple message is this: Save some lives. Vote against Staggers. Vote for Brady. Represent the people of the United States.

Mr. FIELDS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, Americans want something done about crime in this country. They want to stop criminals and their ability to buy weapons, and I know that both sides of this debate are sincere in the proposals that they are offering.

However, my colleagues, I do not believe that the Brady bill will work. It does not require a background check to find out if a criminal is trying to buy a gun, and even if the local police decide to do a local check under the Brady bill, it is going to take officers

off the street and put them in the station house.

However, Mr. Chairman, I believe the Staggers proposal will work. It requires a background check and sets up a computerized network to do it. It is proven effective in Virginia where, since 1989, they have stopped the ability of criminals to buy handguns 1,400 times.

As a new Member of Congress, I am here to do something of significance, and I believe that the proposal of the gentleman from West Virginia [Mr. STAGGERS] will in fact work and will stop criminals from buying weapons.

□ 1620

Mr. STAGGERS. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment in the nature of a substitute offered by my friend, the gentleman from West Virginia [Mr. STAGGERS]. The Staggers amendment mandates a check of criminal records before a licensed handgun dealer can sell a weapon. And, significantly, it addresses the fundamental issue that must be addressed if any background check system is to perform effectively: The underlying completeness and accuracy of the data base on which the check is being run. Despite rhetoric on all sides, this is the heart of the matter.

Under current law, the States are mandated to use 5 percent of their criminal justice assistance funds to update their records. It is clear from the current condition of those records in the 50 States that this approach and this mandate are insufficient. The Staggers substitute increases the portion of criminal justice assistance funds that must be devoted to this purpose to 10 percent.

Mr. Chairman, the Staggers substitute will be the incentive that is required to bring State criminal record systems into the computer age. I find it sadly strange that supercomputers are currently used for a variety of commercial purposes, but play almost no role in combating crime.

Updated systems throughout the Nation are certain to provide significant benefits in improving the administration of criminal justice across the board—not just in the area of handgun control—and there is no question in my mind that we must have accurate and complete criminal record systems if we are to achieve the goal that underlies the legislation before us today.

Mr. Chairman, as I noted in my opening statement during general debate, neither H.R. 7 nor the Staggers substitute is a panacea that will erase the menace of handguns in the possession of the criminal and the deranged. Far from it: Only a fraction of the handguns held by criminals are obtained through legitimate dealers. We must not fool ourselves or the American people by suggesting that this bill—or the substitute—will do more than it can. At best, any system of background checks through licensed dealers will be only a narrow and minor answer to handgun proliferation and misuse.

Moreover, let us not pretend that this vote is occurring in a vacuum. Only 3 weeks ago, the New York Times reported on the California experience with waiting periods. Despite its 14-day waiting period for handgun purchases, homicides have consistently risen year after year. Only last month, we watched on television with horror as a youth gang in Sacramento held hostages in an electronics store and then viciously shot a number of victims—with weapons obtained in strict compliance with the California waiting period.

In light of what we actually can achieve in this area, I believe the only responsible course for us is to enact legislation that will be effective in carrying out its purposes and will impose minimal restrictions on the rights of law abiding citizens. I believe that the Staggers amendment will accomplish both goals, and for that reason I urge the Members' support for the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I am pleased to rise in support of the Brady bill and in opposition to the Staggers amendment.

Mr. Chairman, during the past several months, I have spent countless hours considering my position on two of the 102d Congress' most controversial pieces of legislation. The debate and lobbying efforts on the Brady bill (H.R. 7) and the Staggers bill (H.R. 1412) was one of the most intense that I have witnessed during the past few years in Congress. The complexity and divisiveness of the issue was clearly demonstrated by the diverse responses of my constitutents. In the months since the Brady bill's introduction, my offices have received more than 3,000 opinions—by mail and telephone—on this legislation. Not surprisingly, the opinions were divided nearly 50–50. Nevertheless, the thoughts and concerns expressed by my constituents have significantly aided in formulating my position on the legislation, and I greatly appreciate the time and effort that was expended by my constituents in informing me of their views.

Some of the editorialists in my congressional district have criticized my caution and willingness to listen. These editorialists underplayed the compexities of this legislation and minimized the importance of a free and open debate on the issue. My decision on this measure was reached only after a great deal of consideration and analysis of the arguments presented by my constituents, by many experts, by responsible journalists, and by my colleagues in the Congress.

Although the system mandated under the STAGGERS proposal sounds good, it is simply not possible. Citing the inadequate status of the criminal records in many areas of our Nation, both the Attorney General and the Congressional Office of Technical Assistance have stated that such a system will not be feasible for at least 5 to 10 years. Our best sources of information are informing us that the STAGGERS proposal is simply not possible. I am also concerned, as is the FBI, that such a measure will cost billions of dollars what we cannot afford at this time and that existing police resources have already been stretched to their limit. However, I believe that an instant check system is the optimal approach to this problem and I will continue to seek ways to implement such a system in the future.

I have long been a strong supporter of the right of responsible citizens to own and to use legitimate firearms. However, we cannot simply ignore the alarming increase of handgun-related deaths and the violence that has been impacting upon our society. Drugs and crime are plagues that have grown to catastrophic proportions. Each day, more Americans are killed due to gun-related violence than were killed during all of Operation Desert Storm. Our police have been fighting a losing battle every time they take to the streets. Tales of tragedies that are caused by people who should never have been allowed to obtain a firearm have become all too common.

I recognize that the Brady bill is not the answer to all of our society's violent crime problems, and I am equally convinced that it is not a first step toward gun confiscation. I have consulted with many Members of Congress, the NRA and the Bradys, with law enforcement officals, and with knowledgeable representatives of both sides of the issue, and I have confidence that support for such extreme restrictions is nonexistent. I fully empathize with the concerns of our sportsmen, and the legitimate gun owners throughout my district. Their thoughts and apprehensions have weighed heavily throughout my entire decision-making process. But let us bear in mind that the responsible, law-abiding citizens have nothing to fear from this legislation. Moreover, the Brady bill's 7-day waiting period will have no consequence in our district due to New York State's already strict gun provisions and extensive waiting period.

Admittedly the Brady bill is not perfect, and it may not even have a significant impact on crime, but I believe that it is a reasonable stop-gap measure that we can undertake until an instantaneous criminal data system can be implemented. The Brady bill will be worthwhile if it saves even one life.

I would like to take this opportunity to thank all of my constituents who have contacted my office to inform me of their views on this important issue. The support that the public has demonstrated with regard to its concern for the escalating number of gun related murders in our Nation has been tremendous. With the support of our Nation's law enforcement personnel, the Brady bill should help us keep guns out of the hands of criminals and incompetents.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise today in opposition to the Staggers substitute, but also with respect for the alternative (H.R. 1412) presented by the gentleman from West Virginia [Mr. STAGGERS].

In assessing the differences between the Brady bill and the Staggers substitute, I think it is important to note what both have in common.

Both bills are efforts to keep felons, and inmates of mental institutions, from legally acquiring handguns. To facilitate accomplishment of those objectives both employ waiting periods—1 day for Staggers and 7 days for Brady.

And both share the premise that a computerized system of instantaneous background checks is, in the long run, the best means of achieving the desired goal.

Neither is perfect, as I think the proponents of each will concede, but both are well-intentioned.

The real question is—which will work better over the short term.

Proponents of H.R. 1412 argue that a nationwide hotline, capable of completing instant checks, can be up and running effectively in 6 months.

Advocates of the Brady bill disagree.

Given the state of criminal records in many States, we believe that a 7-day waiting period will give local police the opportunity to do suitable background checks.

Lets' be clear here. I strongly favor the development of an effective instant check system.

Two years ago, I supported the amendment of my good friend from Florida, Mr. MCCOLLUM, which required the Federal Government to begin work on an instant check system.

And I am pleased that, regardless of what happens here today, development of an instant check system will go forward.

At the same time, I do not think that the so-called instant-check hotline will be operating effectively in 6 months.

From what I have heard and read, 2 to 8 years is a better estimate of what it will take to fully computerize the criminal records of this Nation.

Another concern I have about the Staggers substitute is that it is not clear how much it will cost to put implementation of an instant check system on a crash course.

Given such considerations, I believe we should follow the old adage "better safe than sorry."

While we work to put an instant check system on-line, we will be giving law enforcement a better chance to check out potential handgun buyers.

If the Staggers substitute becomes law, there is far less assurance that background checks will be conducted simply because we will not have the system in place to do them.

And that would be unfortunate given the fact that 23,000 people died last year as a result of violence involving handguns—handguns that are sometimes purchased over-the-counter, in an entirely legal manner, by felons and other ineligibles who should not have easy access to such weapons.

Finally, as a representative from the State of Florida, I feel mandated to support the Brady bill.

Last year, the people of Florida overwhelmingly supported a 3-day waiting period for handgun purchases. The final vote was 85 percent in favor of a waiting period.

Mr. Chairman, I urge adoption of the Brady bill and rejection of the Staggers substitute.

Mr. FIELDS. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Staggers substitute, not for the obvious reasons, but as a woman. Let's take a look at what the Brady bill means to women, more often than not the victims of violent crimes.

Just recall the horror in Gainesville, FL, this past summer where a serial killer murdered four young women and one young man. Law-abiding citizens needed protection immediately. However, Gainesville has a 2-day waiting period. Acting on the Sheriff's advice, women went outside Gainesville where there wasn't a waiting period to buy firearms for self-protection.

If the Brady bill were law, who knows how many more young women would be dead in Gainesville because they had to wait to protect themselves. Under the Staggers bill, these women could have protected themselves when they needed protection, immediately—not 2 days later, or under the Brady bill, a full week later.

But there need not be a serial killer on the loose—women face these kinds of emergency self-protection situations frequently. Look at the case of Bonnie Elmasri, of Wisconsin, whose husband repeatedly threatened to kill her. She secured a restraining order. But because of the severity of her husband's threats, Bonnie didn't feel this was enough. She tried to purchase a firearm for self-defense, but was told there was a 2-day waiting period. The next day, Bonnie and her two sons, aged 17 and 3, were murdered by her husband.

In just this one instance, a 2-day waiting period cost three innocent citizens their lives, two of them children. Who knows how many more lives a full 7-day waiting period would cost. Yet, under the Staggers bill, Bonnie Elmasri and countless others like her would still be alive today. They would not be required to wait to protect themselves.

If we are serious about crime, let us pass a bill to control criminals, let us pass the Staggers substitute. I urge members not let their judgments be clouded by the antigun lobby's emotional banter.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, everyone is against crime, this small three letter word is the key to enacting any crime bill.

Last year's debate of the crime control bill demonstrated that most House Members support the following provisions: Expanding the use of capital punishment, reforming and limiting death row appeals, allowing police to use evidence in court discovered during "good faith" searches, and many other crime fighting proposals. Many of those that support these tough provisions don't support giving their local law enforcement a simple tool which is provided in the Brady bill, a 7-day waiting period. Many would-be supporters of the Brady bill, admit they do not really have a problem with the waiting period, believe it would not do any good.

How many of these same members who want perfection in the Brady bill, support the flawed Staggers' substitute, which requires a telephone background check within 24 hours? Most people agree that this system cannot be operational within the 6-months specified in the bill and so, the Staggers substitute is not really a workable option. In fact, it will take closer to 6 years to implement at tremendous cost. Now if the Staggers' substitute passes, we will have succeeded in authorizing a felon identification system that will not be able to identify felons because the records just aren't there. Brady bill opponents will have succeeded in killing the waiting period and, with it, a small chance for law enforcement to impede criminal possession of handguns.

Let's not kid ourselves here today! Capital punishment by itself is not going to cure the crime problem, it will help. The Brady bill by itself will not stop criminal activity with handguns, it will provide our law enforcement officials with a commonsense tool that could be helpful. In fact, individually any of these measures would cut criminal activity only marginally, but taken collectively, as part of a complete anticrime package, these measures could significantly reduce the rising crime rate in America.

In 1988, I became a supporter of the Brady bill for one simple reason: It made good commonsense. In Texas and 24 other States, anybody—yes, anybody—can walk into a gun shop, select a gun, show a picture ID, fill out an ATF 4473 Form, pay for it, and walk out with a gun—no questions asked by anyone. Just imagine it. In one-half

the States of this country the law enforcement officials are not given 7 minutes or 7 hours, much less 7 days, to determine if a handgun purchaser is either a convicted felon or an individual who has been adjudicated mentally incompetent by a court. It is a felony to lie when filing an ATF 4473 Form, but under the current system there is no method of determining whether an individual has in fact filed a truthful ATF 4473 Form.

Does anybody seriously believe that a felon will hesitate to file a false ATF 4473 Form if he can get a gun by doing so? Did you know that current Federal law prohibits gun ownership and possession by persons who unlawfully use or are addicted to drugs? What mechanism is currently there for determining if drug abusers are purchasing guns? We talk about the "war on drugs" but the fact remains that in 25 States any drug dealer or desperate drug addict can buy a handgun, no questions asked.

The Safe Streets Act of 1968 provided eight categories under which a person may be federally denied a gun of any kind. What good is it to have prohibitions if there is no effective way of implementing them? I think it's about time Congress gave somebody that authority. It is time we put some teeth in this law.

The National Rifle Association [NRA] says the waiting period won't do any good, and I have heard my colleagues and officials at the Justice Department echo this hollow claim. What evidence do they have to support this claim and how do they know a nationally implemented waiting period won't help fight crime? It is preventing criminals and other prohibited individuals from acquiring guns in States like Oregon, Washington, Indiana, and Tennessee. The NRA would rather the Members of Congress stick our heads in the sand and ignore this Nation's growing crime problem rather than take some positive action by way of passing the Brady bill.

I think the Brady bill will help fight crime but, it is neither a panacea for the crime problem nor is it going to keep all handguns from criminals; it should be accompanied later this session by a tough crime bill, but that is another debate.

Like many of my colleagues, I have heard from a number of my constituents asking me to vote against the Brady bill. Many of my constituents I have talked with don't really have a problem with the bill, but they see it as another foot in the door for total gun control and confiscation. I respect their point of view and I understand their concern that another right of the law-abiding citizen is being taken away. But I do not believe that I would be serving the best interest or representing the majority of the citizens of the 17th District of Texas by voting against the 7-day waiting period. Let's not dodge the bullet, I urge my colleagues to support the Brady bill and help law enforcement prevent criminal activity with handguns by giving them an opportunity to check the background of handgun purchasers.

I leave you with this simple question that I have asked myself and answered by supporting the Brady bill. Do you believe that it is a constitutionally guaranteed right for any mentally incompetent person, convicted felon, drug addict, or illegal alien to walk into a gun store, fill out a form, sign their name, and walk out with a handgun, with no questions even being asked by anyone?

Oppose Staggers; support Brady! The commonsense small step forward for crime control.

□ 1630

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in support of the Staggers amendment, modeled after the successful Virginia instant check system.

Each of us in this Chamber is concerned about rising violence in this country.

Each of us share a common goal—to keep guns out of the hands of criminals.

I believe that the Staggers amendment—modeled after Virginia's successful instant check system—deserves our support for several reasons.

First, Staggers provides a nationwide program. A criminal would not be able to slip from a dealer in one jurisdiction that does background checks, to another that does not.

Second, enactment of the Staggers amendment will result in the long overdue updating of the criminal data base.

Third, this amendment provides the resources that law enforcement needs to ensure that criminals are not able to legally purchase handguns.

Mr. Chairman, I believe that enactment of the Staggers amendment is the solution that we are all looking for. I urge my colleagues to support this amendment.

Mr. STAGGERS. Mr. Chairman, I yield 30 seconds to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I rise in opposition to the Brady bill. One-quarter of a century ago, Americans received the now we understand hollow promise that ammunition, record-keeping, and gun registration would stem, stop, or significantly reduce crime.

Crime is rampant, and we now have 20,000 gun control laws and regulations on the books in America. Gun control, gun registration, has not worked.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the Staggers substitute and in support of the Brady bill.

More than 10 years after President Reagan, his press secretary Jim Brady, a secret service agent, and a police officer were gravely wounded by a mentally unstable gunman using an illegally purchased handgun, Congress has the opportunity today to pass legislation that would have prevented this heinous assault.

The Brady Handgun Violence Prevention Act, more commonly known as the Brady bill, would require a 7-day waiting period nationwide for anyone attempting to purchase a handgun. The waiting period would allow local law enforcement authorities the opportunity to assess whether the purchaser is legally entitled to possess a handgun, and it would allow a cooling off period that would deter many crimes of passion.

In spite of the efforts made by Sarah Brady, an impassioned advocate whose husband was left permanently disabled by the attack on the President, the National Rifle Association has so far been successful in obstructing passage of this legislation, claiming that the Brady bill unconstitutionally intrudes upon the second amendment rights of gun owners. Yet the second amendment is no more a guarantee of an absolute right than the right to free speech or the right against unreasonable search and seizure. The Supreme Court has upheld the right of government to regulate speech, such as by requiring permits for demonstrations and not allowing people to yell fire in a crowded theater, and has ruled that random searches of cars at highway road blocks do not violate the fourth amendment. The second amendment is no different.

Acknowledging the prevailing national mood, the NRA no longer argues that backgrond checks would be unconstitutional. In fact, the NRA now supports the Staggers substitute as a legislative alternative to the Brady bill; both bills require background checks. The question which Congress will face is which would be more effective.

The Staggers substitute supported by the NRA, is modeled after Virginia's Instant Check Program, and would require that Attorney General Thornburgh establish such a system nationally within 6 months. But the Attorney General has stated previously that criminal records must be improved, updated, and computerized before this system would be operational; some States have no computerized records at all. Not only could this process take several years, but it will cost tens of millions of dollars to set up and operate. In addition, the Staggers amendment does not collect the information necessary to make an accurate check. The bill also provides no penalty for gun dealers who do not check to see if prospective purchasers are legally eligible to own handguns.

Firearms advocates have stated that the Brady bill will inconvenience le-

gitimate gunowners with no effect on crime, since criminals do not buy guns from dealers. While this would seem to be a reasonable presumption, it is not supported by the facts, which clearly demonstrate that criminals do indeed get guns from authorized gun dealers. In 1990, California, which has a 15-day waiting period, stopped 2,182 illegal sales, while the 7-day waiting period in Maryland prevented more than 1,300 illegal purchases. In New Jersey, which has required a background check for more than 20 years, more than 10,000 convicted fellons have been caught attempting to purchase handguns. A 1985 study by the Department of Justice found that 21 percent of criminals got their guns from dealers.

It is this sort of demonstrated effectiveness which has earned the Brady bill the support of every major law enforcement association. A recent Gallup Poll found that 95 percent of the American public supports the Brady bill, while a Time/CNN poll reported that 87 percent of gun owners support a 7-day waiting period. The Brady bill requires that an instant check system be established once it becomes feasible, but in the meantime, a 7-day waiting period will assure that handguns are sold only to those legally eligible to possess them. As President Reagan, lifetime NRA member and opponent of gun control, recently noted, the Brady bill is just common sense.

I urge Members to join me in opposition to the Staggers substitute and in support of the Brady bill.

Mr. FIELDS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I rise today in support of the Staggers substitute to H.R. 7, the Brady bill.

Neither piece of legislation adequately addresses the problem of denying criminals access to handguns. But these are the only choices we are given today.

I intend to vote for the Staggers substitute because I have concluded, after careful consideration, that its requirement for an instant, mandatory background check would be more likely to keep guns out of the hands of criminals than the Brady bill's 7-day waiting period with an optional background check.

The Brady bill has serious flaws, the most important of which is that it does not require a background check to be conducted. The Staggers substitute would require the establishment of a national toll-free number for handgun dealers to call for an instant, mandatory check before making a sale. The check could be conducted using existing technology, such as the touch-tone system used by merchants to verify credit care information.

Both pieces of legislation rely on criminal history records that, in some States, are so poorly kept that it would be difficult to verify in 7 minutes or in 7 days whether the prospective gun buyer is eligible to own a handgun. Staggers, however, increases the amount of Federal grants to law enforcement to update their records.

Supporters of the Brady bill say it won't impose additional costs on taxpayers. I disagree. It will cost local governments as much as $64 million annually to conduct a background check. That's not including the indeterminable costs of taking police out of their patrol cars and putting them at desks filling out forms. The National Association of Chiefs of Police conducted a poll recently of their 15,000 members—87 percent said they would have to take cops off the streets to do the necessary paperwork associated with the Brady bill.

The Staggers substitute will cost between $5 and $10 million a year to install and operate, according to the Congressional Budget Office. That's between $3.55 and $5.41 per check. Moreover, under the Staggers substitute, police will be where they belong, preventing and investigating crimes, instead of pushing papers in the police station.

Many law enforcement officers in the 12th District support the Staggers substitute, from police chiefs and sheriffs to cops on the beat. I agree with them that it is the better of the two alternatives we have before us today.

Mr. FIELDS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, now is the time to scrape away emotion. This is a very emotional debate with a very emotional symbol. I think it is absolutely tragic, what has happened to the Brady family, but now is the time to scrape away any emotion attached to that symbol and let us look at the facts.

Mr. Chairman, the American people want us to do something. They have an objective. The objective is for us to do something that keeps handguns out of the hands of criminals. So when one approaches this from a factual basis, let us look at what the two approaches do.

First of all, under Brady the only requirement is a referral to a police authority. There is no required check. There is no enhancement of the criminal data base in this country. There is no real appeal process if a handgun purchase is denied.

On the other hand, let us look at the facts of Staggers. It requires an instantaneous check nationwide. It does require enhancement of State and Federal records. There is an appeals process.

The question is, What works? Again, let us go to the facts. In California, which has a 15-day waiting period, the homicide rate has risen 126 percent, double the national average.

In New York City, one of the toughest gun control jurisdictions in the country, one-sixth of the Nation's armed robberies occur and more murders than 23 States combined.

On the other hand, let us look at what happens in Virginia, where there is an instantaneous check. Since 1989, there have been over 82,000 transactions. Those transactions have been processed in less than 2 minutes on average. Thirty-two fugitives have been apprehended.

Mr. Chairman, this is a system that works. It is a system that was implemented for less than $350,000.

Mr. SCHUMER. Mr. Chairman, might I inquire how much time all parties have remaining?

The CHAIRMAN pro tempore (Mr. SMITH of Iowa). The gentleman from Wisconsin [Mr. SENSENBRENNER] has 6 minutes remaining, the gentleman from Texas [Mr. FIELDS] has 11 minutes remaining, the gentleman from West Virginia [Mr. STAGGERS] has 9 minutes remaining, and the gentleman from New York [Mr. SCHUMER] has 10¾ minutes remaining.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES], the former chairman of the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, I thank the distinguished chairman of the subcommittee for yielding, and congratulate him for his work in bringing this bill to the floor.

Mr. Chairman, this is almost like deja vu. I heard the same arguments on the floor 2 years ago when I was chairman of the Subcommittee on Crime and the McCollum amendment was offered. The McCollum amendment, like the Staggers amendment, is a euphemism for destroying the Brady bill, a waiting period.

Mr. Chairman, the Department of Justice 2 years ago was directed to make a study. They did. Within 30 days of that study they were to implement a simultaneous record check that was reliable. They came back and said, "we cannot do it, because of the condition of the criminal record histories." We argued that on the floor.

Here we are, 2 years later, 20,000 more deaths, and we are arguing the same thing.

Now, I suppose that the folks that are listening to this debate and hearing all these statistics are wondering where the merits lie. Well, let us look at who is who. I support Brady and I am opposed to the Staggers amendment.

□ 1640

I happen to be with the police of this country and Sarah and Jim Brady.

Who is on the other side of the issue? Make no mistake about it. The NRA is on the other side of the issue. If the NRA believed that Staggers was going to do anything, they would not be supporting it, would they? Would the NRA and the gun lobby be inserting into today's Washington Post three full-page ads at a cost of tens of thousands of dollars in favor of Staggers if they thought that the Staggers amendment was going to do anything?

If Members are ready to buy into Staggers, Members are ready to buy the Brooklyn Bridge. And it is for sale

after today's vote if you vote and buy that lien that Staggers is going to do anything. Staggers is not going to do anything because we do not have the resources, nor do we have the time in the next 4 or 5 years to put all those criminal record histories into an automated system. It is impossible to suggest that in 6 months we are going to do that.

The Virginia experience is a good experience, but I made a case today where the Virginia experience unfortunately did not catch the sale of two guns, two Colt 45's, to John Claude Pierre Hill, who bought two guns, went to Philadelphia, even though he had a mental history, went to Philadelphia, killed one person, injured two others. And if the police in that community had been notified of that impending sale, he would have been denied those handguns. We could have saved that particular death.

I urge the Members to support Brady, vote against the Staggers amendment.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I would like to take this opportunity to express my full support for the Felon Handgun Purchase Prevention Act, H.R. 1412. Our colleague, Mr. Staggers, has drafted a proposal which would prevent felons from purchasing handguns, while still preserving our rights granted under the second amendment.

H.R. 1412 would require that all criminal records be computerized. Computerized criminal records is something which should already be a reality. Just a few days ago I had the opportunity to visit the FBI in Quantico. We did not discuss the need for computerized records. I strongly believe that law enforcement should be given every weapon available in their fight against crime, including instant and accurate access to criminal records. This Nation now has in place the National Crime Information Center [NCIC]. This system allows local, State, and Federal law enforcement agencies to obtain information on stolen items and warrants as well as other information. Each State is able to enter information onto the system for other States to review. The Staggers proposal would implement a similar system by requiring all criminal records to be updated and computerized.

Proponents of H.R. 7, the Brady bill, use emotional arguments to advance their bill, however, when one actually reads both proposals, it becomes clear that Congressman STAGGERS' bill places the burden on criminals and not on law-abiding citizens. H.R. 1412 is the only proposal which requires a criminal background check. The Staggers proposal is nondiscriminatory and does not place our second amendment rights under direct control of police across the Nation.

I have said time and time again that the best way to reduce crime is to have tougher judges and stiffer penalties. A waiting period for law-abiding citizens won't reduce crime. We all know criminals can obtain their weapons on the black market or through other criminal activity. Now my statements have been documented with a recent study by Lawrence Research of California. The American people, when offered an informed choice between H.R. 1412 and H.R. 7, overwhelmingly chose the proposal put forward by Mr. STAGGERS, H.R. 1412.

As a native and representative of the great State of Oklahoma, I was raised with weapons and taught at an early age how to use these weapons responsibly. The vast majority of Americans who own weapons do so because they are sportsmen, hunters, and they have a right and duty to protect themselves and their family.

To tax these individuals with a 7-day waiting period is the same as telling criminals that they have a 7-day hunting period on America's innocent families. Mr. Chairman, I find this proposal an outrage and an assault on common sense.

Our Nation's Capital represents a large experiment which proves year after tragic year that gun control does not work. People who do not know the difference between right and wrong will continue to assault law-abiding individuals with a variety of weapons. Virtually every individual in my district owns a firearm and, Mr. Chairman, our murder and crime rate is far, far below that experienced right here in our great Capital City.

Many people have said this vote will measure the control either the National Rifle Association or handgun control has over the men and women in the U.S. Congress. I find this argument silly. In today's edition, the Washington Post suggested the NRA is paying for votes. I do not find this comment silly, I find it repulsive. The only thing this vote will measure is the degree of common sense in the U.S. House of Representatives.

I urge my colleagues not to vote on their emotions, but to vote on the facts and use common sense. The primary fact we must all keep in mind, is that a 7-day waiting period only reduces the chances of a thief getting shot.

Mr. Chairman, thank you for the opportunity to address this critical issue. I commend my colleague Mr. STAGGERS on his fine proposal.

Mr. FIELDS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I thank the gentleman for yielding this time to me. Mr. Chairman, I rise in support of H.R. 1412, the Staggers amendment, and in opposition to H.R. 7, the Brady bill.

Brady bill proponents place the responsibility for increased violence in America on an inanimate object, the handgun. Another common inanimate object, the automobile kills twice as many Americans every year than handguns, and can make an excellent murder weapon. Should we impose a waiting period on the purchase of a car? Baseball bats killed 29 people in the city of Chicago in 1989. Should we require a waiting period on baseball bats?

Kitchen knives, fireplace pokers, and many other inanimate objects are also used in violent crimes in this country. Should we require a waiting period on these objects that have been or could be used in violent crime?

Alcohol and tobacco kill hundreds of thousands of Americans yearly, should we require a waiting period on alcohol and tobacco? The answer to all these questions, of course, is no.

If we are to be intellectually honest in this debate, then common sense tells us we must also answer no to the Brady bill. The Brady bill will do little or nothing to reduce crime in America. The 7-day waiting period is nothing more than feel good legislation which will not keep handguns away from violent criminals.

If we want to conduct background checks on people purchasing handguns, then the Staggers amendment is the only legislation which requires a background check.

Finally, Mr. Chairman, let us not blame the handgun, an inanimate object, because a small percentage of irresponsible people choose to use a handgun as an instrument of violence. Let us not deny law-abiding citizens the right to purchase a handgun for lawful uses.

I urge my colleagues to support the Staggers amendment.

There are many reasons for my opposition to the Brady bill. But one of the most compelling reasons is the saving of innocent lives.

The proponents of the Brady bill continue to argue that waiting periods such as the Brady bill will save lives. But waiting periods can cost lives as well, as witnessed by the tragic death this past March 5 of Bonnie Elmasri of Wauwatosa, WI.

Bonnie sought to buy a handgun to protect herself from her estranged husband. She applied to purchase a handgun but had to wait 48 hours before picking it up.

Unfortunately, Bonnie was never able to pick up her handgun, because she was murdered the very next day by an abusive husband who the police were well aware of.

The proponents of the Brady bill have claimed that if the Brady bill would have been in effect, John Hinckley would not have been able to pur-

chase the handgun that left Jim Brady permanently injured.

However, this is not the case and we all know it. Hinckley was a legal resident of Texas with no criminal record or history of mental illness. In fact, he had purchased the handguns 6 months prior to the shooting. So, the Brady bill proponents' argument in favor of a cooling off period does not hold water either.

Moreover, the cooling off period doesn't apply when a State has an instantaneous check, such as is included in the Staggers amendment. In other words when a State does develop an instant check program, there is no longer a cooling off period.

Patrick Purdy, the "Stockton killer," purchased the handgun that took his own life under California's 15-day waiting period. Purdy had been arrested on felony charges on seven different occasions, but in every case, the charges were reduced to misdemeanors under plea bargain agreements. Had he been charged and convicted of one of the felony counts, Purdy would not have been able to purchase his handgun legally. Let's face it, in the case of Patrick Purdy, it was an overly lenient criminal justice system that failed his school-aged victims.

Finally, the proponents of the Brady bill continue to assert that every law enforcement organization in America supports the Brady bill. However, in a poll conducted by the National Association of Chiefs of Police this year, 84.6 percent of those responding did not believe a 7-day waiting period would enable them to determine if someone has a criminal record or is mentally sound.

In addition, 73.3 percent believed the 7-day waiting period would have no effect on a criminal's ability to purchase a handgun. Furthermore, 92 percent of those responding believed criminals received weapons from illegal sources anyway.

Do we really believe a person with a criminal record is going to walk into a gun store and fill out an application to purchase a handgun? Of course not. Criminals will continue to purchase their handguns through illegal sources such as straw purchasers or the black market.

Mr. Chairman, speaking as one who has gone through the trauma of a gunshot wound, I believe that the Staggers amendment is a much more effective way of preventing criminals from purchasing handguns through legal sources.

We should support the Staggers amendment so States will be required to update their criminal records and allow law-abiding citizens the right to purchase a handgun without waiting 7 days.

I urge my colleagues to support the Staggers amendment and reject the feel good Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Utah, [Mr. OWENS].

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I rise in opposition to the Staggers amendment.

Mr. Chairman, I rise in opposition to the Staggers amendment. I am opposed to this substitute for these reasons:

First, the amendment requires the implementation of an instant background check system for prospective handgun purchases within 6 months of enactment. The Attorney General has stated that it will take years and millions of dollars before State and Federal criminal history records are adequately prepared for an immediate and accurate instant check. Given these facts, it is clear that the point-of-purchase check system envisioned by the Staggers amendment is not feasible in the foreseeable future.

Furthermore, the amendment is rife with exceptions that would allow dealers to make handgun sales despite having obtained little or no background information from the purchaser.

Finally, Mr. Chairman, I oppose the Staggers substitute because under the parliamentary process in effect today, approval of the substitute would effectively kill the Brady bill. I have supported the Brady bill from its inception, voted for it in 1988, and believe it to be a simple, sensible, and rational piece of public safety legislation.

The Brady bill, if enacted into law, and I devotedly hope that is the case, would not cease all the senseless violence attributed to handguns. But, a 7-day waiting period before taking possession of a handgun is a reasonable step in the right direction and will curtail some of this violence.

Every congressional district, my own Third District in Kentucky included, has known the horror of handgun violence. The Brady bill can stop a measure of this violence, and I strongly urge my colleagues to join me in opposing Staggers and supporting Brady.

Mr. OWENS of Utah. Mr. Chairman, I come from the West, where the second amendment is held nearly sacred and inviolate, but it is not inconsistent with that amendment to vote for the Brady bill. I would prefer an instantaneous background check to a 7-day waiting period, and I support the NRA in its efforts to achieve this end. But we passed that 2 years ago with the McCollum amendment, just assuming we could accomplish it.

I do favor the opportunity to check out the criminality of everyone who buys a handgun. We have that in the law now.

The Brady bill is an interim opportunity to provide some protection until the NRA's goals can be implemented. They will be implemented at such time as we can computerize the criminal system, the criminal records in this country.

The Brady bill, Mr. Chairman, is not gun control. It is cirminal control.

Mr. FIELDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY.]

Mr. ARMEY. Mr. Chairman, I rise in support of the amendment and in opposition to H.R. 7. This bill has several major flaws that compel me to oppose it. In looking for ways to stem the tide of violent crime, we must look at the facts instead of getting swept in the tide of emotional appeals.

The Brady bill provides for a 7-day waiting period with an optional, not mandatory background check. It makes gun ownership contingent on approval from a local law enforcement official without establishing the criteria for such approval. Furthermore, in a contradictory move, the bill exempts some States from the 7-day waiting period requirement and thereby undercuts any argument that the legislation is designed to prevent "crimes of passion" or suicides.

But perhaps more fundamentally, this legislation attacks the wrong aspect of the criminal use of firearms. Convincing evidence, based on studies of criminals and prison populations, indicates that criminals have no need to attempt to purchase handguns legally, and overwhelmingly they do not. Instead, they obtain these weapons through second hand channels and through theft.

In light of these contradictory provisions, it is clear that the Brady Bill is a precursor to outright gun prohibition by those who oppose firearms. This bill would hinder citizens' right to immediate self-defense, and could deny many citizens their constitutional right altogether.

Reason dictates that Congress should instead enact the Staggers substitute. The amendment mandates an instant computerized background check for anyone purchasing a gun. It relies on modern technology to prevent dangerous individuals from purchasing guns, while at the same time protecting rights of legitimate gun owners. A very similar system is being used in Virginia today.

Staggers keeps the police on the beat where they belong, not behind a desk bogged down in mounds of paperwork. It creates a uniform policy which prevents gunowners' fates from being decided by local "gun czars" and also will eliminate the prospects that the second amendment rights of citizens will be usurped.

Mr. FIELDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Chairman, I rise in strong opposition to the Brady bill.

Mr. Chairman, This foolish and misguided bill will not prevent a single criminal who wants a handgun from getting one.

The fact of the matter is—and is a fact—criminals almost always obtain their weapons by either stealing them or purchasing them illegally.

Neither of these bills will change that.

As a result, we know what the Brady bill won't do. It would not stop criminals from getting handguns.

Now let me tell you what the Brady bill will do.

It will create a new layer of bureaucracy that will burden law enforcement and the American taxpayer.

It will prevent law-abiding Americans from exercising their second amendment rights to defend themselves in those emergency situations where one might need to purchase a handgun in less than 7 days.

It will permit local officials opposed to an armed citizenry to indefinitely delay—not just for 7 seven days, but for as long as that official deems necessary—a law-abiding citizen's legitimate purchase of a handgun—puttng our second amendment rights at the mercy of local antigun bureaucrats.

It will establish a dangerous precedent undermining our second amendment rights, making it easier to pass even more oppressive gun control laws in the future.

Those are the facts. It may be more comfortable to believe the rhetoric of the gun control lobby, but the simple truth is: aggressive prosecutors, tough judges, long sentences, more and bigger jails to hold the criminals we keep in jail, and a no-nonsense death penalty will do far more to fight crime than passing gun control laws that disarm the American people and needlessly limit their ability to defend themselves.

Mr. FIELDS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, neither program really addresses the problem of stopping crime.

I have been shot at over 1,000 times. I have been hit twice, once in combat and a second time as a civilian. Neither time is fun. So there is no one who wants to stop crime more than I do.

California has a 15-day waiting period today. Crime has gone up 178 percent. My colleague from New York said he was robbed in Washington, DC. DC has got one of the most stringent mandatory antigun programs that we have and still crime has gone up over 180 percent.

I am in strong support of Staggers and against Brady.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I rise in strong support of the Brady bill and against the Staggers amendment.

Mr. Chairman, the Brady bill is a modest step to prevent convicted or potential criminals from easily obtaining handguns. It is not a prohibition on the right of indivduals is obtain handguns or keep them for legitimate self-protection or sporting purposes. If it were, I would oppose it. It is not, either, a panacea for criminal behavior nor even for criminal misue of weapons. It will not prevent many crimes.

But it will prevent some: Crimes of passion, where a spouse, in a fit of rage, quickly purchases a handgun and murders his mate; suicides of confused teenagers; perhaps crimes like that of John Hinckley against our President and against Jim Brady, where the defendant, without fear, could purchase his weapon directly across the counter in another State.

Brady will save lives. It will prevent purchases by convicted felons. New Jersey has caught over 10,000 felons trying illegally to purchase handguns. My own State of Illinois has denied 2,920 applicants and revoked 1,867 handgun permits due to felony convictions in 1990 alone. Brady will work to deter crime and will help in the war on criminal violence.

Yes, Brady will cause a little inconvenience. But waiting 7 days for a handgun to be delivered, it seems to me, is a very small price to pay to preserve a life. Almost every member of the NRA I have talked to will admit that the inconvenience is nonconsequential. None of us should believe that the NRA actually speaks for all of its members. Many say Brady is acceptable.

Obviously, there are other, more effective ways to end violent crime. Mandatory additional sentences for crimes committed with any deadly weapon is a very effective way, an approach I favored with my own legislation when I served in the Illinois General Assembly. But this is a matter, primarily for State law, not Federal. Our contribution can be to make handguns less easy to obtain quickly.

For those who share my concern that we might be leading with Brady toward taking away the citizen's right to own a handgun for legitimate purposes, let me say that Brady reaffirms that right. It does so by clearly stating that the 7-day waiting period is waived for individuals who can show a need for obtaining weapons earlier—individuals who are actually threatened.

Finally, Mr. Chairman, virtually every major national law enforcement organization supports the Brady legislation. Not only do they support Brady, but they oppose the Staggers amendment, because they recognize it for what it is—a naked attempt to defeat Brady that is redundant, unworkable, full of loopholes and is without any enforcement mechanism.

No, Mr. Chairman, the American people are overwhelmingly supportive of strong handgun control measures. Poll after poll shows the public support for Brady to be in the 70 percent range. It is time to shake of the special interests, stand for what we think is right, and support Brady. Presidents Nixon, Ford, Carter, and most recently Ronald Reagan have urged us to stand up and be counted. Let us have the courage to do what we know to be right and in the interest of the American people. Count me for Brady and against Staggers, Mr. Chairman.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ORTIZ], a former sheriff.

Mr. ORTIZ. Mr. Chairman, I rise today in support of the Staggers amendment which will be offered today as a substitute to H.R. 7, the Brady bill.

The mandatory instantaneous check system required by the amendment will provide a reasonable, effective, and prompt method for providing a criminal check on each prospective purchaser of a handgun.

We all would like to ensure that guns do not fall into the hands of those who would use them for violent or criminal purposes.

The question is what method will we choose to achieve this end.

The Brady bill will do much to restrict the rights of the law-abiding citizens of this Nation while doing little to address the problem at hand.

H.R. 7 would implement a "nonmandatory" seven day background check by the local law enforcement agency, thereby diverting the time and energy of local law enforcement officers from protecting the public to performing a time-intensive task without the resources necessary to make it effective.

The measure will do nothing to address the national need to better identify in a rapid fashion those people who should not be able to purchase a handgun, but will instead force police to divert their valuable time to investigate innocent, law-abiding citizens without just cause.

As a former sheriff, I know how criminals purchase and obtain their guns, and I know how overburdened local law enforcement agencies may be.

To require these agencies to shoulder the time and financial costs of implementing an ineffective waiting period measure would be an affront to both police and the law-abiding members of the community for which they serve.

A quick examination of the municipalities with waiting period laws and strict gun control measures tells us that the Brady approach isn't the answer, for these are the same communities that continue to have growing homicide and violent crime rates.

What we do need is an effective and up-to-date system to retrieve the records of felons—and that is what the Staggers amendment will provide.

The measure will require the Justice Department to step up its efforts to update and automate its criminal history records.

By creating an up-to-date nationwide computerized record base, we may do what we intend—provide a quick and fair tool for denying weapons to those whose criminal records would prohibit them from legally purchasing such a weapon.

It will be a required check and it will minimize the time and effort expended by local law enforcement while providing an effective means for providing a criminal check.

Brady, on the other hand, will simply create a restrictive, ineffective, and time-consuming procedure that will limit the rights of our citizenry without doing anything to address the real issues involved.

To those who remark that the instant check system will cost too much time and money to implement, that $5 to $10 million a year is too much for the Federal Government to shoulder in the name of protecting its people, I say this: Our Nation just spent close to $50 billion to defend the sanctity of Kuwait—we should be focusing the same

dedication and the same resources on the wars that are being waged on our city streets.

We need to be able to pinpoint criminals, and we need to be able to do so in a matter of minutes, not days. Support the Staggers amendment.

Instead of wasting our energy and resources by harassing law-abiding citizens with restrictive procedures, we should be working to identify felons and close the loopholes in existing laws that allow gunrunners and drug dealers to control our streets. We need to work on identifying and incarcerating the criminals, not harassing our Nation's citizenry.

I ask your support for the Staggers amendment, and your opposition to H.R. 7.

□ 1650

Mr. FIELDS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM]

Mr. MCCOLLUM. Mr. Chairman, I have been on the Crime Subcommittee of the House for a number of years now and during that time I have had the occasion to debate and listen to hearings on this issue over many, many months.

I happened to be the author of a substitute amendment to the Brady bill back about 3 years ago now. That amendment required the Attorney General to develop and begin the implementation of a system for the immediate and accurate identification of felons who attempted to purchase handguns. In the process of that, the Attorney General made quite an extensive report and study. What he concluded was ultimately that we need to get to a fingerprint digital type of check with an instantaneous system beginning at the point of purchase, and that would be the ideal.

Since that is very expensive and is going to take some time, he said the first thing we need to do is to get our records in order, and he asked for, and he got $40 million in money in an authorization over 3 years to begin to update those records. We also applied some constrictions on State grant moneys to get them to get their records started.

But he said that the second thing that we need to do, and the second step, is to put in a point-of-purchase telephone system whereby when somebody goes to buy a gun from a gun dealer, they check to see if their name is in the system as a felon, whatever is existing on the records. That is all the Staggers amendment does is take the second stage of what the Attorney General recommends and wants to implement and moves it forward now.

It is the responsible thing to do. Not the Brady bill. It is the responsible thing to do this, because no matter what the records system is and how you are working with it, Brady is going to be using the same system Staggers is. You do not need 7 days to do what can be done in 7 minutes or a few hours.

In other words, what is going to happen is you are going to have about $5 to $10 million requirement under Staggers for 100 telephone operators who are going to take calls from the dealers who are then going to find out what the NCIC nationwide system has in their records for the name of a person who is called in. That is all that is going to be done under Brady, because that is all anybody can do.

The records are not any better for Brady for a 7-day check than they are for Staggers for a telephone instant check today, and they are not going to be any better, although we need to improve them.

So if Brady is unnecesary, why are we doing it? Why are we taking away the right of citizens for 7 days to get a handgun when they might be under threat for their lives like the University of Florida students or somebody else in another given case? Why are we doing something that is unnecessary?

I suggest to the Members that there is no reason to do that, because you can do in 1 day, you can do in a few hours what Brady would do in 7 days, that is all that is necessary, and that is the bottom line.

A very inexpensive thing is Staggers, not some things I have been hearing debated out here in multimillion dollars over time. We need to get to that, and we do not need to be taking the rights away of people as has been suggested here.

I would submit to the Members that we move on about the business of adopting Staggers now, and that we put in place a system that is the second stage of what the Attorney General has recommended under the McCollum amendment, and put it in place now.

I urge the adoption of the Staggers amendment.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in opposition to H.R. 1412, the Staggers amendment, and in strong support of the Brady Handgun Protection Act, H.R. 7.

Mr. Chairman, I represent south central Los Angeles. Drugs and guns are literally destroying our neighborhoods. Children are dying caught in the crossfire of driveby shootings and gang warfare. The numbers are escalating every day.

I invite the opponents of the Brady bill to come to my district and explain themselves to the innocent mothers, fathers, sisters, and brothers of the victims.

Today it is my district. Tomorrow it will be yours.

I am tired of the specious, selfish arguments fostered by the NRA and its allies. Guns are not toys. It is just as reasonable to ask potential owners to wait a week for their guns as it is to ask store owners for operating licenses. The minor inconveniences of this legislation can only deter the criminal. Everyone agrees that an instant check system, if viable, would improve our ability to keep guns out of the wrong hands.

But the fact of the matter is it will take 3 to 5 years, not 6 months as supporters of the Staggers bill suggested, for the Department of Justice to implement an effective national computerized instant check system.

What is America supposed to do in the meantime?

This is truly a matter of life and death. Please support the Brady bill and oppose Staggers.

Mr. SCHUMER. Mr. Chairman, I yield 15 seconds to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I rise to speak against Staggers and to urge my colleagues to vote for the Brady bill.

The Brady bill is a necessary step to stop the killing in our homes, shops, schools, and streets.

My colleagues, we shall cast our vote and lot with Jim and Sarah Brady. Vote for the American people. Vote for the American people, and not for the NRA.

Mr. SCHUMER. Mr. Chairman, I yield 15 seconds to the distinguished gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I rise in opposition to the Staggers amendment.

If passed, it will not be implemented for a number of years. It will cost States up to $9 million more a year. It opens the door for lawsuits against the Federal Government. In short, it is a misguided missile. It is old wine in new bottles.

To advocate for it is to be a great spokesperson for a bad idea. Thank God for Jim Brady and shame on the NRA.

Mr. STAGGERS. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I think it is fitting that we debate this issue in a town that Mark Russell said you can drive for 2 hours in and never leave the scene of a crime.

We have got some serious problem in America, and we are debating how best to solve them. We have a choice between two offerings, the Brady bill and the Staggers substitute.

Mr. Chairman, I rise in support of the Staggers substitute.

I have heard anecdotal evidence today to support the Brady bill. Anecdotal evidence, it is said in this case, if we had only waited and not sold this gun to this person, somebody would be alive today. I can give the Members an-

ecdotal on the other side. I can tell a story about a man and woman in Raceland, LA, in my district, who woke up one night and found a burglar in their bedroom. As they turned on the light, the burglar began shooting at them. As bullets slammed into the back of the bed where they were sleeping, the woman reached over her husband and grabbed a pistol out of the drawer that they kept for self-defense. The woman grabbed the pistol and shot the burglar and saved their lives.

I wonder maybe if we had a 7-day waiting period if she had reached in that drawer instead and found a tag that says, "You have got 3 more days to go before you can buy your weapon for self-defense."

We can draw anecdotal evidence one way or the other. That will not answer the question for us.

I have heard that we have got to worry about time constraints, that the data base will not be ready soon enough for us for the Staggers to work.

Let me tell the Members something. The same data base is going to be relied upon whether we pass Brady or Staggers, the same informational base. If the Members are worried about time, that is not a good way to choose between these two approaches.

I have heard that we need to worry about cost. And what will it cost to put in place the Staggers bill for immediate checks? Let me point out to the Members that we are talking about a second-amendment right under the Constitution.

Do we worry about cost when we worry about the right to free speech? Do we worry about cost when we enforce the right to assemble and protest? We have to hire police to guard protesters and to protect them. Do we worry about that, or do we guarantee that right to protest under the Constitution?

We are talking about a second-amendment right that is guaranteed in the Constitution here. Should we worry about cost? Of course. But shall we say the second amendment ought to be discarded because of cost? Of course not.

Finally, I think we need to look at this issue in terms of its effects. Will Brady have a better effect than Staggers? Will Brady get what we want? Do we need to pass Brady to get what we want? Will Staggers get what we want?

I suggest to the Members that what you can do in 7 days we ought to do in 7 minutes.

□ 1700

What we can do in 7 days to make a criminal check, we ought to insist be done in that first 24 hours. That is what Staggers does. It says that that database must be completed; but more importantly, we ought to start relying on it and putting in place the call system so we can check immediately upon whether or not someone is qualified or disqualified to have a pistol or weapon in our society.

Brady, 7 days. Staggers, immediately. That is the choice. I suggest to Members if we can get what we want, and what we all want out of an immediate check under Staggers, why wait 7 days? Why impinge, infringe upon legitimate individuals who want to purchase a weapon, when we can get what we want with an immediate check without infringing upon the constitutional right under the second amendment of the Constitution. We swore our duty to protect and defend that Constitution. If we cannot accomplish our goals without infringing upon or abridging that Constitution, that is our obligation.

That is why we ought to adopt the Staggers amendment.

Mr. SCHUMER. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, there is a very good reason why every major police organization across this country opposes the Staggers substitute and favors the Brady bill. It is the same reason that the NRA opposes the Brady bill, because they know that the people who want to buy handguns for illegitimate purposes are not likely to leave information on themselves for the police to look over for 7 days. Nor are people who temporarily have resorted to violence because they have snapped under stress likely to be in the same mental condition 7 days later.

Therefore, yes, the gun dealers and the gun manufacturers of America are likely to lose some of their profits. However, the American people are going to gain thousands of innocent lives that are being lost today.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in strong support of the Staggers substitute and urge all my colleagues to support it as well.

Mr. Chairman, there is no doubt the crime problem in this country has reached epidemic proportions. We see it every day, especially here in our Nation's Capital—citizens dying, frequently at the hands of a gun-toting criminal. Yes, Mr. Chairman, something does need to be done to stop this epidemic.

This Congress must make a concerted effort to pass a comprehensive crime control package to heal the wounds of crime. Gun control legislation is just one answer to the crime problem, though it is not a panacea like some would have us to believe. We all see the need for such legislation.

The problem arises when we must determine the best way to keep guns out of the hands of criminals without restricting the rights of law-abiding citizens to own a gun. In my judgment, the best way to accomplish this is by implementing the Staggers substitute, which requires an instantaneous check at the point of purchase.

The Staggers substitute would require a criminal history background check on all handgun purchases; this mandated requirement is a necessity if we are to have effective gun control legislation. At the same time, the Staggers substitute would allow for an appeals process should a question arise regarding a handgun purchase. It is also important to note that this system would not require local police to perform a discretionary check, using valuable police hours to perform endless paperwork and costing many municipalities time and resources.

Mr. Chairman, the instantaneous check is a proven concept that has worked effectively in States such as Virginia, Delaware, and Florida. I feel it will work nationally and will have a greater impact on gun violence than will the Brady bill.

Mr. Chairman, the Staggers substitute will not stop crime altogether, but it is the best alternative to take a large bite out of the escalating problem of crime. I urge a "yea" vote on the Staggers substitute.

Mr. SLATTERY. Mr. Chairman, I will vote today for the substitute to the Brady bill offered by Representative HARLEY STAGGERS of West Virginia. In 1988, I supported an amendment offered by Representative BILL MCCOLLUM that replaced the Brady bill language in that year's omnibus anti-illegal-drug legislation, with a requirement that the Justice Department develop and send to Congress a proposal for a system gun dealers could use to identify felons who are ineligible to own handguns.

As a result, the Justice Department issued two reports on systems for identifying felons who attempt to purchase firearms. Among a variety of possible, but not currently feasible, options, the Justice Department suggested point-of-sale approval of handgun sales through a telephone check. State officials would use computer terminals tied into their State records and into the Federal networks to determine whether there was an arrest record either within or out of State for someone with the name, gender, race, and date of birth of the prospective gun purchaser. The Justice Department estimated the startup cost of the system as $36 to $44 million and annual operating costs at $53 to $70 million.

Currently, 20 States and the District of Columbia—covering 55 percent of the Nation's population—stipulate that a prepurchase criminal history check be made of anyone who wishes to buy a handgun. Four of these States and Washington, DC, include the purchase of long guns in this requirement. These checks are done during a waiting period that ranges from 2 days to 6 months. Two States without waiting periods do a criminal history check only after the purchase is made. Twenty-eight States, including Kansas, currently require no criminal history check for firearm purchases.

There are an estimated 7.5 million retail firearms sales annually. During hunting season, peak-day sales may reach 50,000 firearms. There are an estimated 270,000 licensed gun dealers. It is estimated that 60 to 70 percent of these dealers are not gun stores, as such, but collect and deal on a small scale, such as hobbyists and collectors. They account for an estimated 20 to 25 percent of all firearm sales.

Among States surveyed by the Justice Department, an average of about one-third of criminal history records were not automated; at the FBI the proportion is about one-half.

The automation of young, active offenders, however, is much more extensive than the records of older, less active offenders. Convictions, as well as other final dispositions, are often not reported to the State central repository or to the FBI even when an automated record exists of the individual's arrest. For example, Kansas has a criminal history database with 100 percent of record subjects automated in the master name index, but only 77 percent of the arrests in the past 5 years have final dispositions recorded. However, only 3 percent of the files themselves are fully automated—15,000 subjects, with another 505,000 maintained manually. A prior manual record is not automatically automated if the subject is rearrested.

The Brady bill—H.R. 7—would prohibit firearms dealers from selling a handgun until they had sent to the local police a form completed by the would-be buyer and had waited 7 days. There would be no mandatory background check; if the local police don't say no, the sale could proceed after 7 days. The Staggers substitute essentially proposes a point-of-sale background check for felony convictions within 24 hours, using a federally established telephone hotline.

Both of these alternatives are problematic. I have not seen any evidence to indicate that a mandatory waiting period would deter professional criminals from purchasing guns, either through legal or unregulated means. I simply cannot support a bill that I know will not effectively address the urgent issue of handgun violence in this country. It is a real problem that demands a real, not symbolic, response. The fact is that the Brady bill will not do what its supporters claim that it will.

Even my distinguished colleague, Representative ED FEIGHAN of Ohio, who introduced the Brady bill, was recently quoted in the Washington Post as stating that, "Many of us have been forced to overstate what we can get from the Brady bill." The American people have had enough of pretend solutions to real problems. During my campaign for reelection last year, I told my constituents that I would continue to oppose the Brady bill, and I will keep that promise today. As a Member of Congress, I swore to uphold our Constitution, which includes the second amendment protection against infringement of the right of the American people to keep and bear arms.

A study performed for the National Institute of Justice concluded that 84 percent of the incarcerated felons surveyed who admitted to owning firearms had obtained them illegally. I believe that the overnight telephone records check proposed by Representative STAGGERS, if properly implemented, offers a much more realistic solution to the problem of uncontrolled access to firearms. Like the Brady bill, the potential impact on crime reduction of the Staggers proposal has been oversold by its proponents.

With aggressive implementation and a meaningful commitment of financial resources, the plan proposed by Representative STAGGERS would address the real problem that prevents any waiting period plan from being effective: the lack of an effective and up-to-date system to retrieve records of felons and other individuals who should not have access to firearms. I believe that the Staggers proposal would offer a workable, meaningful solution to the problem of uncontrolled access to firearms if the following changes in the proposal we are considering today were made:

First, replace the unrealistic 6-month deadline to have the system operational with a 5-year deadline.

Second, replace the unrealistic 2 percent inaccuracy standards for false denials with a 5 percent inaccuracy standard.

Third, authorize "such sums as may be necessary" to establish the nationwide data base. Direct the Justice Department to recommend a system to make the operation of the system pay-as-you-go.

Fourth, mandate denial of handgun purchase requests to indicted—rather than just convicted—felons under the check system. Also mandate denials to adjudicated mental defectives, persons committed to mental institutions, fugitives from justice, controlled substances addicts, undocumented aliens, persons dishonorably discharged from the Armed Forces, and persons who renounced their U.S. citizenship.

Fifth, remove the loophole exempting dealers who do not have telephones or telephone service.

Sixth, include stiff penalties—fines and prison terms—for gun dealers who use the verification system in order to obtain information about nonpurchasers of guns.

Seventh, remove the authorization for the hotline to access all files held by any agency of the Federal Government, such as IRS tax files, DVA mental health files, HHS public assistance files, and so forth.

Eighth, enhance the Staggers proposal's penalties for knowingly and willfully failing to call the hotline for a background check. The substitute has no penalty unless the purchaser is later found to be prohibited; if that is the case, Treasury can suspend/revoke the dealer's license and fine the dealer no more than $5,000. Knowing and willful violators should face certain suspension and stiffer maximum fines.

Ninth, remove the Staggers provision allowing suits against the United States, any State or locality for providing erroneous information to the hotline, even if the error is not intentional or negligent. Suits should only be allowed for willful, wanton, or intentional Government negligence.

Tenth, the Staggers substitute requires only that the dealer seek from the purchaser his/her name and Social Security number. The dealer should also be required to seek the date of birth, which is commonly used with the name to organize criminal records.

Mr. Chairman, I think it is unfortunate that the House of Representatives only had the opportunity today to choose between the Brady language and the Staggers language. I believe that these additions to the Staggers language which I have outlined would substantially improve that proposal. If the House of Representatives has the opportunity to revisit this issue in the future, I will pursue these proposed amendments to the Staggers language. I sincerely regret that I was unable to vote on the rule providing for consideration of H.R. 7, due to my attendance at the funeral earlier today, in Fort Riley, KS, of Air Force Capt. William David Grimm, who was killed during Operation Desert Storm. Had I been present, I would have voted "no" on the rule.

Mr. RAHALL. Mr. Chairman, I rise today in suppport of the amendment offered as a substitute to the Brady bill by my colleague from the great State of West Virginia.

We are here today because the problem of a rising crime rate has motivated people to take action. The question we are confronted with is whether this problem can be significantly addressed by forcing lawabiding citizens to wait 7 days to purchase that which is guaranteed them in the Constitution.

What value does a 7-day waiting period really have in fighting crime? In reality, it has very little. Statistics show that 98 percent of guns used in crimes were acquired more than 7 days before the crime. The only affect the 7-day waiting period could have is on the remaining 2 percent. Should law-abiding citizens be denied their constitutional rights because of 2 percent? I say no.

Do background checks have any effect on inhibiting criminals' access to guns? The recently released Office of Technology Assessment report confirms what we all already knew: Criminals are more likely to buy their weapons on the black market, not from licensed dealers. A background check would have absolutely no effect on guns purchased illegally on the black market.

Another reason for supporting the substitute lies with simple logic. A background check that can be done in 7 days can be completed in 7 minutes. The same proven technology that the police use every time they pull a car over, or that retailers employ on all credit card purchases, can be applied in catching felons.

The Staggers amendment offers a more effective system for conducting background checks because it mandates that State institute and maintain complete and accurate criminal records on computer. The Staggers amendment also mandates the background check for all handgun buyers, no exceptions.

There are no such mandates in the Brady bill. Not only is there no provision for improving the criminal record system in this country, but a background check is not even called for in the Brady bill. Background checks would be carried out at the discretion of the local law enforcement agency, and such a system would further inhibit every American's constitutional right to own firearms.

In conclusion, Mr. Chairman, let me say, if the problem we wish to address is crime, there are better, more effective ways to confront crime than with the Brady bill. Longer prison sentences and tougher courts would have more impact than a waiting period.

We should not risk the constitutional rights of all Americans out of fear. Support the Staggers amendment as a measure that will do all that can be done with a background check and will go a long way toward improving the criminal record system in this country.

Mr. GREEN of New York. Mr. Chairman, I rise today in strong opposition to the Staggers substitute, which would institute a Federal system for instantaneous mandatory background checks of prospective handgun buyers, and in strong support of the Brady bill, which requires a Federal 7-day waiting period prior to the sale, delivery, or transfer of a handgun.

Let there be no mistake about it. A vote in support of the National Rifle Association-backed Staggers substitute is clearly a vote to kill the Brady bill.

An Office of Technology Assessment draft report released just last week found that implementation of an effective instant-check system on handgun purchasers will be 5 to 10 years in the works. Currently, 40 States do not have fully automated criminal record systems, an edict of the Staggers substitute, which would mandate a nationwide computer check within 6 months.

Enactment of the Brady bill is immediate.

It has been 10 years since President Ronald Reagan and his press secretary, Jim Brady, were shot, Brady critically. Can anyone dare say that we can afford to wait another 10 years before thorough background checks become a reality in this Nation? The time for action on the Brady bill is long overdue.

Although NRA supporters say otherwise, the Brady bill's sole purpose is to keep handguns out of the hands of criminals. Without a federally mandated system, State-imposed laws are of little use. Those who wish to purchase a handgun for immediate use will buy one in neighboring States where less stringent State laws exist.

In fact, a Treasury Department study found that only 4 percent of those handguns used in crimes in my hometown of New York City were bought in New York State.

Handgun waiting periods are effective in lowering crime rates. According to the superintendent of the New Jersey State Police, in the 20 years that New Jersey has required a background check for handgun purchasers, more than 10,000 convicted felons have been caught trying to buy handguns. The California Department of Justice reports that in 1990 the State's 15-day waiting period caught 2,182 criminals and other prohibited purchasers trying to purchase guns from gun dealers.

A federally mandated 7-day waiting period is a more than reasonable response to the bloody violence that plagues our Nation's streets. I urge my colleagues to strike down the Staggers substitute and to support the proposal that seeks to return our streets to the people.

The CHAIRMAN. The Chair would simply notify Members that the gentleman from New York [Mr. SCHUMER] has 5¾ minutes remaining; the gentleman from West Virginia [Mr. STAGGERS] has 4 minutes remaining; the gentleman from Texas [Mr. BROOKS] has 5 minutes remaining; and the gentleman from Wisconsin [Mr. SENSENBRENNER] has 6 minutes remaining.

It is the Chair's understanding that the gentleman from West Virginia may now suggest the absence of a quorum.

Mr. STAGGERS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 80]

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1720

The CHAIRMAN. Four hundred and ten Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair would advise the committee there are 20¾ minutes remaining, divided among the gentleman from New York [Mr. SCHUMER], the gentleman from West Virginia [Mr. STAGGERS], the gentleman from Texas [Mr. FIELDS], and the gentleman from Wisconsin [Mr. SENSENBRENNER].

Under an agreement between the parties, the Chair now recognizes the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Chairman, I rise in strong support of the Staggers amendment.

Mr. Chairman, we will soon vote on legislation intended to restrict purchase of handguns by criminals. As my colleagues know, the vote will not be an easy one. The publicity surrounding the Brady bill has created an atmosphere where emotions run deep, and Members on both sides seek to make the right decision. Yet we should not allow our emotions to obscure the fact that our common goal is to reduce gun violence and keep guns out of criminal hands. In this regard, Mr. Chairman, we should concentrate on the best and most effective means of reaching that goal.

Probably the only group in this country not concerned with our actions today is the one directly responsible for this debate, the criminal gun users. To the criminal, gun laws are as irrelevant as the pain and suffering they in-

flict upon their victims. As any number of criminological studies have pointed out, gun laws have little if any effect upon the violent and serious felon. Virtually none of them need to obtain weapons from legitimate gun shops. Yet here we are talking about imposing a waiting period on legitimate sales, an action which will have far greater impact upon the lawful and honest citizen than the criminal gun user.

As many of my colleagues will agree, crime control is best discussed during debate on criminal code reform, not as part of a gun control measure. However, even if we accept the argument that what we do here today will have an effect upon crime and criminals, we should remember that the vast majority of gun owners are lawful citizens. Therefore, it makes far more sense to target our efforts at the 1 percent to 2 percent of gun owners who are criminal gun users, not the 98 percent or so who are not. Why make lawful citizens wait a minimum of 7 days—and I would remind my colleagues that the Brady bill 7-day wait is a minimum, not a maximum—to exercise their constitutional right? A criminal in this country can commit a crime, be arrested and be back out on the streets in far less time than it would take for a law-abiding citizen to purchase a gun under the Brady bill.

Mr. Chairman, the answer to crime control is to control criminals, not lawful sportsmen and gun owners. As Attorney General Dick Thornburgh recently stated, it is not the point of purchase which counts with felons, but the moment of arrest.

Mr. FIELDS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I thank the chairman, and I thank the gentleman from Texas for yielding to me.

Mr. Chairman, first let me say that I wish we had the President's crime bill on the floor because that is the real way to lock up felons who use firearms illegally. And I wish we were voting for a signable bill. Regrettably, it is very likely that this bill will be vetoed by the President if it reaches the White House without the crime bill attached to it.

But even in the context of today's debate, there is a very important difference between the two approaches. I want to cite in this instance what has happened in Georgia. This is from April 1990: "Just hours after his release on Monday from Georgia Regional Hospital," police say, "James Calvin Brady walked into a DeKalb County pawnshop and bought the revolver he allegedly used Tuesday to shoot 5 people at Perimeter mall."

Now let me draw a distinction. I was in Perimeter mall on Sunday looking at the site. Under the Staggers bill, when this gentleman walked into the shop and applied to buy the pistol, the police would have been notified at that moment, there would have been an immediate check. And while he was standing in the shop, the police would have understood that a man who had just been released from Georgia Regional Hospital only hours before was, in fact, standing there trying to buy a gun. The police could have arrived in a relatively few minutes while he was there.

Now, what happens under the alternative? He wanders in, he throws out some papers, they may or may not have his address because, at the time he arrived, we do not know if he had an address. So he may put down a fictional address or a post office box. He then leaves. He may or may not remember to go back to that shop. He may ultimately get a gun from somebody illegally. The fact is there is a substantial difference in the ability to apprehend between filling out a form which would be sent to a State government bureaucracy, filling out a system that takes 7 days, and the ability instantly to check on whether or not somebody is a convicted felon or has a mental record and is dangerous.

Let me just point out to all of my colleagues: Every one of you use credit cards in circumstances where today we check on whether or not you have a credit limit. There is no question technically that it is possible to do an immediate check. There is no question technically that we can apprehend the felon or apprehend the mentally disturbed while they are standing in the shop.

The question is one of symbolism. I think it is a very dangerous thing to say symbolically, "We are going to wait 7 days and hope through paperwork and bureaucracy we can do the job," when we know that by voting for Staggers we can today make sure that we use the most modern technology to have an immediate check at the present time, to genuinely apprehend criminals when it counts, when they are in the shop and apprehend the mentally ill when it counts, when they are in the shop.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, I rise in strong support of the Brady bill, as reported out of the committee and in opposition to the Staggers substitute.

Mr. Chairman, to the people of my district in Brooklyn, NY, this issue is critical. It is literally a matter of life and death. Every week innocent people, including children, are murdered in Brooklyn and the rest of New York. These innocent adults and children are killed only because they were in the wrong place at the wrong time. And all too often that wrong place is a crib, a family car, or a living room.

Last summer a 9-year-old girl was killed while sleeping in her family's car on the way home from a day trip to Great Adventure Amusement Park.

In the same month an infant was shot in the family van while in his mother's arms while the van was stopped at a red light.

Yet another infant was sleeping in his crib in his mother's living room when a gunshot came through the door of the apartment and struck him.

All of these children were in supposedly safe, enclosed spaces with relatives when they were shot and killed.

Hundreds of other children, teenagers, and adults are caught in the paths of stray bullets in New York City every year while they are walking down their block toward home, school, work, or just outside talking to friends.

Mr. Chairman, New York City has very strict gun control laws. Most of these lethal weapons that take away these innocent lives, both young and old, are brought into the city from other States in which anyone can buy a gun with no questions asked. A study by the Bureau of Alcohol, Tobacco, and Firearms found that of handguns used to commit crime in New York City, over 90 percent came from States without background checks and waiting periods.

In this country, and specifically in various States, we take so many precautions about things which have nothing to do with life or death. In many States you need a permit to put a sign over your store, you need a permit to have a parade, you have to be licensed to be a beautician and you even need a license to be married. And in some States, there is a waiting period once you get that license before a wedding may take place.

But in too many States anyone can buy a gun without even having to wait 24 hours, as you do in New York City if you wish to get married.

Mr. Chairman, the children who died last summer will never be married. Maybe the Brady bill would not have prevented all of them from being killed. But if just one of the gunmen had been prevented from obtaining a gun, maybe one of those children might still be alive today.

The Brady bill is not perfect, it is not a panacea. But it will help. It will help make guns more difficult to obtain. It will help close the massive loopholes that currently make it so easy for criminals in States with extensive gun laws to get guns from other States, and it will save lives.

Even if the life of just one child is saved I, and thousands of people in my district, think it will be worth it. I urge all of my colleagues to vote no on the Staggers substitute and yes on the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield myself 2¾ minutes.

□ 1730

Mr. Chairman, it is springtime. There is a major bill on the floor that might take guns out of the hands of criminals as we go through the rites of spring. All of a sudden, like a phoenix out of the ashes, the NRA arrives with its new plan to try and do something or that they say tries to do something to take guns away. We had it in 1988.

For my colleagues who were not here in 1988, the Brady bill came to the floor. The NRA pushed an amendment there through the gentleman from Florida [Mr. MCCOLLUM], and do my colleagues know what it called for? It mandated an instant check system. It successfully beat the Brady bill.

And then what happened? The NRA faded away.

Mr. Chairman, I am chairman of the Subcommittee on Criminal Justice. Not once did they come to me and ask for more funds for an instant check system. Not once did they come to me or any of us and ask for tough anticrime measures. Having done their deed, they faded away.

The bill of the gentleman from West Virginia [Mr. STAGGERS], make no mistake about it, my colleagues, is a ruse, it is a sham, it is a fake, and, if my colleagues vote for Staggers, they will not do anything positive. They will simply kill the Brady bill.

I say to my colleagues, "You cannot vote yes on Staggers and still support a rational handgun control system."

Why is this bill a fake?

The NRA has come increasingly to stand for no rational argument. No rational argument, NRA. They know this bill cannot work. The only State that has a system of records that can do things instantaneously is Virginia. In 49 other States what would happen? Plain and simply a felon, if there was no State law, could walk into a gun shop. The police would begin to check the records once the gun shop notified them. But it would take days to go through the records that are not computerized, and 7 minutes later that person would have that gun even if he had a rap sheet 40 feet long.

Plain and simple Staggers will not do a thing, except perhaps in Virginia, which incidentally does not comply with it, to take guns out of the hands of the criminal, and, if my colleagues do not believe me, and they do not believe any of the speakers, who should they ask? Ask law enforcement. Ask all of our police, and our sheriffs and our D.A.'s. Every major law enforcement organization is against Staggers and for Brady.

So, Mr. Chairman, I say to my colleagues, "If you're against any kind of a reasonable system to take guns out of the hands of criminals, vote for Staggers, but, my colleagues, if you believe there ought to be a system, don't hide behind the fake skirts of a bill that cannot work. Screw your courage to the sticking boards. Stand up and vote no on Staggers which will bring us Brady once and for all."

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. COSTELLO].

Mr. COSTELLO. Mr. Chairman, Congress too often embraces legislation that proposes to the American people a cure-all to solve an urgent national crisis, but in fact does little to address the real, underlying cause of the problem.

Such is the case with H.R. 7, the Brady bill. The myth surrounding the Brady bill is that it will reduce handgun violence in this country. In reality, this legislation will not reduce crimes committed with handguns. In fact, if the Brady bill had been the law in 1981, Brady's deranged assailant, John Hinckley, would have been legally able to purchase a handgun.

Most supporters of the Brady bill believe if it is enacted into law that we will have a uniform system, a national 7-day waiting period that will apply to all 50 States—not true. According to the Brady bill's sponsor, Representative ED FEIGHAN, both Illinois and Missouri, which have permit systems, would be exempt.

Moreover, this bill will have no impact whatsoever in many of our major cities reporting the highest handgun crime rates and gang activities—such as Detroit, Chicago, or Los Angeles—because they either have existing waiting periods or have permit systems already in place.

Despite all of the heated rhetoric about handguns, the Brady bill is not a solution to our crime problem. The Brady bill would require a 7-day waiting period to buy a gun in some parts of the country, during which time local police departments have the option to check on a gun applicant's criminal record.

However, few criminals go to the local gun shop to purchase handguns. They get them through illegal means, from home invasions, back alleys, or from illegal gun dealers. In fact, the city with the highest murder rate per capita—the District of Columbia—has a total ban on the sale of handguns. The ban in DC has not stopped these criminals, and nationwide the Brady bill will do nothing to take guns from criminals or stop their crimes.

As a former police officer, I know the horrors of violence, crimes with guns in particular. That is why I support the death penalty and stiffer penalties for crimes involving guns. But I do not believe placing a greater burden on local police departments to conduct background checks is the answer. At a time when crime is growing, we need more cops on the street, not behind the desk.

There is an alternative to the Brady bill which has the same goal and makes sense. Unlike the Brady bill, it would establish a uniform national system that applies to all 50 States. It would require gun dealers to conduct an instant identification check by calling a Justice Department toll-free phone bank to gain approval of purchase. Those with criminal records are denied the ability to purchase a handgun. There is no additional burden on local police departments, and no infringement on the rights of law-abiding citizens.

We presently have a model for the "instant ID" system currently in operation in Virginia. The Virginia law has proven to be effective without placing an enormous burden on their local police departments.

The system works this way. When a prospective buyer takes a gun to the register at a gun shop, the dealer uses a toll-free telephone number to call the State police. A State police worker types the person's name and Social Security number into a computer, and based on the information included then gives approval or disapproval for the purchase. Individuals who have been convicted of a felony, illegal immigrants and fugitives from justice are denied the right to purchase a handgun.

Surely, if we can establish a credit-check system throughout all 50 States for retail merchants to instantly check the credit standing of individuals using Visa, Mastercard, and other credit cards, we ought to be able to set up a uniform national system to check the criminal records of individuals wanting to purchase a handgun.

I support the need for a national system, to prevent conflicting State laws from hampering police efforts to track illegal gun sales. The "instant ID" check is such a system.

The last issue that I will address is the argument that a waiting period will stop the use of handguns committed in crimes of passion. Do you really believe that if someone is angry enough to take the life of another person that they will regain their composure and subdue their anger until they go to the local hardware store or gun shop to purchase a handgun and return to kill that person? I sincerely doubt it. I believe that if someone is angry enough to kill another person that they will do so with a knife or whatever weapon they can get their hands on at that moment.

To those who favor the Brady bill, I understand and in fact share your frustration over growing handgun crimes. We need a national uniform system to identify and deny handguns to criminals. It must be a practical, reasoned law and I do not believe that the Brady bill represents such a solution.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman from West Virginia [Mr. STAGGERS] for yielding to me.

Mr. Chairman, we have come to the end of a long debate, a long and emotional debate, emotional because it is an emotional issue. We are frustrated. Twenty-three thousand Americans were murdered last year, and we have to react to that.

However, Mr. Chairman, in our zeal for reaction I hope that we do not react just for reaction's sake. We should not rush for the cosmetic over the substantive. We should not rush for the imagined over the real. We should not just go for the perception of action as opposed to action itself. We should not just go for the Michael Jackson moonwalk, appearing to move when in fact we are really standing still.

The fact really is that five out of six criminals buy their guns illegally, get their guns illegally. They steal them. They get them from flea markets. Gangs do not buy guns in gunshops.

So, we really are not here today discussing the real solutions: Education, widening economic opportunity, doing something about crime in the streets. But we have to do something.

So, I stand today in favor of the Staggers approach and against the Brady bill because that says we are going to do it. We ought to do it and make it real. I believe that if we can check for black marks on credit in an instant, we can check for red flags on criminal histories in a second.

There is also another problem. The Brady bill is optional, and the Staggers is mandatory. Here is the real difference between the two. The Brady is optional, and the Staggers is manda-

tory, which means that the police can check, if they want, and not check, if they want. Some departments will be unwilling and unable to check, and that in and of itself will encourage forum or retail shopping, and here is the bad news. There is the question of inequity. Mr. Chairman, I really wish that all police departments could be relied upon to administer this law fairly, but we know the truth. I also wish that we did not have a budget deficit.

So the problem, Mr. Chairman, is that I think we have a technology to do this and we ought to move to help them to pay for it. Staggers is mandatory and Brady is optional. Brady has gotten the most publicity but Staggers, I think, will be the most effective.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I rise in opposition to the Staggers amendment, and I would like to zero in on the funding deficiencies of the Staggers amendment.

Mr. Chairman, the Staggers amendment is flat out unfunded. True, it raises the setaside for improvement of State criminal justice records from 5 to 10 percent. That means that every one of our States will have to reallocate out of the programs that they have decided are important 5 percent more of their criminal justice funds from the Federal Government for computerization of the records.

That is just half the story. Staggers does not authorize one dime to the Justice Department to do its end of the bargain, not one dime.

□ 1740

That means for the Justice Department to establish this nationwide multi-State instant check system, they would have to reallocate existing resources. How many FBI agents are going to be fired as a result of Staggers mandating this upon the U.S. Department of Justice? How many prosecutors and investigators who are looking into getting the savings and loan crooks in jail are going to have to be laid off? How many prosecutors, the people who are on the front line and who actually put the crooks in jail by prosecuting them in a court of law, may not be hired as a result of the Staggers amendment directing the funds elsewhere?

This lack of funding is intentional. It is intentional because if additional funds were given to the Justice Department, then that would count against the budget clock as a result of the agreement that was passed by the Congress last October. So if additional funds were authorized, that would require sequestration, which, instead of taking money out of the Justice Department, would take money out of programs like Medicare, Medicaid, agricultural programs, and practically everything else except the seven narrowly exempt programs under Gramm-Rudman.

I do not think we should play a fiscal shell game with the Staggers amendment. Yet it is cleverly drafted so that the result will be either fewer prosecutors or fewer FBI agents or money taken out of programs that help maintain the vital services that the American public has come to expect from the Congress of the United States.

The cost estimates are very much variable on the Staggers amendment. I have heard that it will be fairly cheap, $6 million to $12 million, but that figure only relates to the software that is necessary to put the multi-State system on line. It will cost literally hundreds of millions of dollars to computerize the 40 to 60 percent of the State criminal justice records that are not automated. Who is going to put all of these in an automated form? How much is it going to cost? If it has got to be done within 6 months, does that mean the competitive bidding procedures would have to be waived under this crash program, competitive bidding procedures that are designed to give the taxpayers their money's worth and provide services at the cheapest possible cost?

I think the estimates that have been made of up to $1 billion for an automated system are accurate when we consider the total State and Federal cost, the cost of the software, the cost of the input, the cost of the terminals, and the cost of everything else. As the gentleman from Iowa [Mr. SMITH] stated in his remarks earlier this afternoon, the only really foolproof system is not in the Staggers bill. That is the fingerprint ID system with digital automation. We have a lot of fake identification cards floating around our country, and without the foolproof fingerprint automated system, anybody could come in with a fake ID and get that name and address put into the instant check system and walk away with the gun even though they do have a criminal record or an adjudication of mental incompetency. A fingerprint check system would cost five times as much, up to $5 billion.

The final point I would like to make is the privacy issue. Unlike the Virginia system, where police agencies in the State of Virginia input into their instant check system, the Staggers amendment proposes that the gun dealers do that. Simply by inputting a Social Security number or the name and address of an individual who might not even be wanting to purchase a gun, a gun dealer would be able to rummage through the records that are contained in that system.

Now, I am not the world's biggest civil libertarian, as most of the Members in this House know, but the thought of allowing a private individual, a gun dealer, to use someone's Social Security number or name and address to get into the criminal justice records system appalls me. Yet if the Staggers amendment passes, that is exactly what will happen.

One of the last questions that all of us will have to decide is what to do between now and the time an instant check system does come on line. I think all of us on both sides of the issue support the concept of an instant check system. I think we all agree that it will not be done in the 6 months called for in the Staggers proposal. The Brady bill provides a waiting period to allow but not require the police to do some checking during the 7-day period. The Brady bill specifically sunsets when the instant check system comes on line.

The choice before us is very simple. The adoption of Staggers means that Congress will do nothing until instant check becomes effective. The defeat of Staggers and the adoption of the Brady bill means that the police will be able to use some of the tools that are available during this 7-day period to try to prevent some people who are ineligible to possess firearms from getting them.

Mr. Chairman, I urge the defeat of the Staggers amendment and the adoption of the Brady bill.

Mr. FIELDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise today in support of the Staggers substitute amendment and against the so-called Brady bill. I do so because I feel strongly about the need to control violent crime in our Nation. And though both bills purport to control criminals' access to handguns, I am convinced only the Staggers substitute would accomplish this feat.

The Brady bill mandates a 7-day waiting period—nothing more. I've been in Congress 7 years now, and I'm still waiting for some evidence that supports the view that waiting periods do anything to deter crime. States which have waiting periods have the same increases in violent crime and homicides over the last two decades as States without a waiting period. There is no demonstrable statistical difference between these two approaches. These facts, coupled with the knowledge that criminals very rarely purchase their handguns through legal channels leads me to believe the Brady bill would do little more than be a nuisance factor for law-abiding citizens who want to purchase a handgun.

The Staggers substitute, on the other hand, mandates a nondiscriminatory instantaneous criminal background check. This legislation offers more than the "feel good" provisions of the Brady bill. Not only does this legislation require a background check, it also mandates the improvement of criminal history records—something Brady does not address.

Even so, Staggers is not the panacea to our Nation's crime woes but rather is only a step in addressing the violent crime in our Nation. Any legislation which targets inanimate objects as opposed to the humans who use these objects will ultimately be a failure. We must crack down on criminals and quit toying around with gun control legislation. I have co-

sponsored legislation which increases penalties for criminals who use guns while committing crimes. This is a more logical approach to our crime problem.

In addition, the President challenged us to provide this Nation with a tough anticrime package. However, we have failed to meet this challenge, and have yet to fulfill our responsibility to our constituents. Instead of this current debate, we should be debating the merits of tough anticrime legislation. I will vote against Brady, for Staggers, and hope this body will have an opportunity to vote on a crime bill.

Mr. FIELDS. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. FIELDS] has 3 minutes remaining

Mr. FIELDS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, let me say to my colleagues that we have got to dig real deep to overcome the honest and understandable emotion within us, to say no to Sarah and Jim Brady. I know, because I had that very unpleasant, uncomfortable task earlier today. Their senseless tragedy and permanent pain enrages every single Member in this Chamber and every citizen of this country. Our hearts are with them. Our hearts are with them, but that is not where our votes should be. If our sympathy and concern for them were the issue, then the vote would be 435 in this Chamber and 100 to 0 in the other Chamber.

But let me say to my colleagues that that is not the question. Let me tell the Members something that many of them do not want to hear. In the ugly world of violent crime—and it is an ugly world—waiting periods do not work. In my experience as a prosecutor and as a defense attorney, let me say that convicted criminals rarely walk into gun shops to purchase firearms so they may commit yet another crime.

□ 1750

Sadly, they just do not. The Brady bill would not have prevented their horrible tragedy. It would not prevent crimes of passion, because in the real world people do not wait 7 days to commit crimes of passion. It will not significantly prevent violent crime, as its title suggests.

Today the issue is what steps we are going to take not toward eliminating all violent crime—that is a hope we have to work toward, and we will work toward—but what is the most effective means to make it more difficult for convicted criminals to get firearms.

Put aside those emotions. Consider these two simple options: Do you want an optional check during a 7-day waiting period of incomplete records, or do you want an instantaneous, required, mandated check, with provisions that those incomplete records be updated, made more current?

It seems to me that the approach is very clear. If you are interested in keeping firearms out of the hands of convicted criminals, the best step to take is to support the Staggers amendment. For all those who lament the absence of additional dollars to provide the technology and to help prosecutors and States create the central filing system, we have got a crime bill. Let us all work together to find the funds to do just that.

Mr. Chairman, I urge Members to support the Staggers amendment.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise today in support of the Staggers amendment.

Gun control legislation must be aimed at preventing criminals, not law abiding citizens, from acquiring guns. The Staggers amendment would help to curb the use of guns by criminals by mandating a criminal background check at the time of purchase. Under the Staggers amendment, someone who has a criminal record and attempts to buy a handgun from a licensed dealer would be caught immediately. The Staggers bill mandates a check; the Brady bill does not.

Under the Brady bill, local law enforcement officials would be burdened, if they so chose, in attempting to do week-long checks, primarily of law-abiding citizens. The Brady bill would cause a major misallocation of resources in our fight against crime.

The instant check process already works in Virginia, Florida, and Delaware. It is time to do this nationally. The Staggers bill gets at the root problem of updating and overhauling the records of convicted felons so that accurate checks do take place. The Brady bill provides no such mechanism. If we do not have up-to-date records, a 7-day waiting period will do nothing to prevent guns from getting into the hands of criminals.

It is time we stopped lying to the American public. Efforts like the Brady bill, which are aimed at law-abiding citizens, fail to reduce crime or deny criminals the ability to acquire guns.

The Brady bill is not even a quick fix. There is no easy solution to the problem of crime. However, an updated national data base of convicted felons is a fundamental part of any eventual solution. The Staggers bill expedites this process; the Brady bill ignores it.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, I will vote against H.R. 7 and I urge my colleagues to do likewise.

The bill conflicts with traditions and lifestyle choices that have genuine value for those of us in the American West. These alone might not be grounds to oppose H.R. 7, particularly since I agree with the bill's goal of curbing the criminal misuse of handguns. But I do not believe the bill's mechanism would have any real impact. I do not believe it would make meaningful progress toward the goal. At the same time, and with all due respect to other interpretations, I do not think the bill is consistent with the original intent of the second amendment of our Constitution. For these reasons, I cannot support the bill.

This is a difficult issue, because handgun violence is a very real problem. It concerns me deeply. I recently cosponsored H.R. 1719, Representative BEN NIGHTHORSE CAMPBELL'S bill that would create a 5-year mandatory minimum sentence, without parole, for the unlawful possession of a firearm by a felon, fugitive from justice, or drug user, or for anyone knowingly passing along or receiving a stolen firearm. The bill also dramatically increases penalties for using firearms during crimes of violence or drug crimes. I would encourage my colleagues who truly wish to do something effective about handgun violence to take a look at this bill.

Measures to restrict the sale of firearms are ill-considered and erode constitutional rights. I have always opposed such legislation, and will do so again today.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. DINGELL].

Mr. FIELDS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, we are in the process of completing a long and difficult debate. I first want to pay tribute to the distinguished gentleman from West Virginia [Mr. STAGGERS], in working very hard to bring his amendment to the House floor, and say that not only am I very proud of him, but I am sure his dear father and my good friend who was the previous chairman of the Committee on Interstate and Foreign Commerce before me would share that pride.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from West Virginia, and rise in strong opposition to the Brady bill.

Before I was elected to Congress, I served for a number of years as a prosecutor. I dealt with those who had committed violent crimes. One of the things I found was that a waiting period for the purchase of handguns simply does not prevent violent crime. It does not prevent rape, it does not prevent murder, it does not prevent arson, it does not prevent burglary or robbery. It simply imposes burdens upon the individuals. Notwithstanding the existence of any restrictions on the sale or possession of firearms, I would observe that criminals have no trouble in obtaining firearms in this country.

Mr. Chairman, all of us are opposed to crimes of violence, and all of us are opposed to violence by the use of firearms. The Brady bill simply will not work. It merely establishes a waiting period—a waiting period, that is all.

The amendment offered by the gentleman from West Virginia [Mr. STAGGERS] requires an instant check on the record of the individual, so that we

may legally preclude those who are not suited, under the law, to legally possess firearms.

Mr. Chairman, neither piece of legislation is perfect. The Brady bill simply does not work at all. If you want a waiting period—and that is all you want—by all means vote for the Brady bill. If you want to stop criminals from getting firearms and have an instant check on the record of the individual who seeks a firearm, then I would urge Members to vote for the Staggers amendment.

Mr. Chairman, we have heard about certain types of waiting periods. The waiting period in Virginia works right now, because it is not the kind of waiting period as envisioned by the Brady bill. The Virginia "waiting period" is something different. It is an instant record check. The waiting period in Washington, DC is the type that does not work. It is a permanent waiting period. The DC waiting period is a total moratorium on the ownership of any handgun by any person; yet, we are the murder capital of the world with the distinction of having the highest per capita number of murders committed with the use of firearms. One only needs to compare these two jurisdictions, one river apart. A waiting period in Washington, an instant record check in Virginia. Look at the difference in crime.

Beyond this it must be observed that it will be the duty of this Congress and others to see to it that the tools are available to make the criminal justice system work. I am prepared to do so. I would urge Members to do likewise.

Mr. Chairman, if you want to see how waiting periods work, just look at the statistics regarding the incidence of violent crime in States having waiting periods. What do they show? Violent crime is many times higher in States with waiting periods than it is in States without waiting periods. Jurisdictions which require permits and which require waiting periods have two-thirds of the total homicides and three-quarters of the violent crimes. That should tell us something about how waiting periods in fact work.

Let's look at the cost of these two proposals. They are about the same. I heard one of my colleagues talk about how the costs of the Staggers substitute are going to be huge. Perhaps the ultimate costs will be high. But if we want to stop crime, we had better be prepared to pay the price. The Congressional Budget Office [CBO] reports that the annual costs are about $5 to $10 million for both the Brady bill and the Staggers substitute. But it must be pointed out that, unlike the Brady bill, the Staggers substitute puts in place a realistic background check, which will filter out criminals who should not be permitted to purchase handguns. What Brady offers us is a Pyrrhic victory. We can go home to our constituents and say everybody has to wait 7 days before you can buy a firearm. So what?

But the Brady bill leaves us with an ineffective means to deal with the crime problem. Very shortly, this body can look to the time when it will be confronted with the absolute certainty in addition to enacting Brady, we will be required to enact additional legislation, which will probably cause another divisive debate with little or no progress in terms of addressing the underlying causes of crime.

Mr. Chairman, let us then support Staggers, let us reject Brady, and let us do something effective today in terms of dealing with the misuse of firearms by criminals.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I rise in support of the Brady bill.

Mr. Chairman, in Illinois, 482 people were handgun homicide victims in 1988 and close to 500 individuals took their lives with a handgun that same year. A national standard of background checks or a minimum cooling off period may have prevented some of this. The Brady bill makes common sense. If the State has no background check system or waiting period already in place, implement the 7-day wait.

The Staggers amendment is not realistic. I'm told it would take a minimum of 5 years to set up the national verification network called for in the bill. The Congressional Budget Office estimates that such an on-line network would require up to $10 million each year to operate once established. Each year, this program would be subject to the constraints and whims of the budget process. In the interim, the Staggers legislation states that if the national network cannot provide the gun verification information within 24 hours then the purchaser may obtain the handgun regardless.

In Illinois, where background checks are required, 2,920 applicants were rejected in 1990. That is 2,920 individuals who could not lawfully purchase a handgun. Unfortunately, 2,920 who may have then gone to another State to purchase their handgun, where they might not face a background check. They illegally obtained 2,920 guns which might have contributed to the 482 homicides committed with a handgun in the State of Illinois.

The Brady bill makes good sense. It's a start at a national standard which we so desperately need. Vote to defeat the Staggers amendment and pass the Brady 7-day wait.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I favor the Brady bill.

Quite frankly, the truth is being distorted and reason displaced by emotions regarding this issue.

Some States like Tennessee already have a waiting period and I worked to have those States exempted from the Brady bill so handgun purchasers will not have to fill out, and authorities won't have to process two sets of forms.

But, Tennessee for example, is bordered by eight other States. Only one has a waiting period of 48 hours prior to a handgun purchase. People simply drive across a State line and purchase a gun in another State with no waiting period or background check. This dilutes the responsible 15-day waiting period adopted in Tennessee.

Only 10 States have computer networks capable of performing instant background checks. An instant check network will take years to develop and will be very costly.

I am against gun registration. I am for a commonsense approach to curbing crime in our streets. We must attack violent crime on many levels—this is one.

The Brady bill will save lives. If it even saves one life, it is worthwhile. I urge adoption of the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Staggers amendment and in favor of the Brady bill.

Mr. Chairman, I rise in support of H.R. 7, the Brady bill, which would provide for a maximum 7-day waiting period prior to the sale, delivery, or transfer of a handgun. The bill applies only to the sale of handguns through licensed dealers. Within 1 day of the proposed sale, the dealer is required to provide a copy of the purchaser's statement of name, address, date of birth, and date of the statement. Within 7 days of this statement, law enforcement officials may do a background check to determine whether the sale of the handgun would violate Federal, State, or local law. If verification is made that the purchase is legal within less than 7 days and the law enforcement agency provides this notice to the licensed dealer, the sale may proceed.

The provisions of the Brady bill waiting period do not apply to those States, such as Minnesota, which already have at least a 7-day waiting period for background checks under State law or those States with an instant check. Also, States which are not now exempt from the Brady bill could, at any future time, set up their own systems to exempt themselves from the Federal 7-day waiting period requirement of this legislation.

Since 1968, it has been illegal for convicted felons to purchase firearms. But for 23 years now, this law has been unenforceable since there was no required waiting period for a handgun purchase and background check.

Why do we need the Brady bill? A study of handgun-related crime issued July 8, 1990 by the Department of Justice estimated that 639,000 Americans are confronted each year by criminals carrying handguns. Sadly, 9,200 people were killed and another 15,000 were wounded in such encounters last year. In June 1990, a report by the National Center for Health Statistics found that the homicide rate among young men in the United States is 4 to 73 times the rate of homicide than in various other industrialized nations. Firearms are used in three-fourths of the homicide related deaths in our Nation but only in one-fourth of those in foreign countries. Crimes with handguns are

clearly increasing in our country. The Brady bill will certainly not stop all of these crimes, but it will stop some of them along with a combination of other effective anticrime measures.

Some say the Brady bill won't stop criminals because criminals don't attempt to buy guns from dealers. In fact, thousands of felons who are ineligible to buy guns are stopped nationwide each year. California, which has a 15-day waiting period stopped 2,182 prohibited gun sales in 1990, according to the California attorney general. Illinois denied 2,920 firearms owner identification cards and revoked 1,867 previously issued cards in 1989 due to felony convictions, according to the Illinois State Police. New Jersey has required a background check for handgun purchases for over 20 years and has stopped more than 10,000 convicted felons from trying to buy handguns. Indiana's 7-day waiting period has stopped 11,158 prohibited persons from buying handguns between 1980 and 1988. Similar examples exist in other States, as well.

Clearly, waiting periods for the purchase of handguns do not prevent all illegal purchases, but they do stop many of them. There is another reason why a 7-day waiting period makes sense, too. It provides a cooling off period in those instances where a person might be acting in the heat of passion by buying a handgun to be used to settle some argument or dispute or even to do harm to themselves. The 7-day period can save lives and will cause some people to think twice before committing a criminal act or using a handgun against themselves in desperation.

Some contend that we should pass the Staggers amendment, which mandates the creation of a nationwide instant background check for all handgun purchases at the point of sale without any waiting period. In the 1988 Anti-Drug Abuse and Control Act, Congress directed the administration to move on modernizing State and Federal criminal recordkeeping and to report on the feasibility of establishing a national instant identification system. In October 1989, the Attorney General reported that such a Federal system was neither practical nor desirable because 90 percent of arrests and convictions in the United States are handled by State and local officials and because there are wide variations in the recordkeeping ability and practices among the States.

The Staggers amendment before us today would give the Federal Government only 6 months to institute a national criminal identification system which the Justice Department has indicated is years away and which might cost millions of dollars to create. It took the State of Florida 20 months to set up a much smaller instant check system. The Staggers bill also does not say where the money would come from to create this instant national identification system. Finally, the Staggers bill imposes an impossible test upon the Attorney General by requiring that "not more than 2 percent of the initial telephone responses to the hotline" be false denials of handgun purchases. Even the Virginia system, which is seen by some as a model for a national system, had a false denial rate of more than 5 percent during a recent 3-month period.

Only three States, Virginia, Delaware, and Florida, have so-called instant felony check systems in place. Even in these three States, law enforcement authorities have up to 3 days to verify a purchaser's eligibility. Three other States, West Virginia, Maine, and Mississippi, do not have any of their criminal records on computer. The remaining States maintain access to their criminal records in various conditions.

Until we reach the point where a uniform national system is indeed feasible, the Brady bill provides the only reasonable policy initiative for accomplishing a national waiting period for the purchase of handguns so that some sort of criminal background check can be made. This bill is not a panacea for ending all handgun violence. But the Brady measure will stop some handguns from getting into the wrong hands. I urge my colleagues to vote for the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Chairman, I rise in support of H.R. 7, the Brady bill, and in opposition to the Staggers substitute.

Mr. Chairman, while the United States has reached a cease-fire with Iraq, our country is still at war, with itself. The FBI's recently released Uniform Crime Report shows that the United States is breaking records for violent crime.

In Philadelphia and other large cities, violent crime statistics reached an all-time high last year, setting new marks for the number of murders, robberies, and aggravated assaults. Seven cities, including Philadelphia, now account for more than a quarter of all murders in America.

Urban America is crying out for help in its struggle against crime. To help police slow the violent crime wave that is inundating our streets, the House should pass legislation to establish a national 7-day waiting period for handgun purchases.

That legislation is the Brady bill. As we all know, it is named after James Brady, the presidential press secretary who was seriously wounded in the 1981 assassination attempt on former President Reagan. The Brady bill would give law enforcement officials time to run a background check to determine if a potential purchaser were prohibited by law from buying a handgun.

A waiting period for handgun purchases can also get criminals off the streets and into prison. In states that already have waiting periods, thousands of criminals have been caught trying to buy guns. A national waiting period might help catch thousands more.

A proposal like the Brady bill should have universal support. It is a modest step toward helping police reduce violence and crime in our cities by keeping guns out of the hands of criminals and the mentally ill.

And, in fact, the Brady bill has the support of nearly every major police organization in the country, the majority of gun owners and 91 percent of the general public. It has even been endorsed by former Presidents Richard Nixon, Gerald Ford, Jimmy Carter, and, in a recent turnaround, even Ronald Reagan.

But the Brady bill is still facing heavy opposition. The National Rifle Association [NRA] and other gun groups are fighting the passage of this reasonable legislation.

Despite the NRA's protests, the Brady waiting period is not a national gun registration system and it will not take weapons away from law-abiding citizens. It would simply help weed out felons and the mentally imbalanced, people who clearly should not be sold guns.

In fact, there is nothing in this proposal that law-abiding citizens should object to. Convicted felons, drug dealers and others involved in criminal activity are the only people who should be concerned about a national 7-day waiting period.

Opponents of the Brady bill are now pushing the Staggers substitute, an alternative bill that would provide for an instant check of criminal records for all handgun purchases.

That sounds great, but only three States currently have the computerized records necessary for an instant check. Attorney General Dick Thornburgh has estimated that bringing all 50 States on line could take 3 to 5 years and hundreds of millions of dollars.

Until such a system exists, the Brady bill is a reasonable option. In fact, the Brady bill has a provision that would rescind the 7-day waiting period if an instant records check ever becomes viable.

The gun lobby says that we need tougher penalties to reduce crime and keep criminals off the street. I agree with them.

But I also think that the police and other law enforcement officials need all the help they can get. They are outnumbered and outgunned, fighting a losing battle against people who have almost unlimited access to whatever weapons they want.

In the United States, about 60 people are killed each day with guns, or 22,000 a year. Four Philadelphia police officers have been killed in the last 16 months, all by handguns. Reasonable proposals to prevent the wrong people from obtaining handguns will save lives. If the Brady bill saves the life of only one police officer, it will have been worth it.

It is now over 20 years since Bobby Kennedy was assassinated with a handgun. It is 10 years since a mentally unstable man with a Saturday night special attempted to take the life of then-President Reagan. But we still have no effective national method of keeping handguns out of the wrong hands.

The House now has the historic opportunity to help prevent the mentally ill and criminals from obtaining handguns, without infringing on the rights of sports-minded men and women and other law-abiding citizens. The police and the public need and want help in the war on crime and drugs. The House should defeat the Staggers substitute and pass the Brady bill today.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise in strong support of H.R. 7, the Brady Handgun Violence Act of 1991. This bill will not destroy rights. It will save lives. By establishing a national 7-day waiting period to allow local law enforcement to conduct background checks on handgun purchases, the Brady bill will help to keep deadly weapons out of the hands of people with a criminal record or a history of men-

tal illness. Additionally, this legislation will provide a cooling off period for impulse shoppers who commit violent crimes of passion. Period. H.R. 7 will not hinder the constitutional rights of legitimate gun-owners. H.R. 7 will not confiscate any firearm. And the vast majority of the American people understand this clearly. A recent Gallop poll tells us that 95 percent of the American people favor the Brady bill's provisons while a Time-CNN poll reports that 87 percent of gunowners favor Brady. We speak of this house as the people's house and, as far as the Brady bill is concerned, the people have spoken.

Not only do an overwhelmingly majority of American citizens favor H.R. 7, but nearly every police organization wholeheartedly embraces the Brady bill: International Association of Chiefs of Police, Police Executive Research Forum, Fraternal Order of Police, Police Foundation, Federal Law Enforcement Officers' Association, National Sheriffs' Association, National Troopers Coalition, National Association of Police Organizations, International Brotherhood of Police Officers, and the National Organization of Black Law Enforcement Executives. Who can serve as better advisers on this issue than the men and women who are out on our Nation's streets protecting our neighborhoods from the violent crime that handguns create? America's law enforcement has voiced its cry for help! Since the year of Jim Brady's shooting, 735 law enforcement officers have been killed in the line of duty, most of them by handguns.

In addition, one point needs to be underscored, particularly for my Michigan constituents. The Brady bill does not apply to handgun purchases where State laws impose a waiting period of at least 7 days or require a permit of purchase or an instant check prior to the sale of a handgun. Since Michigan law requires a purchaser to obtain a permit from a local law enforcement office, thereby clearing his or her name through the State police data base, the Brady bill will have absolutely no impact on Michigan.

The Brady bill offers no panacea or magical impact on the crime and violence that permeates our society, but it is a modest and prudent measure that may well save lives. Since Congress last considered the Brady bill, handguns alone have killed almost 50,000 people in this country. Even if the Brady bill saves only a small percentage of the lives that are being lost each year through handgun violence, it will be worth the small inconvenience to law-abiding citizens who may have to wait a few days to purchase their handguns. Our citizens want the protection of the Brady bill. American law enforcement needs the protection of the Brady bill. I urge my colleagues to support H.R. 7.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in support of the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I rise in support of the Staggers bill and in opposition to the Brady bill.

Mr. Chairman, once again we find ourselves debating a very old and still controversial issue—that of gun control. How many times has this body heard the argument that if we could just enact some reasonable controls at the point of purchase of a handgun, that crime will go down? How many times have we been asked to enact legislation that would force honest gun buyers to wait 7 days, or 2 weeks, or longer before they purchase a handgun? I have just about lost count, but I do know that the Congress has rejected all of these proposals during the past 20 years. And I also know why—a majority of Members of Congress through the years have recognized such proposals as having no impact on those who disobey the law. The legislation before us is often called common sense, or reasonable, but upon closer examination, it is neither. As we find ourselves discussing a national waiting period for the purchase of a handgun, I want to make my objections clear to all.

First, how many Members of this great body honestly believe that creating a 7-day waiting period and background check on handgun purchases is going to prevent criminals from getting guns and misusing them? The best research done to date, that by Professor's Wright and Rossi for the Justice Department, prove that felons simply do not get guns from legitimate sources. Criminals by definition do not obey the law, and when it comes to acquiring guns, friends, family members, swaps, trades, and theft are the predominant sources of illegal firearms. Simple common sense tells me that those who live by violating laws every day are in a position to obtain a gun more quickly, and more cheaply from the street than from a retail outlet—with or without a waiting period.

Second, if waiting periods and background checks do work, and criminals are deterred from getting guns, why hasn't there been a corresponding decrease in violent crime? I have not heard gun control advocates cite FBI figures or data indicating that crime is going down in any State that has such regulatory schemes. All I have heard cited are figures about permit denial, at a rate incidentally of only about one-half of 1 percent, and this, ladies and gentleman, does not equate to crime reduction. In fact, the proponents of this measure fail to tell you that in States that have waiting periods, roughly 80 percent of the small number who are initially denied are law-abiding citizens, denied due to faulty information. No, there is a reason that we have not heard gun control proponents arguing for their cause while using violent crime decreases as proof of the effectiveness of such restrictive laws. That reason is this—those States with such laws have simply not experienced any crime decreases attributable to gun control. So why force a waiting period scheme on the entire Nation when it has failed miserably wherever it's been tried?

I urge my colleagues to once again reject unworkable, wasteful waiting period schemes, and instead support the Attorney General's efforts in updating and computerizing the Nation's criminal records, an effort embodied in H.R. 1412.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise in strong support of the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise today in strong support of H.R. 7, the Brady Handgun Violence Prevention Act.

Current Federal law is inadequate. The 1968 Gun Control Act mandates that a handgun buyer fill out a form certifying that they are not a convicted felon, a fugitive from justice, a minor, a drug addict, adjudicated to be mentally incompetent, or dishonorably discharged. The problem is that the validity of this form is never checked. Consequently, individuals with criminal records can easily obtain handguns through legal gun dealers.

Handguns must be taken out of the hands of criminals. Performing background checks on potential gun buyers would reduce the avenues through which criminals can obtain handguns.

In my view, the Brady bill is the preferable approach. A national 7-day waiting period on the sale or transfer of handguns will slow the flow of handguns to criminals. But, it will not restrict gun ownership for sportsmen and law-abiding citizens.

My home State of Maryland has a mandatory 7-day waiting period on the purchase of handguns. This law has been very successful. Law enforcement officials have noted that hundreds of individuals with criminal records are caught each year attempting to purchase handguns through legal gun dealers.

In 1990, 24,615 people attempted to purchase handguns in the State of Maryland. The Maryland State Police's Firearm Licensing Center denied 919 people permission to purchase handguns as a result of background checks performed during the 7-day waiting period. Only 485 of those denied permission to purchase handguns requested a hearing and less than half of those were over-turned at the hearing.

During the first 2 months of 1991, 4,594 people applied to purchase a handgun in the State of Maryland—183 people were denied permission to purchase a handgun; 76 people requested hearings and of those only 23 were reversed. These figures do not include the many individuals, who are not allowed to own handgun, who would have tried to purchase handguns in Maryland if it were not for the 7-day waiting period requirement.

Finally, regardless of how you plan to vote on the Brady bill, you should realize that Mr. STAGGERS' instant check, H.R. 1412, is not a viable alternative. It attempts to speed up the process of developing a national computer check system, which was part of the 1988 drug bill. Unfortunately, Attorney General Richard Thornburgh has said that it would not be feasible to implement an instant check system within 6 months. Experts believe such a system would take 5 to 10 years to implement. Currently, only 10 States have fully automated record systems, which are necessary for an instant check to be effective.

In addition, Mr. STAGGERS' bill would require States to spend 10 percent of their criminal

justice funds to update their records. This would place a tremendous burden on criminal justice budgets of States that are already struggling to respond to the crime problem on our Nation's streets.

I am an original cosponsor of the Brady bill and a strong proponent of efforts on the Federal, State, and local level to control the illegal use of guns in our society.

I urge my colleagues to follow the example of Maryland and impose a national 7-day waiting period. The Brady bill will help keep guns out of the hands of criminals without infringing upon the rights of responsible gunowners.

Mr. ORTON. Mr. Chairman, the second amendment to our Constitution states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed." Furthermore, the 10th amendment states that all powers not delegated to the United States by the Constitution are reserved to the States, or to the people.

In acknowledging the peoples' right to keep and bear arms, the Constitution defers to States' rights to regulate a militia in order to protect the security and freedom of each State. It is clear that the separate States may regulate the acquisition and ownership of weapons. Over the past 200 years The U.S. Supreme Court has interpreted the right to bear arms as not being absolute but subject to reasonable restrictions. For example, a private citizen's rights to own combat-ready weaponry such as F–16 fighters, M–1 tanks, stinger missiles, and even automatic weapons, are restricted.

No Member of this House would condone the violent use of a weapon, and I am certain that collectively our hearts go out to Jim Brady and all victims of violence. But the issue here is not the condoning or abhorrence of violence. The issue in question before us today is whether the Brady bill or the Staggers substitute would impose a reasonable and necessary restriction on the peoples' right to keep and bear arms, whether either restriction would achieve the purpose of protecting the public safety, and, ultimately, whether it is appropriate for the Federal Government to impose such a restriction.

First, it is my opinion that a waiting period may indeed be a reasonable restriction upon the peoples right to bear arms. In fact, many cities and States have imposed waiting periods upon the purchase of handguns. However, it is highly questionable whether the imposition of a waiting period to purchase a handgun has any impact upon the use of guns in violent crimes. It can be argued according to the data that the occurrence of violent crimes involving handguns is as high or higher in jurisdictions imposing waiting periods than it is in jurisdictions with no waiting periods.

Second, while a waiting period may be a reasonable restriction in New York, Washington, DC, Chicago, or Los Angeles, it may be totally unnecessary and unreasonable in Provo, Manti, or Roosevelt, UT. I believe that it is inappropriate for the Federal Government to impose such a restriction on a nationwide basis. This issue is one for the States or the people to determine, not the Federal Government. If the Utah State Legislature determined that a waiting period is necessary and reasonable, or if the people of Utah voted by referendum to adopt such a restriction, that may be appropriate.

I cannot support the Brady bill. I believe it violates the spirit of the 2d and 10th amendments to the Constitution. Under the same reasoning, I cannot support the Staggers substitute either. The principal difference between Brady and Staggers is seven days. In addition, the Staggers substitute is unnecessary. In the McCollum amendment to the 1988 crime bill, Congress has already authorized the equivalent to Staggers.

In addition to the Constitutional questions, I am also concerned with the costs involved in the application of both Brady and Staggers. The Congressional Budget Office has estimated it would cost the Federal Government and the States hundreds of millions of dollars to create automated criminal records that could be used to check instantaneously the backgrounds of weapons purchasers. Where will these funds come from? Will they be imposed upon all taxpayers by increased taxes? Or will the costs be imposed as a fee upon purchasers of weapons? If the costs are imposed as a fee upon the purchaser, the fee could be as high as hundreds of dollars per purchase and the fee itself could constitute an unreasonable restriction upon the right to bear arms.

The real problem we face is not the free access to weapons. Ours is a societal problem of moral deterioration and the loss of value of human life. We are bombarded constantly in movies, television, mass media, books, and even music with violence. Violence is glorified and presented as the ultimate solution to any problem. The only result of weapons control is the selection of the weapon to be used in committing a violent act. The only solution is to address the problem of violence.

The right to bear arms is a cherished right among citizens of my district in Utah as it is throughout the United States. I am committed to protecting all rights guaranteed under the Constitution, including both the right to bear arms and the right to life, liberty and the pursuit of happiness. The right to life is clearly the primary right guaranteed to all citizens. Were I convinced that an abridgment of the right to bear arms would more certainly guarantee the right to life, I would favor Brady or Staggers. I am not so convinced.

Mr. LUKEN. Mr. Chairman, we have all been inundated by calls and letters urging us to support or reject the Brady bill. But this morning I received a call that was the most significant of any I received.

The call was from Police Chief Lawrence Whalen, police chief of Cincinnati, OH. Against a backdrop of rising violent crime, Chief Whalen had a simple message: The Staggers bill will do nothing and the Brady bill will give him a real chance to get a gun away from a person with a felony conviction or serious mental disability.

And is it not a chance that law enforcement deserves? Our police officers put their lives on the line every day and our citizens often live in danger in their own neighborhoods.

No one should overstate the value of the Brady bill. It won't make violence on our streets go away. But it is a reasonable, commonsense approach to the problem of handguns in our society. The Brady bill protects the rights of all law abiding citizens—including gun owners. Let us take this step for commonsense, reasonableness, and safety. I urge my colleagues to support the Brady bill.

Mr. MOODY. Mr. Speaker, I rise in support of the Brady bill, H.R. 7, and in opposition to the Staggers amendment. There are three critical reasons for supporting the Brady bill and three for opposing the Staggers amendment.

The first reason is that the police want to see the Brady bill pass. Every year, 23,000 people are killed and 600,000 more are victimized by handguns. A waiting period will prevent many of these senseless tragedies. That's why all the national police organizations, representing more than 400,000 rank-and-file police officers, sheriffs and chiefs of police, endorse the Brady bill. And that's why, according to the Gallup poll, 95 percent of the American public supports a 7-day waiting period.

Second, the Brady bill can be implemented now. All sides agree that we should run felon checks on handgun buyers. Right now, accurate checks of manual and/or computerized criminal records can be run in a matter of days. The Brady bill can be implemented immediately.

Third, the waiting period works. Waiting periods save lives by cooling off individuals acting in the heat of passion or the depths of depression. And states which currently have waiting periods stop thousands of felons from obtaining handguns every year.

The Staggers amendment calls for instant checks for gun buyers. But there are problems: first, it cannot be done. As the Attorney General said to the Senate Judiciary Committee on April 18: "The criminal justice records across the country are simply not in the kind of shape that would permit [Staggers] to be instantly enacted." It will take years before national criminal records are as automated and complete as Virginia's.

Second, it will cost a billion dollars. In 1989, the Justice Department estimated that a telephone check bureaucracy would cost $35 million to set up and $70 million per year. In addition, based on FBI testimony, it will cost $320 million to computerize all their records and more than $1 billion to automate both State and Federal criminal history records.

Last, the Staggers amendment is totally unnecessary. The Justice Department is already required to implement a national instant check system under the 1988 McCollum amendment. As soon as they become feasible, instant checks will be implemented under existing law.

The fact is, the Staggers amendment is a thinly-veiled attempt to undermine the Brady bill. We must not be derailed—support our men and women in law enforcement that put their lives on the line daily, support the side of reason and common sense—in the words of President Reagan—support the Brady bill.

Mr. DOOLEY. Mr. Chairman, I support H.R. 7, the Brady Handgun Violence Protection Act, because of a 7-day waiting period for handgun purchases does not impose hardships on law-abiding citizens, and it may contribute to reducing violent crimes.

My support of the Brady bill rather than the amendment offered by Mr. STAGGERS should

not be viewed as a vote against an instant-check system of screening purchasers of handguns. In fact, the Brady bill does not require a 7-day wait for gun purchases in States where instant-check systems are in the place.

Instant check is a good idea and should be instituted, but it is not realistic to believe that a nationwide computer check system could be up and running in 6 months, as the Staggers amendment calls for.

I would like to have seen a genuine, good-faith effort presented on the idea of a nationwide computer check system. I wish a workable approach to combining the best points of Brady and Staggers had been put forward this time.

Unfortunately, that has not happened. Therefore, I will cast my vote for the best available, life-saving option: the Brady bill.

Mr. SKELTON. Mr. Chairman, I rise today to express my strong opposition to the Brady bill requiring a 7-day waiting period for handgun purchases, and to voice support for the substitute amendment offered by Mr. STAGGERS to set up a system for instantaneous background checks.

I support the Staggers amendment and oppose the Brady bill because our Nation is experiencing a crime problem, not a gun problem. I am hopeful that the 102d Congress will pass a comprehensive crime bill that will be tough on criminals and not on law-abiding citizens.

Those of us from small town and rural America see people using firearms correctly and having respect for them. A 7-day waiting period will not make one iota of difference in the crime rates of large cities. This can be seen by looking at neighboring jurisdictions, Washington, DC, and the Commonwealth of Virginia. Washington, DC, a city with one of the highest rates of violent crime, has strict gun control laws. Virginia has a system for instant background checks, on which the Staggers amendment is patterned, and we all know the high incidence of crime in Washington as compared to Virginia.

The Staggers amendment is the best approach to preventing criminals from purchasing handguns. A waiting period will only hurt law-abiding citizens, not criminals. I encourage my colleagues to oppose this gun control legislation.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today in support of H.R. 7, the Brady Handgun Violence Protection Act. As stated by previous speakers, this bill will require a 7-day waiting period between an application to purchase a handgun and the time when the sale may be completed.

Mr. Chairman, I have heard much criticism of this bill on the ground that criminals will get their handguns regardless of whether or not this bill is enacted. I believe that such criticism misses the point.

The fact is we in the United States have a tremendous problem. Over the years our cities have grown, and bit by bit the quality of the law enforcement in many of our cities has decreased. This has resulted in an uncontroverted fact that many of our larger cities are not safe to walk in after sunset.

I point this out because I think some of my colleagues have lost their perspective on this important point. While many of our society's middle class, and all of our upper class, can avoid these areas, much of our Nation's poor cannot simply walk away. They must live, work and go to school in these crime-infested areas. I do not believe that this situation must go on.

The United States has the ability to correct this problem, and correct it without a qualitative loss of individual liberty. It will not be easy, and it cannot be done overnight, but it can be done. It will take a concerted effort on the part of many groups of individuals. Congress alone cannot solve this problem, but Congress can take certain steps to improve the situation.

While the Brady bill will not solve the inner-city crime problem, it is a step in the right direction. Critics of this bill say criminals do not get their guns from legitimate gun dealers, but the facts are that some criminals in the past have purchased their guns in just such a manner. In 1989, it was reported that California stopped 1,793 illegal purchases, Illinois denied 2,920 permits and revoked 1,867 permits, and New Jersey stopped 961 illegal purchases. These statistics do not indicate the Brady bill will stop all handgun violence, and I do not expect this bill to stop all crime, but I do believe it is a step in that direction.

In conclusion Mr. Chairman, I want to say that although I do not have a vote on the floor of this great body, I feel compelled to speak out today because of this current deplorable position I see in our cities. My perspective is different because I come from a small island in the South Pacific, but my conviction on this issue is strong. I want to see a free, strong America, and I think it is time to move toward that goal.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I rise in strong support of the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Chairman, I rise in strong support of the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Chairman, I rise in strong support of the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the Brady bill.

Mr. SCHUMER. Mr. Chairman, I yield 3 minutes to the very distinguished sponsor of this bill, the gentleman from Ohio [Mr. FEIGHAN], who was there from the very beginning.

Mr. FEIGHAN. Mr. Chairman, for me today represents the end of a very long and hard road. I first introduced the Brady bill in 1987. Today, this House is going to determine its fate.

□ 1800

This is not by any means an ordinary vote. I think we all recognize that. I find it particularly startling that a measure that has such overwhelming popular public support, estimated to be as high as 95 percent among the American people, can generate such controversy and such interest in this Chamber. But we know that this vote is very different than most. We know that this vote is going to be very close.

I think the real reason for that is the National Rifle Association. Frankly, if it were not for the National Rifle Association, the Brady bill would have become law at least 3 years ago.

Mr. Chairman, for the past 4 or 5 years I have come to work with two very distinct type of lobbyists on this issue. I have worked very closely at times, certainly extensively with the professional lobbyists of the National Rifle Association, who come here with virtual unlimited resources and who have worked to defeat really any and all types of gun control measures that have come before this Congress. But I have also, as have many of my colleagues, had the opportunity to work with citizen lobbyists, survivors of handgun violence who have somehow been able to take the pain and the anguish and the grief that they have suffered and convert it into some positive action.

There are Jim and Sarah Brady, that so many Members know and have talked to in recent months, who more than anyone else, I think, are responsible for us being here today. But there are others as well who have come before us to urge us to enact this simple measure because they believe it will prevent others from suffering as they have suffered. When those come before us and say that the Brady bill will not work, I think of some people who may be alive today if the Brady bill had been in place.

I think of Cathya Gould, whose 36-year-old husband, a policeman in South Carolina, was shot and killed while sitting at his desk in the police station by a deranged 86-year-old man who had purchased a murder weapon that very morning.

I also think of Brigadier General and Mrs. Jerry White, whose 30-year-old son, Stephen, was shot in a cab by a convicted felon, a convicted felon who had purchased a gun just 6 days earlier.

I think of Jim and Louise Bias, the parents of both Len Bias and their second son, Jay Bias, who was gunned down last December while on lunch in a mall in Prince George's County. And I think of Naval Commander David Whitt and his wife Dorothy whose 20-year-old son, Lance, a college student, was murdered while at a friend's house in Springfield, VA.

We have a chance today, ladies and gentlemen, to do something that we do not really have a chance to do very

often as elected officials. We have a chance today to save some lives. We have a chance today to prevent some of the carnage on America's streets.

We have a chance to break the political stranglehold of one of the most dangerous and intimidating lobbies on Capitol Hill. We cannot bring back Cathy Gould's husband, bring him back to life, and we cannot return Lance Whitt to his mom and dad, but we can prevent others from becoming innocent victims in their wake.

To Jim and Sarah Brady, I say, this vote is for you and for all the other victims who have finally brought us, I think, to our senses.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of the Brady bill.

Mr. Chairman, I rise to urge my colleagues to support the Brady bill and oppose the Staggers' amendment. Passage of the Brady bill will mark a watershed in our war against crime and violence in this country.

It is the first step, the right step, and the best step toward ending America's dangerous liaison with gun violence, and because of that it has received the strong support of all of our living former Presidents.

However, I want to correct a misunderstanding that seems to be going around the floor today: you cannot vote for both the Staggers' amendment and the Brady bill. A vote for Staggers is a vote to kill Brady.

Let's be honest. Is the NRA's first priority really to staunch the flow of American gun violence? If the NRA and those who oppose H.R. 7 really believed that the Staggers' amendment would be more effective than Brady, they would not be spending millions of dollars on television time to convince Americans to support Staggers and oppose Brady.

Nobody who has studied the facts believes that Staggers can work. Just last week a draft of an Office of Technology Assessment study made clear how unfeasible the Staggers amendment would be, noting that it would take "five to ten years" to develop a viable computer system for instant background checks.

Passage of Staggers would be a cruel hoax on the American people. They'd think they were getting safer streets legislation; what we'd really be giving them is a whopping tax bill and a vague promise of background checks sometime in the 21st century.

In short, a vote for Staggers is a vote to do nothing about gun violence in America, and to live with the status quo—over 23,000 handgun deaths each year. We can't afford that kind of indifference.

It's time the rest of the Nation catch up with States like California, which already has a 15-day waiting period. Illegally obtained guns continue to flow over our borders from States that don't have adequate laws on the books. Let's plus those leaks and vote for an effective national solution—the Brady bill.

In casting their vote, I urge my colleagues to ask themselves one important question: what does Congress want on the books: a solution that's cheap and reliable—the Brady bill—or one that's an expensive pipe dream, like Staggers? Too many of America's children live in terror of random gun violence. Let's take the first step in putting an end to this lethal folly.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from West Virginia [Mr. STAGGERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STAGGERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 193, noes 234, not voting 3, as follows:

[Roll No. 81]

AYES—193

Alexander
Allard
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bereuter
Bevill
Bilbray
Bliley
Boehner
Boucher
Brewster
Brooks
Browder
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Carr
Clinger
Coble
Coleman (TX)
Combest
Condit
Costello
Cramer
Crane
Cunningham
Dannemeyer
Davis
de la Garza
DeFazio
DeLay
Dickinson
Dingell
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Fields
Franks (CT)
Gallegly
Gaydos
Gekas
Geren
Gillmor
Gingrich
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Ireland
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kasich
Kolbe
Kolter
Kopetski
Kyl
Lagomarsino
Lancaster
LaRocco
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Long
Lowery (CA)
Marlenee
McCandless
McCollum
McCrery
McEwen
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Oberstar
Olin
Ortiz
Packard
Parker
Patterson
Paxon
Payne (VA)
Perkins
Peterson (MN)
Petri
Pickett
Poshard
Quillen
Rahall
Ramstad
Ravenel
Rhodes
Richardson
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Roth
Rowland
Sanders
Santorum
Sarpalius
Schaefer
Schulze
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stallings
Stearns
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traxler
Unsoeld
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Whitten
Williams
Wilson
Wise
Yatron
Young (AK)
Zeliff
Zimmer

NOES—234

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Berman
Bilirakis
Boehlert
Bonior
Borski
Boxer
Broomfield
Brown
Bryant
Campbell (CA)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Coleman (MO)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Cox (CA)
Cox (IL)
Coyne
Darden
DeLauro
Dellums
Derrick
Dicks
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Hyde
Jacobs
James
Jefferson
Johnson (CT)
Johnston
Jones (GA)
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Neal (MA)
Nowak
Nussle
Oakar
Obey
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Penny
Peterson (FL)
Pickle
Porter
Price
Pursell
Rangel
Ray
Reed
Regula
Riggs
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Russo
Sabo
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Stark
Stenholm
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Upton
Valentine
Vento
Visclosky
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Wolf
Wolpe
Wyden
Wylie
Yates
Young (FL)

NOT VOTING—3

Lehman (FL)
Martin
Roybal

□ 1820

Mrs. COLLINS of Michigan changed her vote from "aye" to "no".

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. HOYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7) to amend title 18, United States Code, to require a waiting period before the purchase of a handgun, pursuant to House Resolution 144, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM, Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. McCOLLUM. Mr. Speaker, I am opposed to the bill.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCOLLUM moves to recommit the bill H.R. 7 to the Committee on the Judiciary with instructions not to report back the same until it has conducted a thorough and complete study, including hearings, of the provisions and merits of the bill in the overall context of the violent crime problem confronting the Nation and the President's Message on Violent Crime of March 12, 1991 (House Document No. 102-58).

Mr. BROOKS. Mr. Speaker, I reserve a point of order.

The SPEAKER. The gentleman from Texas [Mr. BROOKS] reserves a point of order.

The gentleman from Florida [Mr. McCOLLUM] is recognized for 5 minutes in support of his motion to recommit.

Mr. McCOLLUM. Mr. Speaker, if I may be heard, I would like to explain this amendment if I could.

In the first place, Mr. Speaker, what I think we are dealing with here, and why this motion to recommit is so important, is that the President of the United States has said that he will veto this Brady bill if it comes over independent of anything else.

The motion to recommit does not require the House or any process to take up the President's crime bill, but it does require that there be further hearings on the matter of crime in general, and it requires that those hearings take into account the President's message, and it requires, of course, that the Brady issue, the 7-day waiting period, be considered in the context of those hearings.

I think this is exceedingly important, and it is very important for Members to remember. Only 20 percent of the felons who commit crimes with guns in this country, by the very best statistics available, acquire those guns from gun dealers. If we really will do something about violent crime in this country, this country must do something with respect to the overall crime issues that face our country.

Mr. Speaker, the issue with regard to what we do on violent crime centers on the need to put swiftness and certainty back into our punishment system, back into our criminal laws. The only way we will gain control over it is to do that.

We had an opportunity in the last couple of years to do some things that would be material to that, but we really have not done it. We have not been able to get over the hurdle of a conference, though we did have votes on the floor of the House over some very important measures to do that in the last Congress. Those measures include the restoration of the death penalty at the Federal level for a number of Federal crimes where the procedures were held unconstitutional in 1972 by the Supreme Court. All of the States, but the United States did not do it, but all of the States individually that had death penalties on the books in 1972 have gone back and made the constitutional corrections necessary to revalidate their death penalties. We have yet to do that. That is a very important part of anything we do to deter violent crimes and put certainty back into the punishment system.

□ 1830

The changes with regard to the exclusionary rule which passed this body in the last Congress need to be addressed. That is the rule of evidence that excludes those things that were obtained in illegal searches and seizures. The Supreme Court of the United States has already ruled exceptions to that with regard to search warrant cases, but in otherwise legal searches, such as consent searches, the same exception for good faith that they have put into the rules with regard to search warrants has not been put into the law. This body passed a provision in the last Congress, but it did not become law, dealing with that very subject.

We have not seen reforms in habeas corpus that would end the endless appeals that death row inmates take after their convictions before the carrying out of their sentences, and that needs to be addressed by this body. It was in the last Congress, but it did not become law, did not get through the conference between the House and the Senate and get to the President's desk.

Then there is the whole question of minimum mandatory sentences for those felons who commit violent crimes with guns. We have on the books today a minimum mandatory 5-year sentence for anybody who does that with a gun, any crime involving drug trafficking or a lot of those kinds of things.

The problem is that we do not have sufficient laws on the books to deal with all the matters that come before our prosecutors. The Attorney General is now in the process of trying to enforce some of these laws with what he calls Operation Trigger Lock, but he has asked this body to provide additional punishments, additional enhancements and deterrents, such as having a minimum mandatory sentence for those who commit violent crimes with semi-automatic weapons of 10 years in prison, things that would take criminals off the streets and really be meaningful in stopping crimes with guns, not just working around the edges as the efforts to work on stopping felons being able to purchase guns that gun dealers do.

Now, I am all for efforts to stop the purchase of guns by felons when they go to the gun dealers to do that, but I do not think that it should be sent to the President, that a bill should be sent to the President like this one today, without taking a look at the whole picture, without realizing that we have not gotten to these other matters, without having addressed these other matters.

The President has said that if we do not send the other things down there to him, the real tools, the deterrents that we are talking about in measures like I have outlined, that he is going to veto any bill we send down there. That is clearly stated and clearly understood.

My motion to recommit does not—and I want to emphasize—does not direct the committees or the Congress to take up the President's crime bill or any other particular crime bill. What it does is simply direct that the committees hold hearings on the broad crime questions and consider the President's crime message.

I would hope that in that context that the objection or the potential point of order would be withdrawn with respect to this motion to recommit and that we could have a simple straight up and down vote so that we can express to the American people our desire, not simply to address one small facet of the whole issue of guns and violent crime, but the many other things that we need to address if we are going to get hold of the whole violent crime problem, the death penalty issue, the exclusionary rule, the habeas corpus issue, the need for additional minimum

mandatory sentences for those who commit crimes with guns.

I urge adoption of this motion to recommit with instructions, Mr. Speaker.

The SPEAKER. Does the gentleman from Texas [Mr. BROOKS] insist on his point of order against the motion to recommit?

Mr. BROOKS. No; I do not, Mr. Speaker.

The SPEAKER. The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. BROOKS. Mr. Speaker, I want to say that the Judiciary Committee now has had legislative hearings and markups on the Brady bill, and you have got it right now. Are you happy with it? You have got it.

On the RICO bill, subcommittee hearing and markup.

Scheduled hearings are now scheduled for witness fees for incarcerated persons, on habeas corpus, on victims rights.

In the works are additional criminal bills that will be of help to people in this country. We have an increased death penalty. We will have mandatory drug treatment for prisoners. We will have a bill on asset forfeiture of drug busts.

We have also got oversight authorization hearings now underway on police brutality, FBI authorization request for fiscal year 1992, FBI authorization requests for the Identification Division, reauthorization of the U.S. Marshals Service, Executive Office of the U.S. Attorneys, and the various U.S. Attorneys Offices, on the administration of the Federal Judiciary, on the Federal Prison System and the National Institute of Corrections, on the DOJ Civil Rights Division authorization request for fiscal year 1992, on the DOJ Community Relations Service authorization requests for fiscal year 1992, and on Immigration and Naturalization Service Management issues. All of these matters are now actively under consideration or being handled. We are aware of many previous crime bills, and I believe that with the addition of most of these for your consideration, you will have your crime bill agenda pretty well filled up.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my friend, "Wild BILL DANNEMEYER."

Mr. DANNEMEYER. You know, Mr. Speaker, I say to the gentleman from Texas [Mr. BROOKS] that he is the chairman of the committee. Under the rules he can hold a hearing any time the spirit moves him, right?

Mr. BROOKS. Well, with the general consent of the committee.

Mr. DANNEMEYER. My question is when does the gentleman plan to set the President's crime bill for a hearing, when?

Mr. BROOKS. Well, we have a lot of individual bills that we are considering that we feel are much more important.

Mr. DANNEMEYER. No, no, Mr. Speaker. It is a simple question, when? Next Tuesday, a week from Thursday?

Mr. BROOKS. We do not buy pigs in a poke. We buy them individually.

Mr. DANNEMEYER. Well, may I remind the distinguished chairman that bill is gathering dust under the gentleman's tender hands and we would like to see it on the floor of the House when the spirit moves the gentleman.

Mr. BROOKS. Well, Mr. Speaker, I reclaim my time. I have one more short statement.

I am opposed to the motion to recommit. The Judiciary Committee is working hard on this legislation. They brought this one out, which I was dead set against. You cannot ask for more objective treatment, I will guarantee you.

The committee has considered this legislation, moved it through regular order. That is what we plan to do with the rest of these crime bills.

I think that it is time to move this legislation on through the process in the regular order like we have been trying to maintain all this time.

Mr. Speaker, I yield the balance of my time to the majority leader.

The SPEAKER. the gentleman from Missouri [Mr. GEPHARDT] is recognized for 45 seconds.

Mr. GEPHARDT. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I thank the leader for yielding to me.

Mr. Speaker I would hope that Members on my side of the aisle will support the Brady bill and will vote no on the motion to recommit. I think that would give us a little clout to take advantage of the new found bleeding heart of the gentleman from Texas to get the President's crime bill out. I hope we will have a vote out on that later on, but let us not support the motion to recommit. Let us defeat it.

Mr. GEPHARDT. Mr. Speaker, I certainly support the gentleman's statement.

Let me say that there has not been nor will there be an attempt to thwart the bringing out on the floor of the issues in the President's package and in the crime bill. We had the crime bill up last year. We had votes on all the controversial issues. It will be up on the floor this year. The committee is working. If you voted for the Brady bill, I urge you to vote against the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 265, not voting 3, as follows:

[Roll No. 82]

AYES—162

Allard	Grandy	Payne (VA)
Applegate	Gunderson	Perkins
Archer	Hammerschmidt	Peterson (MN)
Armey	Hancock	Petri
Baker	Hansen	Pickett
Ballenger	Harris	Poshard
Barrett	Hastert	Quillen
Barton	Hayes (LA)	Rahall
Bereuter	Hefley	Ramstad
Bevill	Herger	Ravenel
Bilirakis	Hobson	Rhodes
Bliley	Holloway	Riggs
Boehner	Hopkins	Ritter
Boucher	Horton	Roberts
Browder	Houghton	Rogers
Bruce	Hubbard	Rohrabacher
Bunning	Huckaby	Roth
Burton	Hunter	Sanders
Byron	Hutto	Santorum
Callahan	Inhofe	Schaefer
Camp	Ireland	Schiff
Campbell (CO)	Johnson (CT)	Schulze
Carper	Johnson (SD)	Shaw
Clinger	Jontz	Shuster
Coble	Kanjorski	Sisisky
Coleman (TX)	Kasich	Skeen
Combest	Kolbe	Slaughter (VA)
Costello	Kolter	Smith (OR)
Cox (CA)	Kyl	Smith (TX)
Cramer	Lagomarsino	Snowe
Crane	Laughlin	Solomon
Cunningham	Lewis (CA)	Spence
Dannemeyer	Lewis (FL)	Stallings
Davis	Lightfoot	Stearns
DeLay	Livingston	Stump
Dickinson	Lowery (CA)	Sundquist
Doolittle	Marlenee	Swett
Dornan (CA)	McCandless	Tallon
Dreier	McCollum	Tanner
Duncan	McCrery	Tauzin
Edwards (OK)	McDade	Taylor (MS)
Emerson	McEwen	Taylor (NC)
English	Michel	Thomas (CA)
Erdreich	Miller (OH)	Thomas (WY)
Espy	Montgomery	Vander Jagt
Fields	Moorhead	Vucanovich
Franks (CT)	Myers	Walker
Gallegly	Nichols	Weber
Gaydos	Nussle	Whitten
Gekas	Oberstar	Wilson
Geren	Obey	Yatron
Gillmor	Packard	Young (AK)
Gingrich	Parker	Zeliff
Goodling	Paxon	Zimmer

NOES—265

Abercrombie	Boxer	Darden
Ackerman	Brewster	de la Garza
Alexander	Brooks	DeFazio
Anderson	Broomfield	DeLauro
Andrews (ME)	Brown	Dellums
Andrews (NJ)	Bryant	Derrick
Andrews (TX)	Bustamante	Dicks
Annunzio	Campbell (CA)	Dingell
Anthony	Cardin	Dixon
Aspin	Carr	Donnelly
Atkins	Chandler	Dooley
AuCoin	Chapman	Dorgan (ND)
Bacchus	Clay	Downey
Barnard	Clement	Durbin
Bateman	Coleman (MO)	Dwyer
Beilenson	Collins (IL)	Dymally
Bennett	Collins (MI)	Early
Bentley	Condit	Eckart
Berman	Conyers	Edwards (CA)
Bilbray	Cooper	Edwards (TX)
Boehlert	Coughlin	Engel
Bonior	Cox (IL)	Evans
Borski	Coyne	Fascell

Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Gray
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Hyde
Jacobs
James
Jefferson
Jenkins
Johnston
Jones (GA)
Jones (NC)
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Peterson (FL)
Pickle
Porter
Price
Pursell
Rangel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (FL)

NOT VOTING—3

Lehman (FL)
Martin
Roybal

□ 1854

Mr. HALL of Texas changed his vote from "aye to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HOYER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 186, not voting 5, as follows:

[Roll No. 83]

AYES—239

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Bateman
Beilenson
Bennett
Bentley
Berman
Bilirakis
Boehlert
Bonior
Borski
Boxer
Broomfield
Brown
Bryant
Campbell (CA)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Coleman (MO)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Darden
DeLauro
Dellums
Derrick
Dicks
Dixon
Donnelly
Dooley
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Gray
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Hutto
Hyde
Jacobs
James
Jefferson
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Neal (MA)
Neal (NC)
Nowak
Oakar
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Pickle
Porter
Price
Pursell
Rangel
Reed
Regula
Riggs
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Russo
Sabo
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Skaggs
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Solarz
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Upton
Valentine
Vento
Visclosky
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Wolf
Wolpe
Wyden
Wylie
Yates
Young (FL)

NOES—186

Alexander
Allard
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bereuter
Bevill
Bilbray
Bliley
Boehner
Boucher
Brewster
Brooks
Browder
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Carr
Clinger
Coble
Coleman (TX)
Combest
Condit
Costello
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
de la Garza
DeFazio
DeLay
Dickinson
Dingell
Doolittle
Dorgan (ND)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Fields
Franks (CT)
Gekas
Geren
Gillmor
Gingrich
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Inhofe
Ireland
Jenkins
Johnson (SD)
Jontz
Kanjorski
Kasich
Kolbe
Kolter
Kopetski
Kyl
LaRocco
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Long
Marlenee
McCandless
McCollum
McCrery
McEwen
Miller (OH)
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nagle
Natcher
Nichols
Nussle
Oberstar
Obey
Olin
Ortiz
Orton
Parker
Patterson
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Poshard
Quillen
Rahall
Ramstad
Ravenel
Ray
Rhodes
Richardson
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Roth
Sanders
Santorum
Sarpalius
Schaefer
Schiff
Schulze
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stallings
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Traxler
Unsoeld
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Williams
Wilson
Wise
Yatron
Young (AK)
Zeliff
Zimmer

NOT VOTING—5

Lehman (FL)
Martin
Michel
Roybal
Whitten

□ 1912

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 7, the bill just passed.

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

There was no objection.

UNIVERSAL ACCESS TO HIGHER EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. ANDREWS] is recognized for 5 minutes.

Mr. ANDREWS of New Jersey. Mr. Speaker, there are millions of Ameri-

cans across the country who watch our proceedings every day and think about our proceedings every day who are caught in a squeeze with respect to paying for their college education. There are many people across this country, Mr. Speaker, who cannot afford to go to college at all, and perhaps there are many more people across the country who could go to a higher form of education or a more expensive school, but the resources for them are not there.

Mr. Speaker, we are very fortunate that under the leadership of the chairman of this body's Committee on Education and Labor, we have commenced in the Subcommittee on Higher Education extensive hearings on the reauthorization of the Higher Education Act.

Mr. Speaker, today we were graced during those hearings with the presence of the new Secretary of Education, a person with a sincere commitment and vast knowledge and experience in the field of higher education.

In today's initial hearings on the subject, there were some questions that I had the chance to ask that I was disturbed that there were not ready answers to. I was not disturbed because there was a statistic lacking, because we cannot expect the Department to have every statistic at hand all the time, but because it was evident that the way the Department of Education is framing the higher education issue is not addressing the needs of our constituents who are listening to us every day, who cannot afford the higher education they deserve.

Mr. Speaker, the first question I asked was how many Americans across this country are unable to get a higher education because they cannot afford it. The Department is able to provide us with lots of statistics on how many people are in higher education. We are glad they are, and we are glad that the Federal assistance that is helping them go to school is there. But the Department has not focused on how many people have been shut out and excluded from the higher education process.

The second question that I asked was how many Americans are undereducated, how many people are going to a school that may not be up to their standard of ability, a program that may not be up to their standard of commitment, because they do not have access to the kinds of resources that wealthier families do.

The answer, again, was that the Department has not focused on that question.

Mr. Speaker, I think the proper focus was the question I then had a chance to ask the Secretary, which was whether or not this administration subscribes to the basic principle that every American who has the ability to get a higher education and the desire to get a higher education and who is willing to work for a higher education will have access to a higher education. That is the fundamental question in the reauthorization of the Higher Education Act.

Mr. Speaker, I say the answer is yes, that it should be the policy of this country that everyone in every corner of the country who desires to work for an education, who has the ability to get that education, should have access.

The policy of the administration, according to the Secretary, is that it is essentially a State matter, that we do not have the resources to provide that universal access to higher education.

Mr. Speaker, it was not a State matter when the Higher Education Act was initially authorized. It was not a State matter that millions of Americans like myself and many of those watching us tonight got an opportunity to get a higher education. It became a national issue, because it is a national priority, or it should be, to those who are denied.

Mr. Speaker, to those who say we cannot afford to provide universal access to higher education, I say we cannot afford not to provide universal access to higher education. We cannot compete if the ladder of opportunity is shut off and cut off for too many of our people in the inner cities, in the poor rural areas, and in the middle class communities of America.

Mr. Speaker, the leadership of the Committee on Education and Labor is taking us toward a goal of universal access. I hope that the Department of Education and the administration will join us in the search for that goal, so we can look every American in the eye and truthfully say, if you are willing to work for a higher education in this Nation, in this generation, you will get one.

□ 1920

SECTION 911 IMPROVEMENT ACT OF 1991

The SPEAKER pro tempore (Mr. JONTZ). Under a previous order of the House, the gentleman from Texas [Mr. ARCHER], is recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, today I am introducing H.R. 2253, the section 911 Improvement Act of 1991, to relieve the double taxation of American citizens who live and work overseas. In the aftermath of the Persian Gulf war, there will be tremendous opportunities for U.S. companies to participate in the economic redevelopment of the region. To date, American companies have received approximately 70 percent of the contracts for Kuwait's reconstruction. However, because of our Nation's discriminatory tax treatment of Americans working abroad, American labor may well lose out to foreign competition for these jobs.

Among the major industrialized nations of the world, only the United States taxes its citizens on the income they earn while working abroad. Our principal trading competitors—Japan, Korea, the United Kingdom, Canada, Germany, and France—do not tax their citizens on income earned outside their respective borders. As a result, it is considerably more expensive for companies to hire U.S. citizens to work on overseas projects than it is to hire comparable foreign employees. To stay competitive, American companies overseas are forced to hire foreign employees—employees who do not require additional compensation for double taxation.

The United States hasn't always subjected its expatriate workers to double taxation. Like our major trading competitors, we previously taxed American workers based on residence rather than citizenship. The predecessor of the current section 911 exclusion, enacted in 1951, allowed U.S. citizens who satisfied a foreign residence test to exclude all foreign income earned regardless of amount. In the ensuing years, however, Congress chipped away at the exclusion by placing dollar limits and other restrictions on its use. This process culminated in a 1978 amendment which limited the exclusion to taxpayers residing in camps in hardship areas. For taxpayers living in countries where the cost of living was substantially higher than in the United States, an elective deduction was provided for excess foreign living expenses.

During the late 1970's, I sponsored legislation to restore the section 911 exclusion amount to its pre-1978 levels. Fortunately, Congress recognized the detrimental impact of the 1978 changes, and liberalized the exclusion once again in the Economic Recovery Tax Act of 1981. The 1981 act removed the hardship limitations and replaced the deduction for excess foreign living expenses with a $75,000 exclusion beginning January 1, 1982. The 1981 act also provided that the section 911 exclusion would increase by $5,000 a year over the next 4 years, reaching $95,000 by 1986.

In 1983, the amount of the exclusion increased as scheduled to $80,000. However, strictly for revenue reasons, the Deficit Reduction Act of 1984 froze the exclusion at its 1983 level of $80,000 and postponed the scheduled future increases until taxable years beginning in 1988—that is, the 1984 act provided that the exclusion would increase to $85,000 in 1988, $90,000 in 1989 and to $95,000 in 1990. Unfortunately, with very little discussion of the policy implications, the Tax Reform Act of 1986 reduced the section 911 exclusion to $70,000, where it has remained ever since.

In light of the significant opportunities for American companies and workers to participate in the redevelopment of the Persian Gulf region, the economic concerns which prompted Congress to enact the 1981 act provisions are even more compelling now than they were in 1981. These concerns were succinctly stated in the Blue Book explaining the 1981 act.

> The Congress was concerned with the increasing competitive pressures that American businesses faced abroad. The Congress decided that in view of the Nation's continuing trade deficits, it is important to allow Americans working overseas to contribute to the effort to keep American business competitive.
>
> The Congress believed that the tax burdens imposed on these individuals made it more expensive for U.S. businesses to utilize American employees abroad. In many cases,

the policy of these businesses is to reimburse their employees for any extra tax expenses the employees incur because of overseas transfers. Thus, an extra tax cost to the employees becomes a cost to the business, which cost often is passed through to customers in the form of higher prices. In intensively competitive industries, such as construction, this can lead to noncompetitive bids for work by American firms.

As a result, some U.S. companies either cut back their foreign operations or replaced American citizens in key executive positions with foreign nationals. In many cases, these foreign nationals may purchase goods and services for their companies from their home countries, rather than from the United States, because they often are more familiar with those goods and services.

In the 10-year period since Congress enunciated the economic considerations warranting an increase in the exclusion, competitive pressures for U.S. multinational companies have significantly increased. Yet in spite of the obvious merits of the 1981 act changes, our tax system still acts as a barrier to American workers in competing for overseas jobs. The solution to this very real problem is to improve the section 911 exclusion to make it meet the spirit of the 1981 act changes. My legislation would accomplish this important goal by increasing the section 911 exclusion amount effective January 1, 1991 to $98,000—the real dollar value of the exclusion had it been indexed for inflation beginning in 1982. The bill would also index the exclusion annually for inflation for taxable years beginning January 1, 1992.

We lose more than just foreign jobs by subjecting our workers to double taxation. Experience has consistently shown that expatriate workers tend to order products and services from their home countries. Thus, fewer Americans working abroad translates to fewer orders being placed overseas for U.S. goods and services. An increase in the section 911 exclusion will not only allow U.S. companies to be more competitive internationally, but will also lead to increased exports and enhanced job opportunities both abroad and domestically. It's time to put U.S. companies and U.S. workers back on a more level playing field.

TRIBUTE TO THE LATE HONORABLE RICHARD BOLLING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. WHEAT] is recognized for 60 minutes.

Mr. WHEAT. Mr. Speaker, it is always an honor to speak to this floor of the House of Representatives, and it is an even greater honor when the purpose of the statement is to pay tribute to a Member, a former Member of this body. But it is a sad honor when that Member has left us.

The gentleman I refer to is my predecessor in the Halls of the Congress, Dick Bolling. Dick Bolling was first elected to Congress in 1948 and served in this body until 1982. I have been personally moved in recent weeks by the many kind words of tribute offered in memory of our former colleague since his death on April 21.

Nearly 300 of Dick Bolling's friends, family, and former colleagues turned out for a memorial service in his former home of Kansas City, MO, earlier this month to pay their final tribute. A similar number of friends and admirers, including many of my colleagues here today, paid their respects at a memorial service in the U.S. Capitol on April 24.

Mr. Speaker, this outpouring of response to his passing is a reflection of the many lives that were touched by Dick Bolling during his 74 years. To his colleagues and others in public life, Dick Bolling was the consummate student of history and teacher of effective law making, who left his fingerprints on every major achievement in the U.S. House of Representatives during his 34 years in Congress.

To those he represented in the Fifth District of Missouri, Dick Bolling was a powerful and compassionate advocate who closely attended to the needs of the little guy whether he was back home in Kansas City or somewhere out in the rest of the country.

With the loss of Dick Bolling comes the loss of the foremost student of how to make the institution of Congress work. He was a critic of the system, but a constructive critic who played a key role during his 34 years in Congress in shaping the actions of the House.

He used his position on the House Rules Committee and his intimate understanding of procedure to forge an impressive record of legislative achievements. In the end, he left the House of Representatives a better place than he found it.

Dick Bolling's life of public service began in World War II, when he entered the Army a private and left 5 years later as a lieutenant colonel. He earned a Legion of Merit award and a Bronze Star for his service in the Pacific theater, which included a tour of duty on the staff of General Douglas MacArthur.

At the end of the war, he arrived in Kansas City, MO, to take a job as veterans adviser at the University of Missouri. Here he forged strong ties to the veterans community that lasted throughout his life.

It is fitting that today's tribute falls on May 8, the birthdate of Harry Truman, for the President played an influential role in the early career of Dick Bolling. In 1948, it was a long-time adviser to President Truman who approached Dick Bolling and helped convince him to make a run for Congress instead of the city council. Elected with the support of Truman, the new representative from the Fifth District of Missouri helped break the grip held on Kansas City politics by the local machine.

In what was then a pioneering experiment in constituent services, Dick Bolling opened one of the earliest district offices in the country and was also among the first to use a mobile congressional office to better assist the people he represented.

Many Kansas citizens initially felt a distrust for this newcomer from the east, but black citizens were more concerned because Dick Bolling was a graduate of the University of the South.

However, in his early days in the House, at a time when politicians rarely even gave lip service to civil rights, Dick Bolling reached out to the black community in Kansas City and made many lasting friendships, which he cemented with his skillful advocacy of civil rights legislation in the House.

As a freshman legislator, Dick Bolling quickly caught the eye of Speaker Sam Rayburn and soon became the youngest Member of the leadership's inner circle. His decision in 1955 to pass up a coveted seat on the House Ways and Means Committee to join the less visible but powerful Rules Committee was a turning point in his career. From his vantage point on Rules, first as a member of the committee and later as chairman, he quickly learned the ins and outs of managing legislation and came to play the role of liberal parliamentarian of the House.

When asked to name his proudest accomplishment, Dick Bolling always cited his role in winning passage in 1957 of the first civil rights legislation since Reconstruction. Later, using the same mastery of procedure, he played a comparable role in gaining passage of the landmark Civil Rights Act of 1964.

Always a student of Congress, he turned a scholarly eye on the House and authored two books that defined its history and called for reforms of House procedures, particularly the seniority system.

Dick Bolling used his parliamentary skills to guide some of these major reform proposals to life in the form of the Legislative Reform Act of 1970, which mandated more open committee meetings and hearings, and the Budget Act of 1974, which made substantial changes in the Federal budget process.

While his two bids to become majority leader were unsuccessful, he managed—at least indirectly—to turn his second loss in 1976 into a victory for the Missouri congressional delegation. In the wake of his defeat, he delivered a seat on the Ways and Means Committee to a newly elected Missourian, DICK GEPHARDT. The move helped launch a distinguished career and brought new influence in Congress for the Missouri delegation.

When he announced his decision in 1981 not to run again for the seat he had held for 17 consecutive terms, he said he believed he could be more useful for the causes he supported outside the Congress than from the inside.

His retirement was a great loss to the institution as a whole, but was a

particularly big blow to the progressives in Congress for whom he had served as strategist for more than three decades.

After leaving Congress, he lectured on political science at the University of Missouri-Kansas City and Boston College. Those fortunate enough to attend his lectures no doubt learned more about politics from his remarks than from a semester's worth of book learning.

In 1989, he returned to the corridors of power as an informal adviser to majority leader DICK GEPHARDT, concentrating on issues such as reform of the campaign finance system. Ever fascinated by the machinations of leadership, he was compiling his meditations on political power for a new book at the time of his death.

Mr. Speaker, Dick Bolling played an instrumental role in my decision to run for Congress. He provided invaluable support during my first campaign and in every subsequent election. As a result of his influence, I had the honor as a freshman of being appointed to the Rules Committee. Throughout my career in Congress, Dick Bolling was a close adviser and friend.

I would like to submit for the RECORD several articles that serve as fitting tributes to the memory of Dick Bolling. They include a column by his friend and former colleague in the House, the Honorable Otis Pike; an editorial by the Kansas City Call, which often championed Dick Bolling's record on civil rights; and an editorial in the Kansas City Star:

FAIR AND HONEST

(By Otis Pike)

WASHINGTON.—One of my heroes died on Sunday. Former Rep. Richard W. Bolling, D-Mo., was 74, had led a full and very fruitful life, accomplishing much that made the institution of Congress a better place and coming very close to accomplishing much more, but falling a hair short.

Bolling was a scholar and an alcoholic. He could be as considerate as a mother and as prickly as a porcupine. He wrote three books about Congress, and they were honest and constructive books that stepped on a lot of toes.

He believed passionately in representative democracy, in the concept of ordinary people sharing in great decisions, and he was consumed by a crusader's zeal to make the process work better. In one of my first columns after getting out of Congress, I wrote: "Dick Bolling even drunk could accomplish more than 10 ordinary congressmen sober."

I never saw him drunk or remember him drinking. I knew he was an alcoholic only because he told me so. That's how honest he was.

Dick became chairman of the Rules Committee through the slow, grinding process of that ancient and honorable system known as seniority. All one had to do was keep getting re-elected, stand in line and keep breathing and in the fullness of time the people senior to you retire, die off, or maybe even get beaten, and you would get to be the chairman.

Bolling didn't like the seniority system. He thought there had to be a better way to pick the men (and very rarely, women) who would run the committees and set the agenda of legislation to be considered.

In his book "Power in the House," Bolling wrote: "Seniority has no constitutional sanction. Seniority is not a law. Seniority, strictly speaking, is not a rule of the House. . . . Seniority is a custom permitted to become impregnable in recent years. A defensible system of flexible seniority has now hardened into a characteristic that is harmful to the House and hurtful to the well-being of the nation."

Bolling led the fight to make committee chairmen get elected by the caucus, as now they must. That stepped on many great toes. The old bulls resented being told that the system that got them to be the chairmen of the 15 committees of the House was harmful and hurtful to the nation. They didn't like the message and they didn't like the messenger, either.

He was rougher on speakers of the House. Speaker Sam Rayburn had been one of his heroes, and successive speakers never quite measured up to his idea of what a speaker should be.

Dick Bolling wanted with all his heart to become speaker, and he would have been a great one. He was more than fair and just and honest. He had a historian's knowledge of what this nation had come from and an idealist's vision of what this nation might still become.

In 1976 he had his chance. The path to becoming speaker of the House is clear. You start at the third rung of the ladder, as party whip, move up to majority leader, and slide gracefully home from there unless you make a mistake. Speaker Carl Albert, D-Okla., had retired and Majority Leader Thomas P. "Tip" O'Neill slid gracefully into the speaker's job. The party whip, John McFall of California, had made a mistake, getting involved with a Korean influence peddler named Tongsun Park. He would get dumped rather than move up the ladder to majority leader.

Three men vied for the job: Bolling, Phil Burton of California and Jim Wright of Texas. In a close and bitter fight the House chose Jim Wright on the third ballot.

Dick Bolling would have made a great speaker, but he had stepped on too many toes. He stepped on mine a couple of times, but I have tough toes, and he was still one of my heroes when he died Sunday.

A GIANT HAS FALLEN

When Richard Walker Bolling, Kansas City's Congressman for 34 years, died in Washington early this week, a giant among us fell. The Congress, the nation as a whole and the people of Kansas City have suffered a great loss. Dick Bolling, as he was called by those who knew, loved and respected him, was an institution on Capitol Hill for three decades. Although he had been retired for nine years, he was still active and influential in governmental matters until his health slowed him down.

Dick Bolling went to Washington in 1948 as a brilliant young student and Army veteran of four years, virtually unknown in politics.

In a few years, he became one of the most influential and able Congressional leaders that this country has ever had. Brilliant, astute, energetic, outspoken, convincing and imbued with the true spirit of democracy, Bolling, the young man from Missouri, became one of the most influential members of Congress in this nation's history. Studious and thorough, as the years rolled by, Bolling developed into an authority, an expert, on governmental affairs and politics. He told the House of Representatives what was wrong with it and his colleagues listened and made some of the changes that Bolling recommended.

His ability early was recognized by Sam Rayburn, then Speaker of the House, who appointed the Kansas City representative to the powerful House Rules committee which guides and controls the legislation that goes to the floor. Bolling worked on that committee from 1955 until he retired from the House and served as chairman from 1979 until his retirement. He was known as one of the most powerful leaders on the Hill.

Bolling's liberal views, his belief in and advocacy of civil rights legislation and his leadership on issues involving average people and their welfare endeared him to the black community of Kansas City.

During the '60's when civil rights legislation was a major issue, and when black Americans were fighting vigorously for the rights to which they were entitled as American citizens, Dick Bolling in the House and Tom Eagleton and Stuart Symington in the Senate always could be counted upon to vote "on the right side." His constituents in Kansas City did not need to ask Bolling how he was going to vote on a bill affecting the rights of minorities. They knew his position and never had to appeal to him for his vote.

During his first years in the House, Bolling made frequent visits back to Kansas City, keeping the fences mended and becoming acquainted with the people in his district. He seldom came to town without coming to 18th St. and visiting The Call office. He was close to Leon Jordan, founder of Freedom, Inc., and other leaders in the black community.

During the later years of his service in Congress, Bolling did not come home so frequently. With his added responsibilities in the House, he kept busy in Washington but we always knew that we could count on him when we needed him.

When Bolling decided to retire after 17 two-year terms in the House, he endeared himself once more to the black community of Kansas City by taking under his wing young Alan Wheat, a member of the Missouri legislature, who had ambitions to become a Congressman. When he declared himself a candidate, many in the community doubted that he had a chance. But Dick Bolling saw qualities of leadership and ability in Wheat which caused him to endorse the young legislator as the candidate he wanted to take his fifth district seat in the House.

It was largely through the influence of Bolling that Wheat conducted a strong campaign and won the election in 1982 that sent him to Congress. It was entirely Bolling's influence which secured for Wheat an appointment to the House Rules committee on which he now serves as the fifth district Congressman from Missouri. During his first years in Congress, Wheat became Bolling's protege and Bolling became his mentor. Bolling was extremely proud of Congressman Wheat and his performance in the House. He was pleased that he gave him his blessing and his endorsement.

We will all miss Dick Bolling although we did not see much of him during the last few years. He was one of those persons who was always there, ready and willing to do whatever he could to help humanity.

A giant of a person has gone with the death of Dick Bolling. But he will always live in our hearts and in our memories.

KANSAS CITY'S DICK BOLLING

Richard Bolling, one of the most influential individuals in government ever to come from this area, seemed to materialize in Kansas City out of World War II. Then suddenly he was in Congress, and on the way to a lifetime of dominating strength in the federal establishment.

As chairman of the Rules Committee in the House of Representatives, he commanded great power. He was an early and effective force in civil rights legislation and housing and health issues through the 1960s and '70s. He retired in 1982 and died Sunday in Washington.

As a reformer of the Congress he loved, Bolling battered and pulled, wrote, spoke, castigated and hailed. All he really wanted was to proceed from a basis of common sense with the business of legislation. Simply stated, he saw legislation as promotion of general welfare. He tried to peel off the layers of dead habit and encrusted custom that stood in the way. Sometimes he succeeded. At home he set standards of political decency and merit that ought to be extended and nurtured carefully.

After long war years in the Pacific without furlough, Dick Bolling found himself at the Command and General Staff College at Fort Leavenworth for what amounted to a period of rest and recreation. With his first marriage he decided to stay here, and was veterans' administrator at the old Kansas City University, now UMKC. His damp office was over a boarded-up swimming pool in a basement.

Bolling was a national vice-commander in one of the proliferating veterans' organizations, the American Veterans Committee, a group of distinctly liberal bent. He often recalled his fight to keep it out of the hands of the Communist Party, which had targeted it; in that struggle he made friends and enemies that lasted a lifetime.

Veterans helped him in his surprise victory in 1948 that took him to Congress as the representative of Kansas City's 5th District. President Harry Truman was not happy with this interloper from the east in his own back yard, but Truman was busy with his own hopeless—it seemed—campaign. Later, Truman became a strong Bolling supporter.

Bolling was regarded as an alien thorn by the old Democratic faction bosses who still controlled votes in Jackson County. He would not take orders, he would not scratch backs. He had some early close calls and the factions mounted one last all-out effort to unseat him in 1964.

But by that time a strange thing had happened. He had been regarded by the Kansas City business establishment as a New Deal radical. That perception changed, subtly impelled by an influential friend of Truman's, Tom Evans, owner of the Crown Drug and KCMO broadcasting companies. Roy Roberts, of The Star, and others, came to see a new and different Bolling. A Star editorial in July of the '64 campaign asked whether Kansas City wanted to be represented by a "known leader of Congress or a factional courthouse politician."

Dick Bolling was a combination of domestic liberalism and international advocacy. He was a hawk on Vietnam in the early years of the war and never harbored a fashionable contempt for the military. He knew that the United States and freedom had real enemies in the world. In private conversations he was blunt in naming colleagues who followed the Communist Party line without deviation; he would also provide acquaintances with a list of the "10 dumbest people in Congress, including Democrats." Such candor was one reason he never became speaker; with a little less honesty, he very probably would have wielded the gavel.

Dick Bolling did great and important things for this country. He accomplished them through sheer force of intelligence and personality. In the depths of his political soul the fire never went out.

Mr. Speaker, when we come to this Congress, we wonder what impact this Congress is going to have upon us. And this place, in fact, does have a tremendous impact upon each and every one of us. But unfortunately, many of us do not leave the same mark on the Congress that it leaves on us.

We wonder if we are going to be able to make history for the time that we are here. History is going to reach out and touch us. Well, Dick Bolling was not one of those who wondered if history was going to reach out and tap him on the shoulder because from the first day he was here, he left a greater mark on the Congress than it could ever leave upon him.

He was a shaper of destiny in the Congress. He was a molder of fate. He was an architect of our history.

More than just a mere Member of Congress in the 34 years that he served in this body, Dick Bolling became a giant of this institution. He became a legend.

Others are going to speak today about his legislative record, and we are going to include information in the RECORD of his many great accomplishments and his many great battles and victories over his 34 years of service, but I would like to take a moment, Mr. Speaker, to tell you a little bit about the personal side of Dick Bolling, because every biography and every story, every report that you read of Dick Bolling makes note of what some describe as his acerbic personality.

They suggest that somewhere along the way, Dick Bolling may have ruffled some feathers or he may have stepped on some toes in attempting to achieve an end that he believed in. Mr. Speaker, that may be true, because there is some truth behind every legend. But in the case of Dick Bolling, there is myth behind the legend as well.

The myth is that Dick Bolling did not care about people. Sure, it is true that when you met Dick Bolling within this body that he was not the kind of Member of Congress who always had his hand out to slap someone on the back. But if you needed assistance, Dick Bolling always had his hand out to provide the help that you needed. He was one of the most caring, the most compassionate, least petty, most unselfish men that I ever met in my life.

He was always willing to give of himself in order to accomplish the task at hand.

I remember when I was a State representative, just getting started in politics, and Dick Bolling was the politician that I admired most. In fact, I would say that Dick Bolling was my hero. I asked him once in Kansas City to send me a picture. Like most of us, I wanted the picture to have something warm and endearing on it, but when I got the picture it said only "Best wishes, Dick Bolling."

I was a little disappointed at that time, but that was before I learned that Dick Bolling never said or wrote anything that he did not mean. So I was particularly pleased, some years later, when he announced his retirement from Congress, and told me he supported me to be his successor. And quite frankly, I doubt that I could have been elected without his staunch and loyal assistance.

But when I got to Congress, I asked him for another picture, one of both of us together and I did not ask him to write anything on this particular picture. So I was especially pleased when I received a photo signed, "With admiration, with affection, with respect and with greatest expectations."

I would like to share those words with the entire body of the Congress because I think that Dick would intend them for all of us. He said, "With admiration," because he knew the job of a Member of Congress perhaps better than any of us do and he admired anyone that was willing to devote his or her life to public service.

He said, "with respect," because he respected this body.

He said, "with affection" rather than love, because love was not a word that he used lightly. In fact, I only heard him use the word in recent years in referring to and in talking to his beloved wife, Nona.

So when he said "affection," it was something that was vitally important to me and vitally important to this body.

Perhaps what was most inspiring and in some ways most daunting were the final words of the inscription, "with great expectations," for I had watched Dick Bolling make giant footsteps in the landscape of American politics and American government for many years. And quite frankly, I knew that under no conditions would I ever be able to live up to the challenge of meeting the standards of Dick Bolling.

Mr. Speaker, none of us can, because Dick Bolling's expectations were so high that they were exceeded only by his own standard of performance within this Congress. I do not expect that I or any Member of Congress will ever live up to those same exceedingly high standards that he set in his 34 years of dedicated, loyal, and inspiring service to this institution and to this country. But I do expect that if we attempt to meet those standards, that if we emulate the dedication that he typified, that this Congress and this country will be a better place for it.

□ 1930

Mr. SYNAR. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. Mr. Speaker, I am very happy to yield to the gentleman from Oklahoma, one of those whom Mr. Bolling regarded with great fondness as one of his proteges in the Congress.

Mr. SYNAR. I thank the gentleman for yielding.

I am, indeed, proud to have been called one of his proteges, because as a new Member in the U.S. Congress, one sits back and looks with great interest to other Members to choose to model their career after. You choose certain Members for certain things.

Dick Bolling was the person I chose to watch very closely about his political savvy.

Dick Bolling was a friend of mine. Dick Bolling was a tough individual, but Dick Bolling was a fair individual.

You know, many of us who have had the opportunity to pass the path of Dick Bolling realized the tremendous impact he has had not only on this institution and this country but on the individual lives of Members who still presently serve in this great body. That type of impact will be here for years ahead and hopefully pass down to future generations of Members of Congress so that they will understand the love and affection that Dick Bolling had for this institution.

At a time when someone passes, we have a tendency to use accolades and adjectives probably beyond their use, but I cannot imagine an adjective or accolade that could be placed upon Dick Bolling that was not true. He was my friend, and as the gentleman said, he had a tremendous amount of affection for this institution, and this institution reciprocated that every day.

His wife, Nona, and the children, who are with us now can really leave with a great impression that Dick Bolling's presence is here tonight, and it will be here many years ahead.

I want to thank the gentleman for taking out this very important special order to give praise and thanks in behalf of not only this institution and the individual Members but this country for the dedicated life of Dick Bolling.

Mr. WHEAT. I thank the gentleman for his comments.

A friend of Dick Bolling's wrote to his wife, Nona, recently of his fear that Dick Bolling would be forgotten by many because they would never know of his accomplishments: That every time a black citizen in Kansas City had the opportunity to vote, that it was Dick Bolling's handicraft at work; that every time the civil rights bill was put into use in this country, that it was Dick Bolling's handicraft at work; that every time there was a stream in a national forest that was enjoyed by a citizen, that it was Dick Bolling's handicraft at work. Many people will never know the work that he dedicated to them over the years.

I thank the gentleman for pointing out tonight that no words of praise for Dick Bolling could be too high in tribute for the work he has done.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I appreciate the gentleman yielding time.

Mr. Speaker, I would simply like to take a few minutes to place into the RECORD my views on one of the greatest public servants I have ever known personally or professionally.

I was elected on April 1, 1969, and the very first person to whom I went for guidance in the House was Dick Bolling. At the time I was elected, Dick Bolling was exactly the age that I am now. He was 52 years old. He had served in the House quite a few years, and I had known of Dick for years previous to that because in my student days at the University of Wisconsin, we had read of his great leadership on the Civil Rights Bill of 1957. He had immense respect among the group of persons in this country who followed what was happening in Congress.

Someone said Dick Bolling was tough. In my view, he had the best understanding of the use of power for the right reasons of any person I have ever served with in this institution. I think, quite simply, he was the greatest legislator who I ever served with. He was the greatest legislator in this century who never became Speaker.

As I said at his memorial service in Kansas City, I think it was fitting that Dick's death came the same week that our good friend Mo Udall resigned from the Congress of the United States because of illness, because I really think that in those years, Dick Bolling and Mo Udall were the two best that we had. They really were oaks of this House. It is fitting that they both departed the legislative scene and, in the case of Dick, the Earthly scene, at the same time.

Dick, I think, was a progressive centrist whose vision and guts and moral force and tactical skill were key in almost every legislative battle to move this country forward that this Congress has seen in the last 30 years.

In 1957, and again in 1964, he led the effort to push this House to see its duty on civil rights. He pushed the Kennedy economic package through the Committee on Rules. In my view, the Kennedy economic package would not have become law were it not for Dick's leadership in the Joint Economic Committee and his leadership in the Committee on Rules.

I think, in contrast to a lot of people in politics and in this town today, Dick understood that democracy itself cannot flourish if it does not have economic policies that produce both growthse and equity. He did very strong-minded and very quality work on the Joint Economic Committee in trying to remind people of that fact.

He was not willing to settle for growth without equity, or equity without growth. He was also the intellectual father and the tactical quarterback of the House reform movements of the 1960's and 1970's which made possible the progressive legislation which so many in this country take for granted.

As I said on earlier occasions, he was, as he was to so many other people, my teacher and my mentor. He was the best teacher I ever had. He taught the House, and he taught all of us how the House worked, how you build coalitions, how you define your party, how you make political institutions serve the needs of the greater good.

As the gentleman has indicated, much has been made of the fact that Dick Bolling never became Speaker. In my view, he did not become Speaker simply because he was a truth-teller in an institution which I think often contains people who prefer to bite their tongues rather than offend their colleagues. I think Dick did not become Speaker simply because he understood perhaps with a tougher sense of duty than most that the duty of a public official is to be used up literally on a day-to-day basis for things that you believe in and things that you think will make this country better.

He felt it was his role to serve the country as a point man on issue after issue, and he did. I think if he did not become Speaker, it was simply because enough people preferred collegiality and comfort over leadership, but that does not deny the tremendous effect which Dick Bolling had on this country, its institutions, its laws, and, most especially, this House.

I really believe that more than anyone I have ever served with, Dick Bolling in just plain language gave a damn about integrity, about justice, about the political process, about his party, about his country. He had courage enough to tell not just his political opponents but his political friends when they were wrong, and that is a quality which is tremendously rare.

He understood power and the proper use of power, I think better than anyone I have ever known in politics, and he understood, as did Mo Udall, that political death is not defeat in an election, that political death is having power and not using it for the right reasons.

I think he was sustained by, and he sustained us by, his sense of duty to the House that he so deeply loved, to his party, to his principles, but most of all, to his country. He understood that there were some issues which were simply too important to play politics with, issues such as race which can, if not dealt with in a straightforward and decent way, divide this country and tear

it apart and tear it down in the process.

Like his heroes FDR and Harry Truman, he was not afraid to make the right enemies for the right reasons.

□ 1740

I think that really is why we have such incredible respect for him.

One Senator who had lost an argument to Dick, on one of the great issues of that time said to Dick afterward, "Young man, you will go far, I'm afraid." Indeed, Dick did.

Dick said once, "The trouble with me is that my reach always exceeds my grasp." In my view, that is what always made him so good. He was not afraid to risk, not just on his behalf but on behalf of the country he cared about so much. There was an article in the Wall Street Journal about 10 years ago which described Dick Bolling as having "a cool, astringent judgment." It described him as a man with a "21-jewel mind and a low tolerance for stupidity." I think that was correct, but I think what that article did not capture is that Dick Bolling did have a tremendous degree of personal warmth. He did care about what happened to individuals in this institution and in this country. He took it upon himself on occasion after occasion to try to help younger Members to try to understand this place, and how they could best function in it.

I would like to add also, as I did say in Kansas City, I know he was proud of his successor, because after he had decided to retire there was a primary, and the gentleman in the well won that primary. I went to Dick the next day and said, "Dick, just what kind of a person are we getting here?" He said, "The very best, the very best." He was right.

I think that the people of Kansas City have really done this Nation proudly because they, for every year Dick Bolling served, have provided the Congress with absolutely the best that could be produced in our system, and they have continued in that tradition with the gentleman in the well. I think that is important, not just for Kansas City. It is important for this institution. It is important for the country. What it demonstrates is that people understood the legacy of Dick Bolling, and because he has passed from the scene, what he fought for has not, and those Members who treasured our service with him, who really had an opportunity to do what very few people get to do in life, to work with your heroes, of which Dick Bolling was one of the very greatest.

The kind of service he provided here made that possible for everyone. I am very grateful to him, and I am grateful to the gentleman for yielding time and taking this special order this evening.

Mr. WHEAT. Mr. Speaker, I thank the gentleman for his statement, and thank the gentleman for coming to Kansas City to participate in the memorial service and for joining with me in a request for time on this special order this evening.

As the gentleman knows, Mr. Bolling was also a great admirer of the gentleman from Wisconsin [Mr. OBEY], and there were few people in the Congress that he looked to as an equal. The gentleman is certainly one of those people.

In fact, he was fond of telling me that there were very few good legislators left in the House of Representatives. When I would ask him who he considered to be the best legislator in the House of Representatives, he would say, "DAVE OBEY is the absolute best."

Mr. OBEY. His judgment was not always right.

Mr. WHEAT. "At least since I left," Dick would always add.

I appreciate the gentleman for joining in this special order, and for the kind words of tribute he paid to Dick Bolling and the people of Kansas City.

I am happy now to yield to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I sat here enjoying the remarks of my friend from Wisconsin, Mr. OBEY, who it has been my pleasure to know for 25 years. I was in my office 15 years ago when the gentleman began his remarks, and I had been unaware of his taking this time. I rushed to the floor simply because I wanted to be here and participate. I have not been able to organize thoughts, but there come to mind a rush of several which I presume upon the time of the House to take, and I am grateful for the gentleman's organization of the event tonight and only regret that it is so late, because there would be so many normally who would want to participate.

As I listened to the gentleman from Wisconsin [Mr. OBEY] speak, I came to the floor also thinking that it is strange that in the same week that Dick Bolling dies, Mo Udall retires, in the coincidence that Mr. OBEY mentioned. They were, to me, the two giants with whom it was my opportunity to work.

I first came to the House in 1973 and Dick Bolling, then I think the ranking Democrat on the Committee on Rules, and the undisputed master of the rules and the parliamentarian de facto of the House, invited me to join with him on Wednesday morning coffee sessions in his office with a dozen or 15 other Members of the House. Thus began kind of my training at his knee of the rules of the House and the greatest of this institution. He did love this body. There was no television at that time. The proceedings of the House were not sent into the office and to the homes of the country. It was a body where when a Member participated, they had to be here. When debates were on, Members had to be here. When things were happening, Members had to be here, or Members did not know what was going on. Few Members wore blue suits and power ties in those days, and there was more concentration, I think, if I may say, on the substance of the House. There was no more of a leader of substance, no bigger, more important player in the substance of what went on, than Dick Bolling.

Mr. Speaker, Dick served through eight Presidents: Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon, Jerry Ford, Jimmy Carter, and Ronald Reagan. That is quite a record. He was counselor to them all, and their intellectual superior. In 1974 early, I came to this proud man of the House and I sat by him over there and I said to him, "Dick, your old friend is going to run for the Senate in Utah." He immediately forgave me my sin, but made it clear that it was such. Then he told me the story attributed originally to Speaker Cannon. I think it was a favorite story of his. "Your leaving House," he said, "and going to the Senate will raise the average IQ of both bodies." It was intended not so much as a compliment to me but to say, "You are leaving the best, you are leaving the better of the two institutions of the legislative branch."

A few weeks I took Dick downstairs for lunch. We had the chance to visit and reminisce. He was proud of his successor, the man in the well. He was proud of the majority leader, the gentleman from Missouri [Mr. GEPHARDT], very much a student of the great parliamentarian teacher, and very proud of the institution. He did not suffer fools gladly as has been commented, but on the other hand he had immense affection for new people and an immense patience for those who wanted to learn and who wanted to participate.

Yes, it was a great disappointment that he was not Speaker. Many people will remember, however, as they talk about the fact that he was an intellect, and that he was too sharp, perhaps, to be popular in leadership positions, but the truth is, Mr. Speaker, he came within one vote of being majority leader of the House, at least in the initial runoff. The one who beat him, Jim Wright, ultimately not only became majority leader, as everyone knows, but Speaker. So he came closer, I think, than most people realize.

He did have great humor and great wit. I am very grateful to him for what he did for me, and will honor his memory. Were the House to do what the Senate did some 25 years ago and select the half-dozen Members, men and women who had the greatest impact on the House, for the House to do that, Mr. Speaker, I think Dick Bolling would be on that list of half-dozen Members. I think I wish in a sense that that could be done. I pay tribute to him, and I remember and pay my condolences to his wonderful wife, Nona.

Through acquaintances of mine going to Texas, knew my brother, and continuously carried packages to me as they did some 6 weeks ago for my brother, and brought it past my office.

□ 1950

I have been very grateful for the personal relationship that I had with this great man and with his good wife and his passing really ought to be noted and his vast contributions ought to be put into a book. I know he was working on one.

I say to my friend, the gentleman from Missouri, we ought to make sure that somebody finishes that book and it gets published, because the world ought not to forget Dick Bolling.

Mr. WHEAT. Mr. Speaker, I thank the gentleman for his statements. I would inform him that Dick Bolling was indeed working on a book that he considered a definitive study of the use of legislative power. I appreciate the gentleman's desire to participate in an effort to make sure that that work continues. A very fine institution within the Congress, the Congressional Research Service is, in fact, participating in pulling together all his notes, tapes, and oral histories so that we may have his words available to use as a continuing tool of instruction in the House of Representatives.

It has been noted that Dick was a very fine student of this institution. He was also this institution's greatest teacher. The gentleman from Utah should be pleased that he was chosen by Dick Bolling to be one of his students, because just as Dick Bolling did not suffer fools gladly, he did not pick students lightly. When he tapped someone in the House of Representatives as one of his students, he was picking someone he knew to be intelligent, concerned, passionate, and dedicated to the work of this institution. While the gentleman did not ultimately join the other body, I should say that this House of Representatives is a better place for him having returned to our midst, and we appreciate the gentleman's continuing service here.

Now, as the gentleman pointed out, a great deal has been made of the fact that Dick Bolling missed by perhaps one vote becoming Speaker of the House of Representatives, but he did attain another very powerful position in its own right in this House of Representatives and in many ways a position that allowed him the widest use of his legislative skills, and that was the position as chairman of the Rules Committee.

Speaker O'Neill, with whom he had a close personal working relationship, remarked the other day in the Memorial Service in Statuary Hall that Dick often scolded that the Speaker should know more about the inner workings of legislation and the substance of each particular bill. The Speaker would then put his arms around Dick Bolling and say, "Dick, I don't need to be a technician. You're my technician," and Dick would smile and walk away.

Since the Speaker is not in this room this evening, I think I can feel free to say that the Speaker may have thought that Dick was smiling because he was pleased to receive the compliment that he was the Speaker's technician because that was certainly the case. But Dick once told me, "Yes, it is true that the chairman of the Rules Committee needs to go to the Speaker to get instructions about what this body ought to do, but you know, so often those Speakers need to be told what it is they want to have done."

The Speaker may have thought that Dick was playing a role in his band, but the Speaker was playing a beautiful instrument in Dick Bolling's orchestra.

The gentleman mentioned that Dick Bolling admonished him that perhaps he ought not to attempt to move to the other body, that this was the closer body to the people. That was in fact his attitude.

Many of us say things of that nature, but given the opportunity, many have taken the chance and tried to move to the other body. Dick Bolling, though, was in fact a man of his word, for he was given the opportunity to move without running for the Senate, by being appointed to the U.S. Senate, and he turned the opportunity down.

In fact, as he described it to me, he left the capital of Missouri, Jefferson City, as quickly as he possibly could and got on a plane back to Washington, DC and refused to take phone calls to guarantee that he would not get tapped as a U.S. Senator because he wanted to continue to serve in this body that he knew and loved so well.

Dick Bolling accomplished so much over the course of so many years that it is hard not to indulge in some hero worship of his achievements. Having been his constituent, his admirer and his friend, it was a little difficult for me to interact with him without allowing my awe of those achievements to get in the way.

When I was first elected and we would have long conversations about the House of Representatives, I remember his impatience at my insistence on calling him Mr. Bolling.

He would say, "Just call me Dick." I could never quite master that, and he looked at me and said, "You know, this hero worship gets in the way."

From then on, I tried my very best not to allow my genuine affection for Dick Bolling to interfere in the mentor prodigy teacher student relationship that we had; but honestly, right up until the very end, I was never quite able to master the trick, because Dick Bolling was and always will be my hero.

Mr. Speaker, a number of other Members have provided statements for the RECORD that I will submit this evening and a number have indicated to me that they would like to submit statements over the next few days.

I appreciate my colleagues who have joined with me in paying this tribute to our colleague, Dick Bolling, who represented the very best of this institution.

Mr. FORD of Michigan. Mr. Speaker, I am honored to join my colleagues in remembering one of the most effective legislators of our time, Richard Bolling.

Dick was known as a master of the legislative process. He did not develop these skills for personal gain or glory, but to make the House more responsive to the public will.

Dick's colleagues saw a glimpse of things to come in the early 1960's when he joined forces with a group of like-minded liberals to launch an attack on the conservatives who had controlled the agenda of the Rules Committee for 20 years. Dick's successful bid to expand the Rules Committee from 12 to 15 members enabled newly elected Kennedy supporters to outvote the conservative coalition and open the doors to new agendas. These changes led to the eventual consideration and enactment of such landmark legislation as Federal aid to education, Medicare, Medicaid, environmental protection, and the civil rights bills of 1964 and 1965.

Never satisfied with the status quo, Dick continued to work for change in the House. During the 1970's, he was instrumental in democratizing the House, opening up committee meetings and reforming the budget process.

Like many liberal Democrats, Dick became disenchanted with public service under the Reagan administration. Years of working to develop programs to help the poor and disadvantaged went down the drain with the enactment of the Reagan tax and spending programs. In 1983 Dick Bolling announced his retirement by saying, "I'll be more useful to the causes I believe in out, than in."

I had the good fortune of working with Dick for 16 years. I admired him for his skills and for his willingness to speak his mind, even when his cause was not popular.

Mr. Speaker, Dick Bolling spent 34 years of his distinguished career in this House and, by anyone's standards, he left it a better place.

Mr. MOAKLEY. Mr. Speaker, I thank the distinguished gentleman from Missouri for taking this special order.

I am proud to join my colleagues in this tribute to my good friend and former chairman, Dick Bolling.

When I first became a member of the Rules Committee in 1975, Dick had already served on the Rules Committee for 20 years. He had achieved distinction as a skilled parliamentarian, coalition builder, and brilliant leader of the institution.

He was an imposing figure for those of us just beginning to explore the complexities of the legislative process.

But he was also a generous tutor, always willing to share his knowledge of politics and procedures with those of us who were younger Members.

I remember the first time he called me to his office to give me a special assignment. I thought my legislative talents had been recognized at last. I came to his office eager for my first private audience with the master planner and he got right down to business: the importance of the Rules Committee and the need for more space in the Capitol.

At the time, the committee had only the chairman's office and the hearing room. Next to the hearing room was the Member's spouses' lounge—a spacious room, that would be just what was needed to complete the staffing arrangements the chairman had in mind.

"Moakley," he said, "your special assignment is to take over the lounge for the Rules Committee." It was a long battle with the Members' wives. The Speaker's office was involved. The Members whose wives used the lounge got involved. It was a 2-year, very difficult battle. But we were successful.

Not long after, I got my first call from a New York Times reporter. Again, I thought I had arrived. The reporter opened his interview, "Congressman, we are having trouble with the restrooms in the press gallery and I was informed that you are in charge of restrooms." I was told that all politics was local, but I thought this was too local for me.

Dick Bolling truly had an architect's eye, seeing ways to redesign and reshape this institution not only to enlarge his committee's space, but to make the House work as it should. In every major policy or institutional issue of the House during his tenure, Dick Bolling was at the forefront of the battle.

From civil rights to committee reform, from the Congressional Budget Act to broadcasting of the House proceedings, the House became modern, in large part due to Dick's intelligence and persistence.

But Dick Bolling was also a complex man. His searching intelligence left him never satisfied with his own handiwork. All of the important reforms he shepherded through this institution hold this imprint of his character.

The House position and the committee report on the 1974 Congressional Budget Act were almost entirely his doing. But by 1982, he determined his own reforms needed reform and he appointed a Rules Committee Task Force on Budget Process to further refine budget procedures.

His recommendations for committee reform were mostly accepted but the modifications the House made left him dissatisfied with the final result. He constantly sought practical avenues for more radical reforms.

He changed forever the way complex and difficult legislation is considered in the House. Everything from multiple referral to the fine art of crafting a structured rule, things we now take for granted, were his ideas.

But perhaps most of all, Dick wanted to be remembered for his efforts on behalf of civil rights. He joined the Rules Committee in 1955, the first year of Judge Smith's chairmanship. Under Smith, the Rules Committee was the major obstacle in the way of civil rights legislation.

Bolling soon became the Speaker's lieutenant on the Rules Committee and he worked with two Speakers—Rayburn and McCormack—for nearly 10 years before prying a civil rights bill from the committee. Without his leadership, we would not have had the civil rights legislation of the 1960's.

More than any other Member in modern history, Dick Bolling made a difference in the House as an institution. Along the way, he never retreated from the tough issues or failed to honor his convictions. Though he could be partisan, he was also fair. He wielded his power with wisdom.

I will always be grateful that I have had the honor to serve on the Rules Committee during Dick's chairmanship. No one could have been a better model. The lessons I have learned will serve me well throughout my career.

Years ago, when the late Speaker, John McCormack, passed away, Dick Bolling delivered a fine tribute, which I believe applies equally to Dick, himself:

He is probably the best Democrat I ever saw. He was one of the greatest fighters of all time. I will never forget him as long as I live as one of the people who taught me not only to love this House, but to love working on behalf of the people that he worked for and that I hope all of us work for, and those are the people of this country who do not have the strength themselves and need the compassion and the help of those that love them.

Dick Bolling was a tireless leader, a man of vision, and a man of strong conscience. He brought energy, intellect and compassion to this Chamber for over 30 years. I am saddened at his passing, but proud to pay tribute to the enduring contributions he left the Nation and this great body.

Mr. ROE. Mr. Speaker, I thank the gentleman from Missouri [Mr. WHEAT] for taking this special order and I wish to join with him in paying tribute on the passing of our former colleague Dick Bolling, a man who had an enormous impact on the House and on the Nation.

Dick Bolling served in this House for 34 years during some of the most turbulent times the Nation has seen. During that upheaval, Dick remained focused on making this House work better. He wanted this House, the people's body, to be more responsive to the public will and because of his efforts over three decades, the House is truly a more responsive body.

Dick was elected in 1948 as part of a freshman class that included many of the great political figures of our time. His membership in that class only added to its luster.

Although he never attained an official leadership position in the House he certainly was a leader for many years. As a member of the Rules Committee, and, later, chairman, he had a strong influence on the way that committee operates. Through his position on the committee, he played leading roles in the passage of the landmark civil rights bills of 1957 and 1964.

For his work on the civil rights bills alone, Dick Bolling made a significant contribution to the Nation. But there was far more. As a member of the Joint Economic Committee for 24 years, he led the effort to develop a governmental response to the changing economy. He also helped devise the congressional budget procedures that would help bring some order to the spending process.

He was a cofounder of the democratic study group, which has a major impact in the House by providing information on legislation.

Dick Bolling also had unmatched parliamentary skills. His finest moment with a gavel may not have come in his position as Rules Committee but when he chaired the Committee of the Whole during the budget debates in his last term. His performance during those lengthy debates prompted a spontaneous standing ovation from the Members on both sides of the aisle.

I had the good fortune to serve with Dick in the House for more than 13 years. I benefited from that association, as the Nation benefited from his service in the House.

I offer my sincere condolences to his wife, Nona, and the rest of his family. Dick Bolling was a true leader of this House and contributed much to his country.

Mr. CLAY. Mr. Speaker, may I be allowed this moment to pay tribute to the country's loss of a great American—Dick Bolling, who passed away on April 24, 1991.

Dick Bolling lived a life of service to his country and his fellow man. For the many years he served as chairman of the House Rules Committee, he was the unquestioned expert on procedure, constitutional intent, ethical considerations and congressional responsibility as it related to rules for the passage of legislation.

Dick served his country in the military, was a Phi Beta Kappa scholar, and an author of several publicated books.

I share with his many friends and family this great loss. His loss from service upon his retirement from the Congress was felt by all who knew him. Now his continued service as a private citizen ends with the observation that his life of service exemplified what is meant by the phrase, "A job well done."

He was a fellow Missourian, a colleague and a very good friend. He will be well missed.

Mr. YATES. Mr. Speaker, I was very saddened to learn of Dick Bolling's death. He was a magnificent legislator and a good friend and I admired him greatly. Everyone who supports open, responsive and progressive government is in his debt.

I remember well his work in reforming the Rules Committee in the early years of the Kennedy administration. This was a major event in the history of the House and Dick Bolling deserves our enduring thanks for this and for his splendid record of 34 years in making this House and the Congress meet the demands of the 20th Century. He was a true hero of the Congress and I am sorry he is no longer with us. The Nation needs more citizens with the capacity, character and dedication of Dick Bolling.

Mr. MINETA. Mr. Speaker, it is always a sad moment to stand in this chamber and think back in memory of a colleague departed.

But to remember a legislator like Dick Bolling, a 17-term Member of this House who served his Missouri constituents with great honor and distinction, stills our sense of loss at his passing when we remember all of his unparalleled achievements.

Dick Bolling was one of the brightest and most determined Members ever to serve in the House of Representatives. His determina-

tion was to build a better America, and he used his knowledge and Show-Me-State intuition to help win passage in 1957 of the first civil rights legislation since Reconstruction and later to try and reform the House as he had struggled to do in America at large.

Dick Bolling was a reformer, and he helped lead the way to open up the closed system of leadership that had once gripped the controls of this Chamber into the hands of the very few. In his 1965 book, "House Out of Order" he wrote, "I believe it is possible to restore representative Government to the people of the United States."

Mr. Speaker, I had the privilege to chair the new Members caucus in 1975 after the Watergate scandal. Our caucus of 75 first-termers is often credited with reforming the committee system here in the House. And it is true, we did provide the blood and bone in the march of reform. But it was the class of more senior Members, individuals like Dick Bolling, who provided the sinew to make this body live up to its full promise.

Mr. Speaker, leaders like Dick Bolling are very rare. There is a loss that cannot be replaced. But with his passing on April 21, his legacy lives on among those who knew him, those whom he served in public life, and in the life of the U.S. House of Representatives.

Mr. MAZZOLI. I rise today to pay tribute to our former distinguished colleague, Representative Richard Bolling of Missouri, who died on April 21.

Dick Bolling served 34 years in the House—1948 to 1983—and, during that time, dedicated himself to the mastery of House parliamentary rules. As a young member, Dick was invited by then Speaker of the House, Sam Rayburn, to join his "Board of Education" club which met often in the catacombs of the Capitol Building to discuss important legislation.

Under the tutelage of Speaker Rayburn, Congressman Bolling won a seat on the House Rules Committee in 1955. In subsequent years, he was instrumental in expanding the number of Members on the Rules Committee. This expansion allowed many important pieces of civil rights and "Great Society" legislation to get out of the Rules Committee and reach the House floor for a vote.

During the 1960's, Congressman Bolling became such an astute student of House rules that he authored two books—"House Out of Order" (1965) and "Power in the House" (1968). Some of the ideas that he promulgated in these books in the 1970's became the basis for institutional changes. Congressman Bolling concluded his years in the House as chairman of the Rules Committee, for the period 1979 to 1983.

Despite being a tireless advocate of institutional reform, Dick never lost touch with the people of Missouri's Fifth Congressional District—comprised of Kansas City and surrounding suburbs. His constituents, like his colleagues in the House, benefitted from Dick's unmatched passion for better ways to conduct and operate Government for the people.

Mr. Speaker, few people have left a bigger imprint on the House of Representatives than Richard Bolling. The House is a better place from which to legislate because of his leadership. He will be deeply missed.

Mr. HALL of Ohio. Mr. Speaker, it is an honor for me to join my colleagues in paying tribute to the late Richard Bolling. I am deeply saddened by the death of my former colleague.

Mr. Speaker, I served with Dick Bolling on the House Rules Committee. When I first came to the Committee, I was young, in my second term, and more concerned with substance than process. Dick Bolling taught me that substance can be process. His keen mind and diligent work habits brought the Rules Committee to the forefront of the House of Representatives. He led. He taught. He made the process work for the common good.

Dick Bolling goes down in history as a brilliant parliamentary tactician. However, it should be remembered that Dick Bolling's underlying motives were to improve our country. He fought for the principles of democracy, for the less-fortunate, and for those who were cut out of our system. He used his parliamentary expertise to further those goals.

Mr. Speaker, much is said about Dick Bolling's personality. While he may not have been the most genteel Member of Congress, he had one of the biggest hearts. In his case, it can be said, actions speak louder than words. Dick Bolling made it possible for major civil rights legislation to pass Congress. He was the first Member of Congress to force us to be accountable for Federal spending. He moved tax reform legislation to help the lower and middle income people.

It was significant that even after Dick Bolling left Congress in 1983, he continued to freely offer his advice. I would look up in our rules hearings and see him, sitting in the back of the hearing room, deep in thought. If you asked him a question, he had a perceptive answer. He was truly a giant.

Mr. Speaker, Dick Bolling will be long-remembered, and he will be missed. I extend my heartfelt sympathy to his wife Nona, his daughter Andrea, and his stepsons Jimmy and John Akin.

Mr. FROST. Mr. Speaker, 12½ years ago I arrived in Washington, DC, a newly elected Congressman from Dallas, TX, and was appointed to the House Rules Committee. That was also the year Dick Bolling became chairman after serving on the committee for 24 years.

The first thing I did when I was named to the Rules Committee was to read Dick's two books about the House of Representatives. It did not take me long to figure out that I was embarking on an extraordinary adventure, with the opportunity to learn from one of the true scholars of Congress.

Serving on the Rules Committee during his tenure as chairman gave me enormous insight into how important a knowledge of procedure is to winning legislative battles. If Dick Bolling did nothing else during his career in Congress, he taught liberals how to win. It was not just enough to be right on the issues, you had to know the process well enough to translate good ideas into law.

Others have discussed Dick's many accomplishments during his 34-year career. I would like to take a few minutes to tell you what kind of man he was.

One of the wonderful things about Dick Bolling was that he never treated me like the rookie that I was. He was the teacher and I was the student. And, he would teach as much as you had the stamina to learn. And, he would give you as much responsibility as he thought you could handle, regardless of where you ranked in seniority.

I remember approaching him with some trepidation one day in 1980, my second year on the committee, and suggesting that the Rules Committee should research the issue of what would happen if the 1980 Presidential election were thrown into the House of Representatives. That was the year we had three Presidential candidates—Jimmy Carter, the Democratic incumbent, Ronald Reagan, the Republican challenger, and John Anderson, running as an independent. Under the Constitution, if no one receives a majority of the electoral votes, the House of Representatives must select the next President. This had happened twice in our history, but both occasions were early in the 19th century and much had occurred in the intervening years. A great student of history, Congressman Bolling immediately understood the need to update the procedures for such an election and appointed me a subcommittee of one to research the question and report directly to him. And so, he and I had great fun re-reading 180-year-old CONGRESSIONAL RECORDS and trying to get ready for an event that both of us knew might never occur. It was a wonderful academic exercise and even though he was extremely busy helping run the Congress of the United States on a day-by-day basis, he loved every minute of it.

I will always remember how Dick Bolling went out of his way my first year in Congress to make me a hero to my constituents back in Texas. At a time when mortgage interest rates were skyrocketing, an issue was pending before the Rules Committee which dealt with the ability of the States to issue mortgage revenue bonds to make housing available to young families at a reasonable rate. This issue was part of a very controversial tax bill which included a number of other issues and the vote on whether or not to send the tax bill to the floor was tied in the Rules Committee. Even though I was the lowest ranking member of the committee, I held the swing vote.

Dick Bolling never brought up a bill until he had enough votes to report it from the Rules Committee, and he always counted very carefully. While we had not yet taken a vote on this tax bill, Dick knew where all the votes were. He also knew that I needed an amendment to permit Texas to issue mortgage revenue bonds. And while I have no doubt that Chairman Bolling could have found the needed vote from someone more senior than I on the committee, he took this opportunity to let me show that as a freshman Member of Congress, I could get something done for my State. And so, he went to the chairman of the Ways and Means Committee and told him that the bill was not going to go anywhere until it was amended to include the provision I needed for Texas. The change was made and I became a hero in my first term. All thanks to Dick Bolling.

In recent years, following his retirement from Congress, I would visit Dick from time to time at his townhouse in Washington to continue my education and to talk about what was

going on in Congress. Even though he was no longer a Member of Congress, he still had a keen interest in what was happening and always had good questions and offered me valuable insight into the institution. During those retirement years he was a key adviser to our current majority leader, DICK GEPHARDT, and if DICK GEPHARDT does someday become President of the United States, it will be in no small part due to the valuable advice and counsel given him by Dick Bolling.

Dick Bolling also took particular interest in his successor ALAN WHEAT. They had a close personal relationship, but more importantly, Dick taught ALAN what it meant to represent the 5th District of Missouri. ALAN's constituents are indeed lucky to have the benefit of his dedication and intelligence being honed by the experience and wisdom of Dick Bolling.

Dick Bolling was one of those extraordinary people you only meet once or twice in a lifetime. Our country is better off for his long years of public service and I am fortunate, as a person and as a legislator, to have known him. We will all miss him greatly.

Mr. QUILLEN. Mr. Speaker, today I join with my colleagues to mourn the loss of my good friend, Dick Bolling, with whom I served on the Rules Committee for 18 years.

Dick had a strong connection to my home State of Tennessee which we often talked about. He was a Phi Beta Kappa graduate of the University of the South in Sewanee with degrees in classical French literature and English. He was also a star athlete. While in school there, he was named to Sports Illustrated's 25th anniversary all-American football team.

As everyone knows, Dick was a supreme tactician and parliamentarian of unsurpassed skill. He was one of the few who had the courage to stand up for what he believed. Dick was a vocal critic of the way the House of Representatives did its business. As early as 1965 in his book, "House Out of Order," he called for congressional reform. Specifically, Dick was an advocate for changes in the seniority system and for open meetings. Such changes in the House rules were enacted in the early 1970's.

Mr. Speaker, it was not only a pleasure to know Dick Bolling but also to have worked with and learned from him. Our country has lost a fine and dedicated public servant, and my heartfelt sympathy goes out to his family.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to honor a long-time colleague, Dick Bolling.

Dick Bolling is remembered by many in this institution as a legislator who worked to initiate change. He represented his Missouri constituents by voting his conscience. He was not afraid to take the lead on the divisive issues of the time, such as civil rights and the Vietnam war.

Dick Bolling was outspoken. He believed strongly in speaking the truth, even if it hurt. And sometimes it ended up hurting him, but he went ahead and did it anyhow. Dick Bolling realized he had priorities that overwhelmed any need he may have had for personal popularity. He was concerned about what others may call housekeeping details. He wanted the House to work, and work well. So he spent endless hours trying to make our rules better so we all could do a better job. He never totally succeeded, but did amass a commendable batting average.

There is no doubt that his family and the constituents he served are proud of his accomplishments. Dick Bolling's attention to detail and his penchant for demanding facts and truth ensured passage of major pieces of legislation and made this country a better place in which to live.

Mr. Speaker, I want to extend my condolences to his family and I am sure that, while they mourn his passing, they are proud of the impact his work had on our great Nation.

Mr. DERRICK. Mr. Speaker, my heart is heavy as I ponder the death of my mentor and friend Richard Bolling. Though Dick left Congress over 8 years ago, making it possible for the distinguished gentleman from Missouri, Mr. WHEAT, to take his place, I must admit that at the time of Dick's departure from this Earth I had not yet even managed to reconcile myself to his retirement from this House. I always took great comfort, however, in the knowledge that Dick was around, either at his home on Maryland's Eastern Shore or here in Washington, and in recent months often upstairs in the Rules Committee or here on this floor, ready, willing, and able to share the wisdom he gained in over three decades in Congress. But Dick is no longer around; we're on our own.

Dick was a great teacher, and I learned much from him over the years, probably more than I'll ever realize. It might be more appropriate to say Dick was a great lecturer. I should know, Mr. Speaker, having been fortunate to take lectures from him on several occasions. I recall quite vividly once, early in my career, I did not support the leadership on a key procedural vote. Dick caught me behind the rail near the Democratic Cloakroom, grabbed me by the neck, and proceeded to explain in very loud, unambiguous terms the dire consequences which might have ensued had the leadership lost that vote. I have never forgotten Dick's lecture. In fact, I have once or twice given a milder version of it myself.

Dick Bolling was instrumental in my winning a seat on the Rules Committee, and I went on in 1979 just as he became chairman. As a member of the Budget and Banking Committees during my first 4 years in the House, I had developed an appreciation for the Rules Committee and its job of writing procedures to enable the House—a body of 440 Members, including the delegates—to conduct the Nation's business expeditiously. But serving on the committee under Dick Bolling was truly a revelation.

Dick knew the rules of the House inside and out, and was a master strategist. He was a tough chairman too, demanding a lot from his committee members. I recall how angry Dick became with me once when he found out I had left the floor before the end of a yea-and-nay vote on a non-controversial rule I was managing. When he caught up with me he read me the riot act, as well he should have done. I have never forgotten that particular lecture, nor have I since left the floor until all the votes were in and the results announced. Dick understood the potential for mischief by a skilled opponent, and he never took anything for granted.

As one gathers from watching him, talking with him, and by reading his books, Dick loved the House and loved the Rules Committee. His love for the Rules Committee is all the more remarkable when one remembers in the early days of his career as a progressive reformer Dick's opponents used the committee primarily to obstruct his legislative agenda, especially in the area of civil rights. Most members would have grown to despise the committee under such circumstances, but not Dick Bolling. The gentleman from Wisconsin [Mr. OBEY] describes Dick as "the most brilliant legislator in this century who never became Speaker," and I agree completely. I have wondered more than once how the House would be different had Dick been elected majority leader in 1976. I'm sure Dick wondered the same thing almost daily.

Mr. Speaker, Dick Bolling's name might not be a household word outside of his home State of Missouri. But Dick accomplished more in his 34 years in this House than most of us can dream of accomplishing. I am proud to have served with Dick Bolling and to call him my friend. I shall miss him terribly. I wish his wife Nona, daughter Andrea, and the entire Bolling family my sincerest condolences in their time of sorrow.

Mr. DINGELL. Mr. Speaker, it is with great sadness that I rise today to honor my dear friend and distinguished colleague Dick Bolling, who passed away on April 21 of this year. The House of Representatives has lost an invaluable asset and a man who was admired and respected by those on both sides of the aisle. I seriously doubt that anyone will be able to fill his shoes.

Dick Bolling was a man who made service to this institution and his Nation a lifelong pursuit. As a Member of the House for 34 years, his achievements will endure much longer. He was instrumental in the passage of civil rights legislation. He ushered in major reforms in the budget process, and was an innovator of significant reforms of House procedures. He was one of those rare persons who had the ability to place long-term legislative objectives ahead of narrower special interests. Throughout his tenure, Dick maintained his clear vision of what would be beneficial to his country, and he worked toward that goal with vigor.

A wise philosopher once said that "those who forget the past are condemned to repeat it." Dick lived by that philosophy. I cannot count the times he embraced that perspective in his clear, thoughtful, and intelligent way. Using this style and his thorough knowledge of the legislative process, Dick became a formidable legislator, one who commanded respect and consideration.

I cannot stress what a loss that this House, and indeed, this Nation, suffered on April 21. We have lost a patriot, a public servant, a scholar, and especially a friend. He was the institutional memory and conscience of the House of Representatives, and we all owe him a debt that can never be repaid. The Dick Bollings of the world are vital: they remind us of where we are going and where we have been, and most important, why we are going.

Mr. FASCELL. Mr. Speaker, I rise to pay tribute to our former colleague, Richard Bolling. Beyond being a dedicated public servant who served in the House for 34 years,

Dick was a good friend. He has accurately been portrayed as the intellectual father of the reform movement in the House and as one of the foremost strategists ever to serve in this institution.

Dick and I served together for 28 years and, in that time, he was a tower of integrity. The reforms he advocated were not for selfish political motives; they were to make this institution work for, and be more accountable to, the people. It is possible that most of Dick's achievements are not known by the majority of Americans because he was an insider who opened the system up. He was successful because of his unique combination of integrity and knowledge made him a formidable foe and a valued ally.

Dick championed the landmark civil rights bills of the 1950's and 1960's as well as a host of other social programs, addressing the pressing needs of our Nation by using his position on the Rules Committee to allow the House to consider such legislation. With his help in the expansion of the Rules Committee to allow broader representation, civil rights legislation and other progressive programs began to receive consideration by the full House of Representatives. Very few Members of Congress ever used the parliamentary procedure so effectively.

He believed in a strong Speaker and an active majority caucus. As a member of the Rules Committee, he saw how strong a tool the committee was in controlling the House's agenda and, in turn, the Nation's agenda. When he became chairman of the Rules Committee, he employed the power of the committee to actively assist the Speaker and protect the interests of the Democratic Caucus.

Dick's two unsuccessful leadership attempts did not dampen his belief that the institution could change for the better. I helped Dick in his bids to become majority leader in 1976 because I believed in his vision of what the House of Representatives should be. He used the process and its rules to advance his cause, but he believed that the process needed to be open to the public. No matter what decision Congress would ultimately make, the process was enhanced when the doors to decisions were open.

Each member of this institution has a legislative style. Dick was a mechanic who sought to fine tune this institution and make it run more efficiently. He understood the engine and knew how to get the most out of the process. Future generations of Americans may not understand the role of Dick Bolling in our Nation's history, but his years of dedicated service will continue to benefit our Nation.

Jeanne-Marie and I wish to extend our sympathy to Dick's wife, Nona, and to his children.

Mr. HORTON. Mr. Speaker, today, I join my colleagues in the House in paying tribute to our former colleague Richard Bolling, who represented the people of Missouri with the utmost distinction for over three decades. It was my honor and personal privilege to serve in the Congress with Dick for 20 years.

Dick was truly one of the giants in the history of the House of Representatives. His steadfast instincts for reform, both of our social system and of the Congress itself, as well as his unsurpassed knowledge and mastery of the legislative process combined to make him one of the most respected Americans ever to serve in the Congress.

In his early years in the House, Dick was instrumental in securing the passage of the first civil rights legislation since Reconstruction. Despite his long and successful career, Dick often pointed to this legislation as his proudest achievement.

As I mentioned before, Dick's reformist instincts were not only focused on our social system but also on the Congress itself. He, in fact, wrote two books, "House Out of Order," and "Power in the House" calling for institutional changes in the House of Representatives. During his final two terms in the House, Dick served as the chairman of the Rules Committee, where he was able to put his mastery of the legislative process and of the rules of parliamentary procedure to use. As chairman, he was able to personally institute some of the reforms that he had long advocated, and he did, transforming the Rules Committee into the powerful and reliable tool that it remains today.

The death of a statesman such as Dick Bolling is a loss to Kansas City, to Missouri, and to the United States. I would like to extend the heartfelt sorrow of my wife Nancy and myself to his family and friends. He will be deeply missed by all.

Mr. ANNUNZIO. Mr. Speaker, I rise to pay my respects to Congressman Dick Bolling, who passed away on April 21.

During Dick's nearly 34 years in the House of Representatives, he was an intelligent, forceful advocate for his Kansas City constituents as well as working people from across this country.

A gifted parliamentarian, Dick used his talents to help enact labor and civil rights bills that symbolize the Democratic Party's drive to achieve justice for all Americans.

Since his retirement in 1983, the Members of this House have missed Dick's bold spirit and determination.

I would like to express my sadness at Dick's passing, and I would like to offer my sincere condolences to Dick's wife, Nona, and his entire family.

Mr. HUGHES. Mr. Speaker, today, we honor one of the great men to serve in the Congress, Richard Bolling, who recently passed away.

Dick Bolling will best be remembered for the contributions he made to this institution. He was a master of the rules and a true legislative scholar.

For more than 30 years, Dick represented Missouri's Fifth Congressional District. He was instrumental in winning the passage of several landmark pieces of legislation. He was particularly proud of his role in the passage of the 1957 Civil Rights Bill.

Dick was also instrumental in changing the ways in which business is conducted in the House. He proposed changes in the committee system and called for open meetings in his 1965 book "House Out of Order." These reforms were largely adopted when the House rules were changed in the early 1970's.

I would like to take this opportunity to extend my condolences to his friends and family; his wife Nona and children Andrea Bolling and Jimmy and John Akin.

Mr. COLEMAN of Missouri. Mr. Speaker, when I was a youngster growing up in Kansas City, MO, Dick Bolling was my Congressman. Although in later years my political views would differ from his—sometimes rather dramatically—I have always thought that the high standard Dick Bolling set for those who held the public trust was worthy of emulation. His legacy of integrity and independence is one that we can all share, irrespective of our political views. And it is, I think, a legacy that, if more often followed, would make this House more truly the House of the people.

It has been said of Dick Bolling that his unwillingness to go along to get along cost him the speakership of this great institution. That may be true. Yet he seemed to believe that maintaining the standards he set for himself—and those he expected of others—was a more important measure of his true value to the Republic than filling any particular office in this House. That was a choice he made for himself and one that we should honor.

Mr. Speaker, as the history of this institution continues to unfold, Congressman Dick Bolling's name joins those whose service here has shaped our Nation in this century. It is a privilege and an honor to remember that service today.

Mr. DE LA GARZA. Mr. Speaker, the history of our great Nation is punctuated throughout with names synonymous with leadership, vision, and dedication, and today we gather to honor and pay our respects to such a man. I am speaking of Dick Bolling.

For 34 years Dick Bolling served in this Chamber. During his over three decades of service here he witnessed vast changes in our Nation and in the world, but one unchanging factor was his dedication to his constituents, this country, and this party.

All aspects of Dick Bolling's career were outstanding. His work was consistently recognized as exemplary. In my mind his most important contributions to this body were not contained in any one bill or act, but rather were evidenced by the strength of his personality, the willingness to say what many felt, and the conviction to do the things that had to be done.

Dick Bolling contributed to the dignity and effectiveness of this body, being to my mind a shining example of what a Congressman should be. He symbolized what is good about our Nation. He was a leader.

To me the greatest tribute anyone can receive is that he be remembered by those who come after him. From the people who served with him, from his colleagues, and from what has been said here today I know that I am a better member for having served with Dick Bolling. His loss is a great one.

To his family I extend my deepest sympathies.

GENERAL LEAVE

Mr. WHEAT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of my special order this evening.

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

There was no objection.

GENERAL LEAVE

Mr. IRELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of the special order today by the gentleman from Illinois [Mr. LIPINSKI].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

A TRIBUTE TO THE MEN AND WOMEN OF THE NATION'S SMALL BUSINESS COMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. IRELAND] is recognized for 60 minutes.

Mr. IRELAND. Mr. Speaker, I rise today to pay tribute to the business men and women who make up our Nation's small business community. The President has designated May 5 to 11 as "Small Business Week" to show appreciation for the contributions these men and women make to this country's very foundation and its prosperity. In the next few minutes, I would like to put before my colleagues some fundamental ideas about the role small business plays in our society, the economy, and where the Government fits into the picture.

The small business community is anything but small. It plays a vital role in the economy, accounting for over half of the jobs in the United States. Entrepreneurs have developed the technology that brought us from the past to where we are today, and are positioning us for tomorrow. It will be our small business people who build our future.

Small business is more than part of the economy. It is an integral part of society, portraying the American dream in action. Small business personifies the freedom of opportunity that Americans have to make their dreams come true. It is the foundation upon which this country was built, our Nation's backbone.

We cannot ignore such an important part of our Nation. We in government need to listen to the concerns of entrepreneurs as they struggle to maintain their ground against multinational corporations and Federal, State and local bureaucracy. With the Uruguay round and a United States-Mexico free trade agreement in the offing, Congress needs to pay attention to, encourage, and stimulate small business export opportunities as well. We must continue to work for small business, not against it.

At the beginning of the 102d Congress, I introduced the Omnibus Small Business Act of 1991 so that our Nation's entrepreneurs might receive some of the legislative help they need to survive, to be assured of a fair playing field and yes, even to have the "right to fail." The problems addressed in this bill have come from research done by my staff, the Small Business Opportunities Task Force, the White House Conferences on Small Business and some of my colleagues' previous legislative proposals.

The Omnibus Small Business Act has seven titles which are all extremely important to the small business community. First, I propose to raise the status of the Administrator of the Small Business Administration to a cabinet level position. This way, the entrepreneurs of our country would have a voice at the highest level of decisionmaking.

Second, I propose that failure to comply with the Regulatory Flexibility Act be subject to judicial review. We need to ensure that all agencies follow the regulations and laws set for them by cracking down on those that don't.

Third, I would like the chief counsel for advocacy in the SBA to conduct a study on the impact of the Federal Government on small business. This study would include small business tax issues, paperwork overload and the regulatory burdens imposed by the Government on the small business community.

Fourth, I propose that the IRS be prohibited from retroactive application of regulations unless Congress directs otherwise. We need one clear set of rules for all businesses to follow, and should not allow the one agency with the greatest impact to change the rules whenever they wish.

Fifth, I propose that self-employed individuals would be allowed to deduct 100 percent of their health insurance costs. This way they would be treated equally with all other business enterprises.

Sixth, I propose that S Corporations be allowed to increase the number of shareholders from 35 to 50. I would consider this a positive move for business development, which we should be encouraging.

Seventh, I propose that we correct an error made by Congress when the Fair Labor Standards Act was rewritten last year. The small business exemption was left out and I believe we need to fix the problem for small business people.

I am very pleased to say that because of similar legislation I introduced in the 101st Congress, we have made some progress in helping the average entrepreneur. For example, the IRS is now included under the jurisdiction of the Regulatory Flexibility Act. I am also very pleased to say there will be another White House Conference on Small Business in 1994. The past two conferences, held in 1980 and 1986, were both very successful. They proved to be the proper forums for bringing small business issues to the attention of the Government with results. Congress acted on many recommendations by introducing legislation to help entrepreneurs.

The 1994 White House Conference on Small Business is promising to be as productive and helpful to entrepreneurs as the two previous conferences were. Congress needs to pay attention to the needs and concerns of the community that will be gathering. I have great expectations for the 1994 White House Conference and believe the small business community will benefit greatly once again.

Not only does small business need our help, it deserves our help. Recent events in the Persian Gulf have proven this to all Americans.

When our troops were sent into the Middle East to assist in the liberation of Kuwait, among the thousands of reservists called to active duty were many small business owners. Not only did they risk their lives for the freedoms of another country, but they left their businesses, their symbols of freedom, to an uncertain future. Congress stood up for those business men and women who were standing up for their country by passing H.R. 902, the Small Business Desert Storm Relief Act. This bill provides assistance to SBA loan recipients who were affected by military service as a part of Operation Desert Storm. It was a small but effective way of saying "thank you" to the part of our small business community that was defending freedom in the Persian Gulf.

Not only did we have a portion of the small business community serving in the military in Saudi Arabia, we had a small business force in the Middle East offering support to all of the troops. The American Business Council of the Gulf Countries [ABCGC] was a great asset to the Nation. It highlights the great importance of an American business presence overseas. This council normally acts as the voice of the U.S. business community in the Gulf region. During Operation Desert Storm the ABCGC Council offered many support programs to our military personnel. "Operation Scrub and Grub" allowed our military men and women to go to private homes for a hot home-cooked meal, a clean shower, and a phone call home to the United States. "Operation Desert Outreach" had the ABCGC Council taking grills, charcoal, hamburgers and hot dogs out to the troops on weekends. "Operation Desert Thirst" delivered cold soda, portable popcorn makers, cassette tapes, cigars, FAX machines, VCRs, weightlifting equipment and food of all sorts to the

men and women on the front lines. The ABCGC Council was instrumental in keeping the morale of our military up during Operation Desert Storm.

This small business spirit carried over to individuals serving in the Persian Gulf. I would like to relate a story which exemplifies this spirit. I recently read an article in U.S. News & World Report about Maj. Tim Timmons, a supply officer for combat engineering battalions. Maj. Timmons became affectionately known as a "scrounge" (a time-honored military tradition), trading materials for necessary equipment. His biggest success was securing 45,000 sheets of plywood. Maj. Timmons traded the wood to G.I.s to use for tent floors, shower stalls, outhouses, dressers and desks. In exchange he received valuable oil and air filters, clothing, tents, and the use of heavy machinery. Maj. Timmons was quoted as saying, "It all comes down to one thing—supplying your soldiers." This entrepreneurial spirit, instilled in him growing up in America, told him that although he was but one person in a sea of many, he could get the job done.

Now that the Persian Gulf crisis is over, rebuilding efforts are taking place in Kuwait. The House Small Business Committee held a hearing to determine where U.S. small business opportunities lie in the overseas operations. American entrepreneurs will play a large part in the gulf reconstruction and many companies have already secured contracts.

While we are proud of our small business community taking part in the reconstruction of Kuwait, and other nations, we must be sure that entrepreneurs have the same opportunities in this country. The small business men and women have stood strong in a time of need and we need to keep supporting their efforts. As National Small Business Week continues, let us salute the 20 million entrepreneurs who are the source of our prosperity and a symbol of the freedom Americans have fought so hard and so valiantly to maintain.

Mr. Speaker, as the 102d Congress wears on, we will face such issues as the well-known credit crunch, the issue of family leave, the striker replacement, mandates for health insurance and a civil rights quota bill. All of these issues will dramatically affect our small business community and its ability to continue to serve America. The small businesses of America have better answers to these issues, and I would urge my colleagues to pay attention to the small business community, not just during Small Business Week, but throughout this session of the Congress.

Mr. ALLARD. Mr. Speaker, I want to take a few minutes to share with you the impact that small business has on America—from a Colorado perspective. I represent District four of Colorado, a rural district that is bordered by Wyoming to the north, Kansas to the east and New Mexico to the south.

Nationally, small businesses own 90.2 percent of all business establishments. In Colorado an amazing 98 percent of all businesses employ less than 100 people and 79 percent employ less than 20. In fact, of the 500,000 plus—566,723—new jobs created in Colorado between 1976 and 1986, small business contributed 53.1 percent.

In each town in my district I see the positive influence small business has on the community. In Greeley, CO, Dennis Hoshiko, owner of North Weld Produce—a family company, showed his commitment to the community by donating half a city block of land for the development of baseball fields and a community center. There are others: Jim Yaeger, owner of Jim's Shoes in Brighton, CO, spent an entire week serving as a volunteer for the Distributive Education Clubs of America, an organization committed to teaching high school students the general principles of running a business.

Small business also brings diversity to the market place. There are many corporate owned hotel-motel chains in Colorado but whenever I travel through Limon, a small town in eastern Colorado, I always stay at the Midwest Motel, a full-service, family owned motel. Its antique furnishings and country hospitality make me feel right at home. And when my family and I are hungry for home cooking, but short on time to cook, we go to the Summit Restaurant in my home town of Loveland. Macy's Drug Store also of Loveland and the Fort Morgan Veterinarian Clinic, are both known for their personal and friendly service.

I believe that every American has the dream of owning their own business—Coloradans make that dream a reality. Dave and Debbie Mitchell of Commerce City saw their dream become a reality when they opened Mitchell R.V. in Commerce City, CO. And Wally and Ruth Dusenberry, owners of the Speer Cushion Co., in Holyoke, CO, have kept their American dream alive by assuming operation of the 20-year family owned business. Then there is Markley Motors in Fort Collins, CO, which has been passed down from generation to generation.

Quite simply, small business and free enterprise are cornerstones of America that help ensure the survival of democracy. We rely on small businesses—and they rely on us—it's so easy to overlook the negative impact that legislation has on small businesses; excessive licensing fees, complicated tax forms, mandate, after mandate after mandate. Small businesses do not have the resources to meet all of these demands—as leaders of our Nation it is time to realize that we can no longer afford to overlook the impact of legislation on small businesses. It is imperative that we look after the champions of the American dream.

Mr. SISISKY. I want to thank the gentleman from Florida, my good friend Mr. IRELAND, ranking minority member of the Small Business Committee, for providing Members of Congress with the opportunity to pay tribute today to the small businesses of our great Nation. They indeed are deserving of our recognition, and I applaud each and every man and woman who has chosen to pursue the goal of running one's own business.

As you may know, Mr. Speaker, we are in the midst of Small Business Week 1991. As we recognize the over 18 million small businesses in our country, I feel compelled to discuss today something which I view with great excitement.

As chairman of the Small Business Subcommittee on Exports, Tax Policy, and Special Problems, I recently held hearings on the topics of Kuwait reconstruction and business opportunities in the gulf region. Intended to be an informational resource for United States small and minority businesses seeking to participate in the rebuilding of Kuwait, these hearings have drawn an overwhelming response from the American business community. In the month and a half since I began looking into this matter, my office has been flooded with calls from businesses of all types, from across the country, hungry to export their goods and services to the Persian Gulf.

Mr. Speaker, I must say that never before in all my days as a Member of Congress, and as a businessman before that, have I ever seen American businesses as interested in exporting as they are today. I am convinced that the response I received as a result of my hearings is evidence of the business community's new awareness and enthusiasm for exporting abroad. Without question, this is a most welcome change in attitude.

In light of these developments, I am particularly interested in what efforts are being made by the Federal Government to enhance this new way of thinking. I strongly believe that our Government should be doing everything it can to capitalize on this unique opportunity to help small businesses get involved in exporting—whether it be to Kuwait or to other promising markets.

In order to encourage Federal support for these firms, Congress recently approved a resolution—that I cosponsored—which expresses the sense of Congress that the Bush administration should make every effort to assist small and minority businesses pursuing contract opportunities in Kuwait. As coauthor of this legislation, I am pleased that Congress acted so quickly on it.

Without question, this new willingness to export can mean substantial economic benefits for this Nation. It is no secret that since 1989, U.S. exports have accounted for most of the growth in our economy. In fact, according to the Institute for International Economics, a sustained trade boom would likely contribute about $50 billion a year in real economic growth for the next 3 years. Therefore, as an advocate for small and minority business, I will be working to increase the presence of these firms in the exporting arena.

As I stated earlier, like never before this country's business community has awakened to the tremendous possibilities of exporting. Increasingly, American companies are raising their sights above and beyond our own borders to countries on our north and south, and to those overseas. They are recognizing that the international marketplace is not some impenetrable bloc, but is indeed accessible and a place in which they can succeed.

I applaud this Nation's small businesses for this and for all they do. After all, small business people deserve credit for most of the innovation and technological breakthroughs in

our economy. They not only brave the risks of building their own businesses, but also create new jobs in the process. And it is small businesses who embody the uniquely American spirit of entrepreneurship.

It is hard to overstate the importance of small business to our Nation. Indeed, they are the backbone of our economy. Small businesses have the ability to move us further into world markets, to reduce our foreign trade deficit, to pull us out of recession, and to make a meaningful contribution to long-lasting prosperity for the Nation.

You, small businesses, do truly make the difference.

Mr. SLAUGHTER of Virginia. Mr. Speaker, let me first take this opportunity to thank the distinguished ranking minority member of the Small Business Committee, Mr. IRELAND, for his leadership and for giving us this opportunity to recognize America's small business community.

This week America recognizes the vital role the small business community plays in our Nation's economy. In celebrating Small Business Week we hope to highlight the spirit of enterprise and entrepreneurship that drives our national economy.

Small businesses are critical, not only in terms of our national economy, but to every State and local economy in the Nation. In fact, in my home State of Virginia, 88 percent of all business establishments are small businesses—fewer than 500 employees—and they employ over 48 percent of the State's total workforce.

The explosion of successful, new small businesses fueled the economic growth and prosperity of the 1980's. Successful small business expansions and new formations led the way in creating new markets, innovations, and jobs. Nationally, small businesses generated 78.6 percent of the net new jobs created between 1980 and 1988.

The small business sector is by far the largest creator of jobs in our economy. Small firms now employ one-half of the private sector labor force, and furnish two out of three workers with their first jobs. Small businesses have created hundreds of thousands of job opportunities for minority workers, veterans, senior citizens, the handicapped, and women in the workforce.

Despite this record of success, the small business sector faces considerable challenges. Access to capital is often difficult to obtain. Smaller firms, with limited resources, face tough competition from large, well capitalized companies. And increasing Government regulations and paperwork requirements have become a significant burden on small business owners.

Mr. Speaker, as we pause to honor this vital sector of our economy, we in congress must resolve ourselves to eliminating obstacles to their continued success. Small business fueled our economy throughout the 1980's. By fostering a healthy business environment, I believe we can help small firms lead us to new economic growth and prosperity in the 1990's.

Mr. GOSS. Mr. Speaker, I welcome the opportunity to add my voice to the many who stand today in honor of Small Business Week. Small Businesses are to often the unseen and unappreciated engines behind the U.S. economy, still the largest and most productive economy in the world. We should never underestimate the vital contributions they make in keeping our economies moving—and that is particularly true in my district in southwest Florida.

Today, more than 20 million entrepreneurs are providing goods and services to meet the ever-expanding needs and desires of the American consumer. In recent years, we have counted on small businsees to create jobs even while larger firms have been forced to cut back. In many parts of the United States, small businesses remain the largest and most consistent employers, providing needed innovation and diversity to the American economic landscape.

Small businesses are much more than a vital cog in the huge U.S. economic machine—they are reflections of the American spirit. They provide challenges to hundreds of thousands of men and women who still have a spark of the frontier enthusiasm and who are not afraid to strike out, build something from the ground up, and stick with it to make it grow.

Look around one day as you are walking down a typical American street—a street not unlike many in my district in southwest Florida—and imagine what that street would be like without the contributions of small businesses. Shops, restaurants, delicatessens, dry cleaners, book stores, you name it—they contribute to the unique character and economic well-being of our Nation's towns and cities.

Of course, the recent recession has been tough on business, but the American will to fight and succeed remains strong, and that's one reason why we in Washington have got to ensure that we continue to encourage and support growth and expansion.

We have to reverse the recent trend where, all too often these businesses and the individuals who run them are forgotten in the legislative process. As we all know, legislation will be forthcoming in this Congress that will have a profound impact on the competitiveness and viability of our small businesses. Critical issues such as health care for employees, retirement plans, mandated family leave, civil rights—all could lead to legislation whose effects could be devastating. Whether we will be able to address these important matters without shackling our Nation's entrepreneuers is going to be a real test of this Congress' commitment to a growing and diversified economy. It is my hope that when we consider proposals to deal with these thorny issues, that we not lose sight of the special circumstances and legitimate concerns of our small businesses.

In the coming months we will face enormous economic and social challenges, and I think we could all take a lesson from the strength and spirit of America's entrepreneurs. By investing in them, we are truly investing in the future of this great Nation.

Mr. POSHARD. Mr. Speaker, I am pleased to join my colleagues today to salute the real driving force of the American economy—small businesses.

As a member of the Committee on Small Business I have some perspective on this issue. Every week we hear from small business operators and employees who inform us as to their concerns and needs.

I must say that by and large the small business managers in this country want the freedom to produce their goods and services with minimal assistance and interference from government. They have good ideas, sound business philosophies, and the personal commitment to see them through. In many ways, the best thing those of us in Congress can do is get out of their way and let the great American business instinct work its magic.

In my southern Illinois district we have a few large companies, but the bread and butter of economic activity is in the small businesses on Main Street. These are the community leaders who operate everything from hardware stores to dry cleaning shops. Their names appear on the backs of Little League uniforms, in the program for the school play, and on the float at the homecoming parade. That is not coincidence; it is a tangible example of their commitment to their communities and customers.

That is why we must continue to encourage and assist small businesses whenever and wherever possible. They must be able to compete in domestic and foreign markets to the best of their ability. In the Committee on Small Business we are examining a number of issues, including the lack of pension coverage for employees, Government regulations that hinder productivity, unfair competition from foreign markets, the difficulty of obtaining credit in rural areas, and general concerns of assisting small business operators in an evolving marketplace.

I stand firmly with the small business leaders of my district to help them continue their mission, to provide for their families and good jobs for their communities.

I thank my colleagues for participating in this effort and look forward to working with them to support American small businesses.

Mr. BALLENGER. Mr. Speaker, in North Carolina small business is big business. In my home State, an estimated 97 percent of the more than 132,000 firms are small businesses. They employ 2.3 million workers. As the U.S. economy as a whole increasingly focuses on smaller-sized firms, the importance of small businesses continues to grow.

My district is dependent on the development and growth of new companies. That's why I am particularly proud that we are celebrating the 27th annual Small Business Week that recognizes the many accomplishments of our Nation's small business men and women.

As part of the festivities, the Small Business Administration has recognized leading small business men and women from each of the 50 States, the District of Columbia, Puerto Rico, and Guam.

I am pleased the 1991 North Carolina Small Businessman of the Year is from my district. Mr. Jimmy Jacumin, president of Jacumin Engineering and Machine Co. has been recognized as one of America's true small business entrepreneurs. Jacumin Engineering and Machine Co. designs and fabricates machinery for the textile and woodworking industry.

I congratulate Mr. Jacumin on his many accomplishments and hope he will continue to be a guiding force for small businesses in Burke County and North Carolina.

Mrs. MEYERS of Kansas. Mr. Speaker, I am proud to join with many of my colleagues today to pay tribute to our Nation's small busi-

nesses. During this week, which has been officially designated as National Small Business Week, it is fitting that we take a few moments to recognize the enormous contributions of small businesses to the American economy and to the health of our communities, large and small, across the Nation.

While the phrase has become cliche, the fact remains that small business is the backbone of this Nation. Ninety-seven percent of all companies in the United States today have 100 or fewer employees. These same firms account for one-third of all of the private sector jobs in this country, and small businesses with 500 or fewer employees employ 45 percent of the American private sector work force. Furthermore, of the 20 million jobs that were created in the United States during the 1980's, nearly 80 percent can be attributed to small businesses.

The dream of starting your own business, being your own boss, has come true over and over again for millions of Americans in this land of opportunity. Particularly encouraging to me is the growing number of women-owned and minority-owned small businesses in this country. As a member of the House Small Business Committee, I think it is important to take some time this week to think about what Congress should do, or, to be more accurate, should not do, to preserve the environment of freedom which fosters the development and growth of small business.

With the best of intentions, legislative proposals have been introduced in this body to impose more regulations upon how businesses are operated. However, these efforts, in the name of equity or fairness, often carry some very undesirable side effects. Bundling small businesses in red tape serves as a disincentive to those entrepreneurs considering expansion of their small enterprises. Furthermore, persons weighing the decision to start their own small business may find themselves overwhelmed by the complexity and depth of Government oversight of their activities, and decide it's just not worth the trouble.

Mr. Speaker, when small businesses are no longer being started, or existing small ventures are regulated out of business, new jobs are not being created, economic development becomes stagnant, small towns become ghost towns, and the problems associated with urban areas grow in magnitude. The importance of the prosperity of small businesses simply cannot be overstated. Therefore, I propose that every week be considered small business week, as Congress debates proposals to mandate certain employee benefits, or increase the already overwhelming paperwork burden business persons face. Let's take time to really empathize with those business people who are mortgaged to the hilt, trying to produce a quality product or provide a service, struggling to provide their employees with the best salaries and benefits they can afford, before casting a vote to tie another millstone around their necks. Without question, such thoughtful action would be the best tribute this body could pay to small businesses throughout the Nation.

Mr. BAKER. Mr. Speaker, as the ranking Republican on the Small Business Subcommittee on Environment and Employment, I am pleased to honor this week the small business people who work to keep America's economy strong. To express my thanks to them, I pledge to speak for sound economic policy and to provide better assistance to small businesses.

Since my appointment, my staff and I have been contacting organizations in our area whose prime focus is on economic development in an effort to coordinate Federal, State, and local activities. I depend on the cooperation of the many different agencies throughout Louisiana to provide the best representation possible.

Small business is key to the success of our free enterprise system. Small business accounts for 89.4 percent of all Louisiana business establishments, and for almost 50 percent of the 436,828 new jobs created in the State between 1976 and 1986. I will continue to support policies that encourage the growth of this important sector of the American economy and to support policies that promote job creation.

With over half a million Americans filing for unemployment compensation, the rest of the Nation now faces similar economic troubles that Louisiana has struggled with in past years. The need for a strong job market has never been greater.

I know that through economic diversity and sound management, small businesses will grow and Louisiana, as well as the entire Nation, will prosper.

Mr. BROOMFIELD. Mr. Speaker, this summer when temperatures soar into the 90's and you rush to turn on your air-conditioning, remember that a small business helped make your comfort possible.

And when you hear on the news that a heart attack victim is made good as new with a pacemaker or artificial heart valve, thank a small business for making this possible.

Over half of our Nation's remarkable inventions, like air-conditioning and artificial heart valves, come from small business. From personal computers to Polaroid cameras, from hydraulic brakes to zippers, from the frozen food you had for lunch to the overnight delivery you received this morning, small businesses have helped America become the prosperous Nation she is today.

Small business is America's business. By creating new and innovative products and providing job training and opportunities, small business contributes to our Nation's overall economic development and well-being. And by employing 6 out of every 10 people and providing 2 out of every 3 workers with their first jobs, small business plays a vital role in every community across the country.

Our Nation's economic growth and ability to compete globally in today's competitive marketplace depends on the full participation of all members of our society. I am encouraged, therefore, that many of the barriers once facing women and minority businessowners are beginning to break down.

Today, women and minorities are finding ever-increasing opportunities in small business. Women are starting businesses at twice the rate of men. One-third of all U.S. small businesses now are owned by women. And according to the Small Business Administration, the number of black-owned small businesses has grown five times faster than the U.S. population from 1980 to 1987.

During Small Business Week, I join my colleagues in honoring the small business community for its hard work, enterprising initiative, and entrepreneurial spirit. And I thank the hard-working businessmen and women for helping to build a successful America for us all.

Mr. RAMSTAD. Mr. Speaker, as you know the President has proclaimed the week of May 5 through May 11, 1991, as National Small Business Week. This week is set aside to officially recognize the significant and vital contributions that our Nation's small businesses add to our economy, and highlight the outstanding achievements of small businesses in our communities.

As a Nation, we are blessed by the hard work, energy, and ingenuity of the small business community. There are more than 20 million Americans who own small businesses and employ close to half of our Nation's private sector work force. Small firms provide two of every three workers with their first jobs, are responsible for most job training, and are the major employers of younger, older, and female workers.

Every American citizen in some way benefits from the innovative products, jobs, and enterprises put forth by our Nation's entrepreneurs. Small businesses are uniquely flexible and able to adapt to changes in the marketplace. By testing new ideas, methods, processes, and products, they have contributed over half of all inventions, including the artificial heart valve, insulin, and the pacemaker.

Even as the economy has slowed in growth, small businesses continue to create new jobs at a faster rate than large corporations. And small businesses are recognizing opportunities in finding new export markets, as they contribute about 20 percent of total U.S. exports, helping to curb America's foreign trade deficit.

Mr. Speaker, I am proud to rise today to recognize our Nation's small business community. Small business men and women remain America's competitive advantage. They are building America's future and ensuring that our Nation will continue to grow and prosper in freedom and opportunity.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to all small businesses throughout the United States. As we commemorate this year's Small Business Week, I would like to take the opportunity to acknowledge those businessmen and women from my district who have been recognized by the Small Business Administration for their outstanding contributions to the business world.

Ms. Lisa Richards has been named the small business person of the year for her work with Picnic People. The SBA awarded Ms. Richards for "epitomizing the free enterprise spirit in the development and operation of Picnic People," and for her many contributions to the business community in San Diego.

Mr. Urban Miyares, of the Nuvenco Group, was the recipient of the veteran small business advocate of the year award. The Small Business Administration recognized Mr. Miyares for "helping advance small business opportunities for Armed Forces veterans."

Ms. Constance W. Baher, of the U.S. Business Communications, was awarded the small

business advocate of the year for her outstanding advocacy of the small business community in San Diego.

The San Diego women's directory boasts two award recipients. Ms. Mary Ellen Hamilton and Jody Sims were both awarded the honor of women in business advocates of the year for their help in advancing the cause of women's business ownership.

These five award recipients typify the quality of small business in San Diego. It is with great pleasure that I recognize these individuals, as well as pay tribute to the many small business people of this country that make this Nation free and strong.

Mr. SERRANO. Mr. Speaker, I would like to join with Mr. IRELAND and my other colleagues on the Small Business Committee participating in this special order to honor this year's observation of Small Business Week. The men and women who run the small businesses of our Nation are the backbone of our economy. They personify the spirit of individualism and enterprise that sets the United States apart from our competitors abroad. I am pleased to have this opportunity to voice my respect and appreciation for the contribution of the small business sector.

Traditionally, many American success stories began with an entrepreneur: A person who organized, operated, and assumed the risk for a business venture. During the 1980's, many in New York City and across the country made millions through huge corporate mergers and leveraged buyouts, generating enormous debt and great financial risk to investors. As we face the consequences of the rampant greed of the past decade, as we come to realize that those who benefited most will not be the ones who pay for abuses of our banking and financial systems, I predict that we will see a reawakening of appreciation for the small business person.

The 102d Congress will refocus attention on the effects of broad legislation upon small business people this year. For example, as the Banking Committee considers proposals to restructure the banking system, the Small Business Subcommittee on Antitrust, Impact of Deregulation, and Ecology will hold hearings to examine how the various banking proposals will affect the ability of small businesses to obtain credit. Also, as various Federal deposit insurance reform proposals are considered, many members of the Small Business Committee will introduce legislation, written by Chairman LAFALCE, to provide a new, affordable retirement plan for small business owners to offer their employees.

This is the second year of the 1990's, and already there has been a perceptible shift in New York City toward greater emphasis on small business development. The city has instituted a microloan program for small business startups. Congress must show support for such local efforts. Small business made New York great, and I am pleased that the city's administration is taking steps to see that recent and current immigrants have the entrepreneurial opportunities that existed at the turn of the century.

Yesterday, the Small Business Administration held their annual Minority Awards Breakfast to honor the minority winners of Small Business Week awards. This recognition is important in encouraging minority business development, but there is still much to be done. The Federal Government must do more to unleash the great economic potential in our minority communities across the Nation. Enactment of the Minority Business Development Act would go a long way toward bringing more hard-working minority entrepreneurs into our economy, creating more job opportunities and a more stable business atmosphere for minorities who are struggling to gain equal footing.

As we continue our fight to enact civil rights legislation to protect minorities and women from job discrimination, we should seize this opportunity to extend the same protection to all the minority and female entrepreneurs who are fighting an uphill battle for equal opportunity in a business world from which they were long excluded. H.R. 373 would create a permanent, codified Minority Business Development Administration within the U.S. Department of Commerce, with a statutory mission to assist and encourage disadvantaged businesses and foster minority enterprise development.

The small businesses in my South Bronx district serve the entire city of New York, distributing food throughout the tristate metropolitan area and providing a wide variety of products and services to the community. Most of our jobs are small business jobs. I am proud to represent the small businesses in my community, and to express my support for their hard work and dedication which add so much to our community.

Mr. COMBEST. Mr. Speaker, I would like to commend our new ranking Republican Member, ANDY IRELAND, for energizing the House Republican Small Business Committee members. His interest and dedication to the important issues that affect small business operators have made him an effective and influential voice for all small business owners. I would like to offer my appreciation for his leadership in calling this special order to honor America's 20 million small businesses during Small Business Week, May 5 to 11.

Some people might ask why is it important to honor small business owners, what do they contribute to the economy? The Small Business Administration [SBA] estimates that small firms employ 6 of every 10 people, provide more than 37 percent of the Nation's gross national product, and provide 2 of every 3 workers with their first jobs. Small businesses are also responsible for bringing the majority of innovations into the marketplace.

For 27 years, Small Business Week has given the President the opportunity to recognize some of the outstanding innovations and achievements made by local small business owners. These individuals are the pillars of the community, working 6 days a week and 12 hours a day to make their business a success. As a former small businessman, I know of the difficulties and sacrifices of trying to balance the rigors of a new business with the needs of a family. It is important that policymakers in Washington take the time to recognize the great contributions these individuals make and how important they are to the community.

As the new ranking Republican member on the Exports, Tax Policy and Special Problems Subcommittee, I believe the incredible changes in the world's political climate offers historic opportunities for the small business owner. Americans must capitalize on emerging markets in Eastern Europe, Latin America, and in the Middle East. We are literally on the verge of a worldwide economic revolution. Now is the chance for small business to exert its influence and realize that through exporting the world is their customer.

The Bush administration is trying to increase American trading possibilities through continuing discussions in the General Agreement on Tariffs and Trade and the North American Free Trade Agreement. We have already seen some positive effects through our reduction of trade barriers with our neighbor to the north, Canada. I firmly believe that given free and fair trade competition U.S. agriculture, manufacturing, and labor will be the most productive in the world.

In my comments today I have stressed the importance of small businesses exporting to the world. A vigorous small business export program is not only good for reducing the Nation's trade deficit but every $1 billion in U.S. exports generates nearly 26,000 new jobs. It also gives nations struggling to change their former centralized governments into capitalist systems the ability to see firsthand the benefits of free trade.

I hope that one of the positive results from the Small Business Week is to raise the awareness of the great achievements of small businesses. I am also hopeful that this week will enable the SBA and the Commerce Department to highlight some of their excellent programs to assist small business in exporting their products.

In closing, Mr. Speaker, I would again like to thank my colleagues from the Small Business Committee for holding this special order. I would also like to repeat how important it is to give young entrepreneurs a helping hand in the early stages of their businesses. We have seen in the past that SBA programs can help one-time small businesses such as NIKE, Apple Computer, Federal Express, and Winnebago Industries grow into incredibly successful companies.

Mr. CAMP. Mr. Speaker, I appreciate this opportunity to participate in a special recognition of our small businesses. I represent a district of small towns who understand the importance of small business. It is my hope that this Congress does a better job of understanding those concerns, and that our time of recognition is not just today but every day.

From the beginning, the United States was described by foreign visitors as a nation of shopkeepers. While our economy has become much more expansive, it can be argued that small business is more important to our lives today than at any time since the start of the industrial revolution.

There are now 20 million small businesses across America, an increase of more than 50 percent from just a decade ago. Sixty-five million Americans are employed by small business, which is more than half of our entire work force. Small business is the fastest growing sector of our economy and contributes about 40 percent of gross national product. Economists are predicting that 75 percent of all new jobs in the United States during the next 25 years will be created by the small business community.

Those who set Government policy, and that means Congress, must fully understand that small business is becoming more crucial to the vitality of our economy, more needed for job growth, and more vulnerable to the whims of thoughtless government intrusion.

This year, as every year, there are some in this body who will continue to invest their energy in promoting nice-sounding, well-meaning Federal policies that in reality would steal opportunities for business expansion and job growth. They understand special interests, but fail to understand what's in the best interest of small business.

As incredible as it seems to the average American, this same Congress that has failed to adopt a balanced budget in 20 years insists on making management decisions best left to business owners and employees. When I talk to small business people, they have a hard time understanding why Congress—the same Congress that can shrug off a $300 billion yearly deficit—thinks it can do a better job of managing their business. People can't understand why Congress thinks it should mandate benefits instead of allowing negotiations by employers and employees. People can't understand why Congress thinks it should decide who a business can and cannot hire to do the job.

The answer is that too many people in Congress simply forget that it's the family business and our entrepreneurs who led our Nation through the longest peace time period of economic expansion in history. They forget the risks that are taken every day by hard-working men and women who build small businesses. They forget that for every regulation they add and every hiring and benefit decision they mandate, it is that much harder for a small business to survive.

That is why we are here today: to remember the importance of small business, to remember that it is our entrepreneurs who create opportunity and drive our economy. We had better start realizing the time has come to look for ways to encourage investment and growth, rather than ways to regulate the life out of small business and to tax the incentive out of our entrepreneurs.

Our small businesses have given much to this Nation. They are inventors, builders, suppliers and retailers. They keep our country strong. We owe them a debt of gratitude for taking risks and for believing in the American dream. Let's repay that faith in the dream. Let's start listening to our small businesses so that every day is a day of recognition for what they contribute and a day of understanding what could be lost if they are forgotten.

Mr. LANCASTER. Mr. Speaker, I am pleased to rise today in recognition and support of Small Business Week 1991.

I am always very supportive of the efforts of Congress as it designates 1 week out of the year to pay tribute to the single most vital contributor to the strength of our country's economic superiority: small business.

Many of my colleagues are from urban areas, representatives of cities surrounded by and dependent on the giants of industry. The IBM's and General Motors' of this country play important roles in building our economy and employing our labor force. But this week, we take time to focus our attention on the little guy. This week, Mr. Speaker, we pay tribute to the small business person. I'm from Goldsboro, NC. The third district which I represent is a rural district. Rural America not only relies on small businesses, they are the basis of our survival. Small business is the business where I come from. Small construction firms. Hardware stores. Local banks. Drug stores. Small textile plants. These are the giant industries around the Third District in North Carolina. And these industries are the lifeline of communities and towns, not just in rural North Carolina, but all around this country.

Small business keeps growing and prospering in the United States, continuously proving to be the silent power that turns the wheels of economic growth and success in the United States. I want to thank the gentleman from Florida, Mr. IRELAND, for requesting this special order and congratulate him again on becoming the new ranking minority member on the House Small Business Committee. I have been fortunate enough to be a member of this committee each of my years in Congress and look forward to continuing our work on this important panel. I will continue to be a strong advocate for the concerns of small business and do all I can to see that they continue to grow and prosper well into the 21st century.

Mr. SKELTON. Mr. Speaker: I rise today to join my colleagues in paying tribute to small business men and women. But I would like to recognize another attribute of the collective spirit of our small business owners and that is their commitment to their country and to our freedom. Not only do they demonstrate this commitment by exercising their right to start and run their own businesses, but they do so much more that makes our life better and more secure.

They support freedom by creating major new sources of employment for others. Indeed, the majority of new jobs created during the last decade were created by small businesses, and this is doubly true in hard-pressed rural areas.

They support freedom by earning a profit from their labors, and paying taxes on those earnings. It is the profits earned through their ingenuity that provides the wealth we need to defend and provide for our people.

America's small business owners support our freedom even more directly by winning contracts and using their ideas to provide safer, more efficient, better made, and less expensive goods and services the United States needs for defense.

They support our freedom by inspiring us with their self reliance: whatever can be done, they will do; whatever is broken, they will fix; whatever needs to be supplied, they will find the source and if there is no source, they will make it themselves. If one small businessman quits, a dozen more will line up to take his place. It is this perseverance in the face of tough competition that gives the United States its strength to make it through the rough times.

And let me point out another facet of small business assistance. From the day Iraq invaded Kuwait until the last shot was fired ending Desert Storm, America's small businesses were mobilized to help, not only in actual defense production, but also in research, as volunteers, and through their unyielding support.

And when the war was over, they lined up to help put out the fires and rebuild Kuwait.

Still the commitment of small business owners did not stop at leading the charge on the home front or providing the taxes and equipment that form the arsenal for democracy. We estimate that 23,000 small business owners in the Reserves were called to active duty to defend their country. And they went and their uncounted key employees went. And they left their families and friends and quietly did their duty. And when it was all over, they came home. Their leaving was a real hardship for small businesses. Even the temporary loss of an owner or key man for 6 months could be devastating to a small business. Yet it is a story that we have not heard much about, Mr. Speaker, because these are not the malingerers or the bellyachers, these are the ones we have always counted on to get the job done: The men and women who own and operate America's small businesses. We all should be proud of them.

Mr. FRANKS of Connecticut. Mr. Speaker, as we note and praise the accomplishments of the small business owners in this country, we should be making a firm commitment to those who are the mainstay of our economy.

Rarely has the future of our economy been at such a turning point.

I believe the Congress and administration should be working together in the coming months and years to set a clear path for the small business owners to follow, one that is clear of regulatory obstacles and one that encourages an array of positive initiatives for our entire economy to grow from the bottom up.

Small businesses, or those entrepreneurs who are eager to enter the world of risk and reward, have to know their Government wants to help them realize their dreams and sustain our economy.

Small businesses don't want handouts, they want a hand up, and we should recommit ourselves to providing opportunities at every turn.

Training programs should be oriented toward procurement and functional disciplines—marketing, finance and management—to help small businesses deal with Federal regulations.

We must do a better job of making working capital, both public and private, available to those businesses which qualify and are ready to make it work.

The private sector needs more incentives to become full partners with the next generation of workers to provide initiatives for high school and vocational students.

An overwhelming majority of small businesses do not take advantage of Small Business Administration loans. We have to do a better job of getting the word out that the SBA is a vital resource for product development, technical assistance, and other resources.

For those small businesses looking abroad for new markets, fair trade agreements are needed. I hope the Members of this body grant President Bush the extension needed to negotiate trade agreements with the fellowship of nations.

If we break precedent and allow the President's hands to be tied at the bargaining table we will not further the interests of this country or its small businesses.

I am greatly encouraged by the appointment of former Congresswoman, Patricia Saiki, as Commissioner of the Small Business Administration.

As a member of the Committee on Small Business, I will be eager to work with my fellow members and the Small Business Administration to provide real opportunities to those who are striving to make their dreams come true.

Every week should be Small Business Week, because the vitality and strength of our Nation depends on their successes.

Let us move ahead and make some real strides in the coming years to show the people of our Nation, who put long hours into their investments, that we can be productive partners in that process.

Mr. MAZZOLI. Mr. Speaker, I rise today in honor of Small Business Week, May 5–11, 1991. Small Business Week is intended to underscore the importance and the achievements of small businesses which are the economic backbone of our communities. This year's Small Business Week theme is aptly titled, "Small Business: Building America's Future."

As a member of the House Small Business Committee, I have had the pleasant opportunity to work with private individuals and public officials in Louisville and Jefferson County to promote small business in our region.

Accordingly, I have seen, firsthand, the men and women who have taken professional and financial risks in pursuit of their dreams for a business of their own and a brighter, more secure economic future.

Currently, the country's 20 million small businesses employ 6 out of every 10 working people and create a majority of the new jobs created in the Nation. Furthermore, small businesses provide two of every three workers with their first jobs.

Small businesses are inherently more flexible than big businesses and, thus, are able to keep pace with ever-changing consumer demands and with rapid developments in our country's economic and technical systems. Small businesses, better than larger corporations, are able to capitalize on trends and react to consumer movement and economic need. They can adapt to a new business climate without all the bureaucracy and red tape which can, at times, paralyze large companies.

A tribute to small businesses would not be complete, Mr. Speaker, without taking a moment to recognize the work of the Small Business Administration [SBA]. Now under the leadership of my former colleague, the Honorable Patricia Saiki, the SBA provides a number of important programs designed to assist small businessmen and women start successful small businesses. The SBA reaches out to women, minorities, the handicapped, and veterans who may be short on resources capital or the experience to penetrate sales markets.

Recently, Mr. Speaker, the SBA honored four small business people from my hometown of Louisville and Jefferson County. They are: Frederick G. Heath, president of VBM Corp., AMOX Division, as Regional Small Business Exporter of the Year; James S. Rives, senior partner of Strategic Development Associates, as Kentucky Small Business Advocate of the Year; Linda F. Bader, owner of Bader Music Village, as the Women in Business Advocate of the Year; and, Timothy Hollinden, president of Micro Computer Solutions, Inc., as Region IV Young Entrepreneur of the Year.

I congratulate these four small business people for their dedication, hard work, and perseverance. Their awards from the SBA are well deserved.

Mr. ROTH. Mr. Speaker, I am proud to honor today an elite group of entrepreneurs from the Eighth District of Wisconsin. The 1991 Small Business Persons of the Year, as recognized by the Fox Cities Chamber of Commerce and Industry, serve as outstanding business leaders in communities throughout northeast Wisconsin.

It is my pleasure to recognize this year's winners of the Small Business Person of the Year Award: In the division of retail, Carol and Ron Trimberger, representing TrimB's Restaurant and All Events Catering. In the service division, Paul J. Hoffman of the Hoffman Corp. And, for manufacturing, David G. Berry, representing the Appleton Lamplighter.

I would also like to acknowledge the nominees for Small Business Person of the Year: Pamela Baumann, Timothy A. Bishton, Garrett and Rugh Carew, James S. Crane, Linda M. Dejmek, Robert Des Jardin, James O. Hauert, Marvin L. Hollfelder, Stanley C. Pizak, Terry Marie Syring, Thomas J. Wiltzius, and Susan Zerbe.

Mr. Speaker, it is timely and appropriate that we acknowledge the outstanding achievements of these successful individuals during America's Small Business Week. Clearly, small business plays a vital role in the economy of this Nation. Small firms are responsible for the employment of 6 out of every 10 people in the United States, and 2 out of 3 employees begin their careers with small businesses.

There are more than 20 million small businesses throughout the United States, with nearly 1 million new businesses started each year. In addition, women own 4.6 million of these small firms, providing increasing opportunities for women in the business world.

Through small business, men and women can pursue the American dream with spirit and enthusiasm. In Wisconsin, so many have achieved that dream, and my friends in the Fox Valley are testimony to the fact that small business and success go hand in hand.

Small business encourages the traditional work ethic of our country, including hard work, dedication, and perseverance. The Fox Cities Chamber's Small Business Persons of the Year possess these characteristics, which have made them the successes which they are today. I salute these northeastern Wisconsin businessmen and women and commend them for their efforts.

Mr. PRICE. Mr. Speaker, I rise today in observance of Small Business Week, which has just been celebrated across our country, and want to take a moment to speak to this year's theme, "Building America's Future."

Small businesses are absolutely critical to the economic future of this country. More than 20 million small businesses in this country are responsible for creating two of every three new jobs available in today's job market. These businesses are also responsible for employing nearly half of the Nation's private sector work force, and are the major employers of women, younger, and older workers. Mr. Speaker, I applaud the commitments small businesses have made to building the future of North Carolina and the Nation. We must continue to work to ensure these businesses have the tools necessary to meet the challenges to today's society.

In North Carolina, small businesses are the backbone of a healthy community. They have been vital to our own economic development and have created numerous employment opportunities for our residents. A recent study by the Small Business Administration showed that small companies have accounted for almost 75 percent of our State's 400,000 new jobs since 1984. More than half of these new jobs were created by locally owned businesses. This is why my colleagues from North Carolina and I want to help these businesses continue to succeed.

Just 2 weeks ago, I, along with my colleagues, MARTIN LANCASTER and TIM VALENTINE, hosted a day-long procurement workshop for small businesses in our region. "Marketplace 91," as it was called, focused upon procurement opportunities for small businesses. More than 550 small businessmen and women in our districts had an opportunity to interact with nearly 60 representatives from the Federal Government, both military and civilian agencies, and prime contractors. We believe that small businesses in North Carolina have not received an equitable share of Federal contracts in past years. We sponsored this event to create new areas for growth and development for North Carolina small businesses, to make them more aware of business opportunities, and to give business owners practical information on how to proceed in procuring Federal contracts.

I am pleased we were able to coordinate this very successful three-district event. I want to thank the N.C. Small Business and Technology Development Center, the National Contract Management Association, the National Institute of Environmental Health Sciences, and the Environmental Protection Agency for sponsoring "Marketingplace 91." This event was a good example of how business, Government and the community can work together to help bring jobs, business opportunities, and increased prosperity to States and communities, especially as States like North Carolina confront severe fiscal constraints.

Mr. Speaker, I salute the small business operators in the Fourth District, across my State, and in this country. I am convinced that small businesses are the foundation of a brighter economic future. As we reflect upon the progress this Nation has made, I hope my colleagues will look back upon the contributions small businesses have made in their districts and encourage them to continue to work hard at creating new markets and new opportunities for this Nation and its people, because it will be their efforts that will help us to continue moving forward in a progressive and prosperous manner.

GENERAL LEAVE

Mr. IRELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks on the subject of my special order.

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

There was no objection.

POLISH CONSTITUTION—200TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes.

Mr. LIPINSKI. Mr. Speaker, I would like to salute and congratulate the people of Poland as they celebrate the 200th Anniversary of the Polish Constitution. This great document, adopted on May 3, 1791, and for so many years a symbol of Poland's struggle for freedom and democracy, is now commemorated as a national holiday in democratic Poland. I know the pride the Polish-American community feels on this holiday, and I join them in their celebration.

The Polish Constitution is the world's second oldest written constitution. Inspired by the age of enlightenment and modeled after the American Constitution, its authors shaped a uniquely Polish Government suitable for contemporary Poland. It was the first liberal constitution of Eastern Europe and was centuries ahead of its time. It was so far ahead in fact that surrounding empires partitioned Poland to remove the dangerous precedent for reform.

The Polish Diet at the time of the constitution's adoption was comprised of nobles and aristocracy. Recognizing the weaknesses of a society based only on privilege and the dangers posed by surrounding empires, they sought to catch up on a century of stagnation and lay the foundations of a modern state. For the good of the nation, these nobles voluntarily renounced many of the traditional class barriers and brought equality before the law to the peasants of Poland. The achievement of the May Constitution impressed no less an authority than Thomas Jefferson, who declared that the world had gained three constitutions worth remembering: The American, the Polish and the French.

Mr. Speaker, if I might delve for a few minutes into the substance and background of the 3d of May Constitution, I believe an understanding of its history is necessary to understand the pride of the Polish people on this day and its importance to democratic Poland.

The constitution embodies many of the same principles we hold so dear in our own. First and foremost is a commitment to freedom. The preamble reads:

> Persuaded that our common fate depends entirely upon establishing and rendering perfect a national constitution; convinced, by a long train of experience, of many defects in our government, and willing to profit by the favorable moment which has restored us to ourselves; free from the disgraceful shackles of foreign influence; prizing more than life the external independence and internal liberty of the nation; in order to exert our natural rights with zeal and firmness, we do solemnly establish the present constitution, which we declare wholly inviolable in every part, till such period as shall be prescribed by law; when the nation, if it should think fit, may alter by its express will such articles therein as shall be found inadequate, and this present constitution shall be the standard of all laws and statutes for the future diets.

Freedom is the goal, sovereignty of the people is the means. Article V states its guiding principle: "All power in civil society is derived from the will of the people." Like in the American Constitution, from this basis was derived a system of government which enhanced the role of the people and prevented the concentration of power into any single set of hands.

The form of government dictated by the Constitution is familiar to us all. Power was divided among three branches: the executive, legislative, and judicial. The legislative branch was divided into two houses—a Chamber of Deputies and a Chamber of Senators—each having veto power over the other. National defense was placed into the hands of all the people and freedom of religion was established in these memorable words:

> As the same holy religion commands us to love our neighbors, we therefore owe to all people, of whatever persuasion, peace in matters of faith, and the protection of government; consequently we assure to all persuasions and religion freedom and liberty, according to the laws of the country, and in all dominions of the republic.

Less than 5 years after the adoption of the May constitution, Poland disappeared from the map of Europe—a banishment that would last for 123 years. This was a consequence of three partitions suffered at the hands of Russia, Austria, and Prussia. Russia feared the powerful empires of Europe and saw impoverished Poland as a buffer against them. But it feared reform in Poland more. To thwart the spread of democratic reform, it engineered the first partition in 1773 as both a warning and a landgrab. The second partition of 1793 was a direct result of the passing of the constitution. The third the result of a spirited uprising led by a hero in both hemispheres, General Tadeusz Kosciuszko.

General Kosciuszko is known by many Americans for his role in the American Revolution. Along with General Casimir Polaski, he came to America to fight for the freedom he cherished in his nativeland. The success of the American Revolution paved his return to Poland, where he took up the banner of reform.

Despairing of peaceful reform, General Kosciuszko granted full civil rights to the peasants in 1795 and called them to arms as free citizens. A ragtag group of farmers equipped only with farm tools and outnumbered three to one, this was the first People's Volunteer Army of Europe. The end of this final uprising, proudly remembered by Poles as the national rising of 1794, led to the final partition in 1795. Poland would not be whole again until 1918.

Had Poland been less progressive, less determined to establish freedom and democracy in the country, it might not have suffered the fate of 1795. Yet had it suppressed its desire for democracy, the cause of liberty would have been dealt a blow. The path was difficult, but 200 years later they have their democracy. A different path may never have accomplished it.

In the 123 years that followed the final partition, neither Poland nor its constitution were forgotten. The May constitution served as a rallying point, a symbol of Polish patriotism during these many years. In the aftermath of World War I and the demise of Poland's three longtime enemies: Austria, Russia and Germany, Poland regained its place on the map of the world. Josef Pilsudski and Roman Dmowski, two fathers of modern Poland, were Poland's chief advocates in post-war negotiations. Pilsudski later became newly established Poland's first chief of state. Quite significantly, May 3d became a new national holiday.

It is no coincidence that the arrival of the Soviet-backed Communist regime in 1945 brought a prohibition against celebrating the May constitution. And it is no coincidence that the holiday was reestablished in 1990. The spirit of the constitution and the patriotism it inspired had been forced underground for another 44 years, but there they simply would not die.

Mr. Speaker, today Poland has democracy. It has a freely elected president in Lech Walesa and it has embarked on a series of reforms unmatched in eastern Europe. The spirit of the 3d of May constitution has been its guide through this difficult transformation to democratic government and a market economy, a transformation again modeled after the American example. President Walesa has picked up where General Kosciuszko left off, and he has accomplished much in the face of incredible odds.

Poland has come a long way, but hardship at home and instability at its borders could undermine these reforms. While Americans and Poles alike celebrate the gains, we must act together with our allies to prevent any losses. Congress has begun this process by authorizing a write-off of 70 percent of Poland's $3.8 billion debt to the United States, but President Bush must continue to press the members of the Paris Club for their help in ending Poland's economic woes. Only then can President Walesa commit the resources toward investment and growth necessary to foster a healthy, growing economy. And only then can we ensure that a beleaguered economy does not set back hard-won democratic reforms.

Again, I offer my congratulations to the people of Poland on this special anniversary and my sincere desire for our nations to work together to make the principles of the May constitution a reality for another 200 years.

Mr. DINGELL. Mr. Speaker, on May 3, the people of Poland celebrated the 200th anniversary of their Constitution. It is fitting that Congress recognize this occasion since it is only the second celebration of the document since Poland freed itself from Communist domination: A sign that Poland has had to struggle to assure peace and prosperty for its citizens.

The Polish Constitution was a product of the Great 4-Year Sejm from 1788 to 1792, and reflected the ideals of the Enlightenment. Its objectives were to establish a hereditary constitutional monarchy, to replace the system requiring unanimous vote for the passage of any law by the Sejm, and to empower its people with the authority to check the intentions of the nobility.

"All power in civil society should be derived from the will of the people * * *," is the first

line of article V in this historic document. It is a line describing the true intent of the Polish Constitution: To establish the belief that the citizens of the nation were the nation. That ideal served as a model for the rest of Europe and enabled Polish citizens to endure the anguish caused when their country vanished from the world map.

It was this year, in 1795, less than 25 years after its creation, that the Polish Constitution, along with the country it served, was dissolved by Russia, Prussia, and Austria. The end of World War I brought with it a restored Poland and a national holiday of May 3. However, the Communist government established after World War II again tormented the Polish by abolishing their holiday. It was only in 1990 that Poland was reestablished and once again the holiday was celebrated openly.

Mr. Speaker, the determination and dedication of the Polish people deserve our respect, applause, and admiration. Let us too celebrate the continued rebirth of a great country and the profound ideals of its people.

Mr. NOWAK. Mr. Speaker, the tumultous change in Poland during the last year or so take on a special significance as we observe the 200th anniversary of the Polish Constitution of May 3, 1791.

The framers of that document undoubtedly would be pleased to see the success to date of this modern Polish Revolution.

They would certainly be delighted that the fresh air of freedom is blowing across the plains of Eastern Europe.

And they would marvel in particular at the pace of democratic progress in Poland, which is experiencing an independence it had not experienced for nearly half a century.

I believe, however, that those 18th century Poles would be most pleased to discover that the United States, which was aided by their countrymen—Pulaski and Kosciusko—is playing a major role in helping modern Poland nurture and strengthen its new freedom.

But our national interest in providing financial and moral support to the new Poland goes beyond the fact that our friendship dates to the contributions of Pulaski and Kosciusko.

It goes beyond being good domestic political strategy because of the millions of Polish-Americans who maintain close contact with their relatives in Europe.

Poland today deserves our special support because it is embarked bravely on a pioneering political and economic experiment, reminiscent of the spirit that prevailed under the Constitution of May 3, slightly more than 200 years ago.

The success of Poland's conversion today from communism to democracy, from a largely centralized economy to a free market system, will lead to further democratization and more political stability in Eastern Europe.

Right now, Poland is an economic and social role model for other former Communist-bloc nations in the region.

We want that model to succeed and we want that model to be imitated.

In the process, the Polish people will achieve a higher standard of living and an elevated quality of life.

A healthy Polish economy will also provide export opportunities for the United States and other nations.

Thus, as you can see, we have many good reasons for doing what we can to help this grand Polish adventure succeed.

At the same time, we cannot underestimate the staggering dimensions of the challenges facing Poland.

That was one message that came through loud and clear last month when I joined approximately 40 other Members of Congress at a private meeting in Washington with President Walesa.

President Walesa thanked us for the role we played in reducing his nation's debt and also expressed gratitude to American taxpayers for their support.

But he acknowledged that there will be "difficult times ahead * * * difficult times ahead" as he leads the march toward a total free market economy in Poland.

For this process, Poland needs a great deal. It needs foreign investors, new technology, training, and ideas.

But most of all, it needs time. This radical change in political and economic systems will take time.

The patience of the Polish people will be tested severely.

Inflation in Poland has been reduced and goods returned to store shelves. But as the new regime pursues its policy of privatizing formerly Government-run businesses and industries, unemployment has risen dramatically and wage controls have caused a decline in real monthly wages.

The new Government is faced with creating new institutions, including a stock market to raise capital and a viable banking system.

It needs to attack its environmental and infrastructure problems and modernize its telecommunications network.

These are steps important to gain the confidence of foreign investors and to expand trade opportunities.

The assistance that we and other nations and organizations, like the World Bank and the International Monetary Fund, offer are not enough to solve all of Poland's problems overnight.

However, this foreign aid will help the Poland buy time to regain its economic feet. It also is a signal of hope to the Polish people, encouraging them, as they sacrifice, that other Western nations care, that it is worth being patient.

Late last month, I had the opportunity to visit Krakow, and Warsaw, along with other members of the Public Works Committee and an Environmental Protection Agency delegation.

As part of the U.S. aid package, EPA is providing $5 million to Krakow, $1 million for a series of air monitoring stations in the city, and $4 million for improvements to its wastewater and drinking water treatment plants.

I certainly was impressed by the determination of the many Poles we met to attack their economic and environmental problems vigorously.

I hope that this bicentennial observance of the Constitution of May 3 will bolster this determination and be a source of inspiration.

The special significance of this year's observance was the focus of an April 25 editorial in the Am-Pol Eagle, a weekly newspaper in my hometown of Buffalo, and I would like to insert that at this point in the RECORD:

MAY 3RD CONSTITUTION HAS NEW MEANING

The celebrations will have special meaning this year for several reasons. First it will be the 200th anniversary of the Polish Constitution of May 3rd and as a bicentennial observance, the meaning will be magnified. Just as importantly, it will be celebrated in a free Poland with a democratically-elected president for the fist time in more than a half-century.

The Constitution of May 3rd was the first in Europe that gave individuals rights and freedoms to citizens. It was a hallmark of those around the world crying out for justice in a world that too often was governed by those who felt power was the only important tool of rule.

Poles around the world, including here in the United States, will celebrate May 3rd with a special reverence and respect for the Polish citizens who fought so hard 200 years ago to establish their rights. The meaning of that document is as important today as it was then.

Here in Western New York the Polish American Congress will sponsor events commemorating this special anniversary and we encourage our readers to participate in them. PAC Vice Preisdent Karol Tomaszewski, chairman of the PAC observances, has put together an exciting and memorable program that we believe captures the true spirit of this most important day.

Poles earned their place in the history of struggles for freedom with the adoption of the constitution of May 3, 1791. We should not forget this noble accomplishment.

Mr. KLECZKA. Mr. Speaker, today I rise to commemorate the bicentennial of the Polish Constitution declared on May 3, 1791, by King Stanislaw Augustus and members of the Polish Legislature, the SEJM.

Much has happened in the world since King Augustus proclaimed this historic document on May 3, 1791. Monarchs have declined. World wars have been fought. The modern factory was invented. The automobile, the airplane, nuclear weapons, television, the computer, and the fax machine have all been invented. Throughout these changes, the courage, loyalty, and faith of the Polish people in the ideal of democracy has never, ever wavered.

The Polish Constitution was the world's second constitution, after our own, and it stands the test of time as a landmark in the evolution of democracy. Like our Constitution, King Augustus' constitution reflects the moral fabric of the Polish people. It reflects love of liberty, respect for human rights, religion, open expression, and equality for all. It has withstood the challenges of Russia, Prussia, Nazi occupation, and Communist repression.

King Augustus' constitution was an attempt to replace Poland's medieval political system with a modern constitutional monarchy and a more effective parliament. The new law, adapted from Western constitutional principles—including the American Constitution approved only 4 years earlier in 1787—was greeted by weeks of celebration throughout Poland's cities and towns and by acclaim from European and American statesman.

In 1793, just 2½ years after the declaration of this constitution, however, Poland was partitioned between Russia and Prussia. In contrast, today, Poland stands free, whole, and proud of its democratic renaissance. Just

like the rise of the courageous Solidarity trade union in the 1980's, this inspiring document marked a major advance for democracy and political unity in Poland. The new constitution's ultimate goal, to create a stable and well-organized government to protect Poland from Russian expansionism, is similar to the aspirations of Lech Walesa and the Polish people, who are striving to free their nation from the legacy of over 40 years of Soviet domination.

There are remarkable parallels between King Augustus and Lech Walesa. Both are founding fathers with the courage and foresight to look beyond their times while striving for the principles of democracy. King Augustus resisted Russian expansionism. Lech Walesa resisted communism and defeated it. King Augustus tried to replace an outdated political system with a constitutional monarchy. Lech Walesa is replacing an outdated economy and political system with democracy and free markets. King Augustus fought against great odds. Lech Walesa fought against great odds. King Augustus loved his people and fought for their liberty above all. Lech Walesa loves his people above all and continues to sacrifice for them.

While the United States unfortunately was unable to help Poland significantly in 1791, we can be much more helpful nearly 200 years later. The generous Support for Eastern European Democracy [SEED] Act, enacted into law last year, was one example of how America can share its technological and economic advances with Poland and other former Soviet bloc nations in Eastern Europe.

Mr. Speaker, to commemorate the bicentennial of the Polish Constitution, I urge my colleagues to continue to support Poland's transition to a fully democratic political system and a free-market economy.

Mr. BORSKI. Mr. Speaker, I would like to thank Congressman LIPINSKI for holding this special order today to commemorate the 200th anniversary of the Polish Constitution. As a Polish-American Congressman, I am proud to say that, 200 years after the signing of this bold document, Poland is finally free.

On May 3, 1791, the Polish parliament enacted the first Polish Constitution. Preceded only by the American Constitution of 1789, it is the world's second oldest written constitution. It is also Europe's first written fundamental law, enacted 4 months earlier than the first French Constitution. In fact, Thomas Jefferson once wrote that the world had gained three constitutions worth remembering and honoring: the French, the American, and the Polish.

Unfortunately, due to the volatile situation in Europe at that time, this bold document failed to prevent the fall of Poland. Partitioned once again by foreign powers, Poland disappeared from the map of the world for 123 years. It reappeared again in 1918, only to be overrun by Germany and, most recently, the Soviet Union.

But today, 200 years after its signing, the principles of the Polish Constitution are finally coming true in Poland. Prompted by a disgruntled shipyard worker named Lech Walesa, the walls of Communist rule came tumbling down. Poland is once again free, and the 200-year-old Constitution has taken on a new, wonderful meaning for the Polish people.

But while Poland has taken dramatic steps toward democracy in the last few years, it faces monumental challenges ahead. Last month, I visited Poland and witnessed firsthand the legacy of Communist rule. The terror and oppression that accompanied Communist rule are now gone, but the economic, social and, particularly, environmental consequences still remain.

Mr. Speaker, what I saw on my trip to Poland was both promising and, at the same time, disheartening. The country is ravaged by coal-contaminated air and heavily polluted rivers and streams. More than two-thirds of the Vistula River and 80 percent of the Oder River are useless, even for industrial use. Because of this pollution, Poland's infant mortality rate is 20 deaths per 1,000 births—compared to Sweden's 6 deaths per 1,000 births—and the average life expectancy is 10 years less than in Sweden. Indeed, the cost of environmental pollution in terms of human health, ecological damage and economic cost is real.

Poland simply does not have the resources to heal these tragic wounds. They desperately need our help. In 1989, Congress provided Eastern European nations $10 million for environmental programs, including an EPA project to monitor and combat pollution in Krakow. On my trip, I visited and assessed these invaluable programs. While small in scale, this aid is greatly appreciated by the Polish people. They recognize that cleaning their air and water will make them healthier, more productive and better prepared for their transition to a free-market economy.

Mr. Speaker, today is a great, historic day for Poland and her people. Like its predecessor in America, the Polish Constitution is a product of the Age of Enlightenment. As Poland embarks on a new age of enlightenment with the demise of Communist rule, we must do all that we can to ensure Polish independence and freedom in the next 200 years.

Mr. BONIOR. Mr. Speaker, Friday, May 3, 1991, marked the 200th anniversary of the Polish Constitution of 1791. On that day, the first constitution in Europe was approved by the Polish Diet. This landmark document embodied the dedication of the Polish people to the principles of freedom, justice, and individual liberty.

One of our Founding Fathers, George Washington, wrote, "Poland, by the public papers appears to have made large and unexpected strides toward liberty, which, if true reflects great honor on the present King, who seems to have been the principle promoter of the business." The public papers were true. In fact, the Polish Constitution expressed the philosophy of our own Constitution and Declaration of Independence.

Unfortunately, neighboring Russia did not like the strides being taken in Poland, within a year, Russian troops invaded, and Poland was subjected to further partition among its hostile neighbors. For the better part of two centuries, the Polish people suffered repression from one source or another. Throughout this extremely difficult time, the Polish people retained an unswerving dedication to freedom and democracy.

It is no accident that the tide of freedom sweeping across Eastern Europe began in Poland. The Polish people approved the first European constitution in 1791, and they were the first to throw down the shackles of communism in 1989. Thanks to the courage of the Polish people, Eastern Europe has entered a new era of freedom and hope. It is fitting that last year, May 3 was reinstated as a national holiday in Poland after being abolished by the Communist government in 1945.

In America, Polish-Americans have made tremendous contributions to this country. Michigan is blessed with a large and very active Polish community. Polish-American arts and veterans groups sponsored a number of events to celebrate this important historical event.

Mr. Speaker, in conclusion, I'd like to join people across this Nation and around the world in celebrating the 200th anniversary of the Polish Constitution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MARTIN (at the request of Mr. MICHEL), for today and the balance of the week, on account of death of his father.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCEWEN) and to include extraneous matter:)

Mr. ARCHER, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

(The following Members (at the request of Mr. OBEY) and to include extraneous matter:)

Mr. BACCHUS, for 5 minutes, today.

Mr. OWENS of Utah, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCEWEN) and to include extraneous matter:)

Mr. THOMAS of California.

Mr. COUGHLIN in two instances.

Mr. JAMES.

Mr. WALSH.

Mr. LEWIS of California.

Mr. DUNCAN in four instances.

Mr. GUNDERSON.

Mr. GALLO.

Mr. REGULA.

Mr. CRANE.

Mr. GALLEGLY.

Mr. VANDER JAGT in two instances.

Mr. GILMAN.

Mrs. BENTLEY.

Mr. SUNDQUIST.

Mr. BURTON of Indiana.

Mr. DREIER of California.

Mr. BILIRAKIS.

Ms. ROS-LEHTINEN in four instances.
Mr. BALLENGER.
Mr. MILLER of Washington.
(The following Members (at the request of Mr. OBEY) to revise and extend their remarks and include extraneous material:)
Mr. SLATTERY in two instances.
Mr. SWETT.
Mr. STARK in three instances.
Mr. RICHARDSON in three instances.
Mr. TRAFICANT in two instances.
Mr. CLAY.
Mr. HAMILTON.
Mr. LANTOS.
Mr. OBERSTAR.
Mr. TORRICELLI.
Mr. DELUGO.
Mr. OLIN.
Mr. TORRES.
Mr. MANTON.
Mr. ATKINS.
Mr. ROSTENKOWSKI.
Mr. FAZIO.
Mr. DOWNEY.
Mr. NOWAK.

ENROLLED JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 194. Joint resolution designating May 12, 1991, as "Infant Mortality Awareness Day," and

H.J. Res. 214. Joint resolution recognizing the Astronauts Memorial at the John F. Kennedy Space Center as the national memorial to astronauts who die in the line of duty.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 258. An act to correct an error in the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990.

ADJOURNMENT

Mr. IRELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Thursday, May 9, 1991, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1227. A letter from the Deputy Secretary, Department of Defense, transmitting the 1991 report on allied contributions to the common defense, pursuant to 22 U.S.C. 1928 note; to the Committee on Armed Services.

1228. A letter from the Secretary of the Navy, transmitting notification that major defense acquisition programs have breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

1229. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 159 of title 10, United States Code, to authorize the Secretary of Defense, or his designee, to acquire interests in real property in support of special operations forces and activities; to the Committee on Armed Services.

1230. A letter from the White House Conference on Indian Education, transmitting the report of the White House Conference on Indian Education and statement thereon, pursuant to 25 U.S.C. 2001 note; to the Committee on Education and Labor.

1231. A letter from the Deputy Secretary of Agriculture, transmitting the 1990 annual report of the Department on its hazardous waste management activities; to the Committee on Energy and Commerce.

1232. A communication from the President of the United States, transmitting a progress report toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations covering the period from January through March 1991, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

1233. A letter from the Agency for International Development, transmitting a summary of activities proposed for funding in Peru during fiscal year 1991 by the Agency; to the Committee on Foreign Affairs.

1234. A letter from the Agency for International Development, transmitting a summary of activities proposed for funding in Brazil during fiscal year 1991 by the Agency; to the Committee on Foreign Affairs.

1235. A letter from the Railroad Retirement Board, transmitting the Agency's annual report on the Program Fraud Civil Remedies Act for the year ending September 30, 1990, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

1236. A letter from the Deputy Associate Director for Collections and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1237. A letter from the Deputy Associate Director for Collections and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1238. A letter from the Department of the Interior, transmitting the self-governance demonstration project baseline measures report; to the Committee on Interior and Insular Affairs.

1239. A letter from the Non Commissioned Officers Association, transmitting the financial report for 1990, pursuant to Public Law 100-281, sec. 13 (100 Stat. 75); to the Committee on the Judiciary.

1240. A letter from the Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

1241. A letter from the Secretary of Health and Human Services, transmitting the fifth report on the activities and progress of the Physician Payment Review Commission, pursuant to 42 U.S.C. 1395w-1(c)(1)(D); to the Committee on Ways and Means.

1242. A letter from the Secretary of Education, transmitting a notice of final selection criteria for the National Science Scholars Program, pursuant to 20 U.S.C. 1232(d)(1); jointly, to the Committee on Education and Science, Space, and Technology.

1243. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the report of the nondisclosure of Safeguards Information for the quarter ending March 31, 1991, pursuant to 42 U.S.C. 2167(d); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

1244. A letter from the Secretary of Health and Human Services, transmitting a report on progress made during the preceding year of research on outcomes of health care services and procedures; jointly, to the Committees on Energy and Commerce and Ways and Means.

1245. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the feasibility of IHS and VA sharing medical facilities, pursuant to 25 U.S.C. 1680f; jointly, to the Committee on Energy and Commerce, Veterans' Affairs, and Interior and Insular Affairs.

1246. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend the Solid Waste Disposal Act to prohibit the export from and import into the United States of hazardous and additional waste except in compliance with the requirements of this bill; jointly, to the Committees on Foreign Affairs, Energy and Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BERMAN: Committee on Foreign Affairs. H.R. 1415, a bill to authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes, with an amendment (Rept. 102-53). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

The Committee on Merchant Marine and Fisheries discharged from further consideration of S. 248; S. 248 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.R. 2251. A bill making dire emergency supplemental appropriations from contributions of foreign governments and/or interest for humanitarian assistance to refugees and displaced persons in and around Iraq as a result of the recent invasion of Kuwait and for

peacekeeping activities, and for other urgent needs for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

By Mr. APPLEGATE (by request):

H.R. 2252. A bill to amend title 38, United States Code, to revise the formula for computation of dependency and indemnity compensation paid to a surviving spouse of a veteran who dies from a service-connected disability or while on active duty; to the Committee on Veterans' Affairs.

By Mr. ARCHER:

H.R. 2253. A bill to amend the Internal Revenue Code of 1986 to increase the dollar limitation on the exclusion under section 911 of such Code; to the Committee on Ways and Means.

By Mr. BERMAN (for himself and Ms. SNOWE):

H.R. 2254. A bill to direct the Secretary of State to seek an agreement from the Arab countries to end certain passport and visa policies and for other purposes; to the Committee on Foreign Affairs.

By Mr. BOUCHER (for himself, Mr. WOLPE, Mr. COBLE, Mr. FEIGHAN, Mr. MOORHEAD, Mr. FISH, Mr. HOAGLAND, Mr. SYNAR, Mr. GEKAS, Mr. MCCOLLUM, Mr. SCHIFF, Mr. LEVINE of California, Mr. RICHARDSON, Mr. CONYERS, Mr. CARR, Mr. FORD of Michigan, Mr. KILDEE, Mr. CAMP, Mr. PURSELL, Mr. HENRY, Mr. UPTON, Mr. TRAXLER, Mr. LEVIN of Michigan, Mr. HERTEL, Mr. BONIOR, Mr. VANDER JAGT, Mr. DAVIS, Mr. BROOMFIELD, and Mrs. COLLINS of Michigan):

H.R. 2255. A bill to extend the patent term of certain products; to the Committee on the Judiciary.

By Mr. CRANE (for himself and Mr. MCCOLLUM):

H.R. 2256. A bill to amend the National Labor Relations Act to remove the requirement that individual employees join and pay dues and fees to labor organizations and for other purposes; to the Committee on Education and Labor.

By Mr. DANNEMEYER:

H.R. 2257. a bill to repeal the tax increases contained in the Revenue Reconciliation Act of 1990; to the Committee on Ways and Means.

By Mr. HALL of Ohio (for himself and Mr. EMERSON):

H.R. 2258. A bill to help end hunger and human want; jointly, to the Committees on Education and Labor, Agriculture, Energy and Commerce, Foreign Affairs, Banking, Finance and Urban Affairs, and Ways and Means.

By Mr. HAYES of Illinois:

H.R. 2259. A bill to provide an 8 percent pay increase for Federal employees within the Chicago-Gary-Lake County, IL-IN-WI Consolidated Metropolitan Statistical Area; to the Committee on Post Office and Civil Service.

By Mr. HERGER:

H.R. 2260. A bill to provide relief to State and local governments from Federal regulation; jointly, to the Committees on the Judiciary, Government Operations, and Rules.

By Mr. HUGHES (for himself and Mr. MOORHEAD):

H.R. 2261. A bill to amend titles 18 and 28 of the United States Code with respect to witness fees and witness protection; to the Committee on the Judiciary.

By Mr. JONES of Georgia:

H.R. 2262. A bill to recognize the organization known as the National Association of Women Veterans, Inc.; to the Committee on the Judiciary.

By Mr. KASICH (for himself and Mr. SIKORSKI):

H.R. 2263. A bill to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MCEWEN:

H.R. 2264. A bill to amend the Internal Revenue Code of 1986 to disallow trade or business expense deductions for amounts paid to self-insured medical reimbursement plans which discriminate against services performed by chiropractors; to the Committee on Ways and Means.

H.R. 2265. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Ms. MOLINARI:

H.R. 2266. A bill to clarify that fly ash from municipal solid waste incinerators shall be regulated under subtitle C of the Solid Waste Disposal Act; to the Committee on Energy and Commerce.

By Mr. OBERSTAR:

H.R. 2267. A bill to amend title 23, United States Code, relating to construction of pedestrian walkways and bicycle lanes, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OBERSTAR (for himself and Mr. HAMMERSCHMIDT):

H.R. 2268. A bill to amend the Federal Aviation Act of 1958 to improve air service to small communities; to the Committee on Public Works and Transportation.

By Mr. RIGGS:

H.R. 2269. A bill to require the Secretary of the Interior to provide minimum instream flows for the Trinity River in the State of California, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. SIKORSKI (for himself and Mrs. MORELLA):

H.R. 2270. A bill amending certain provisions of title 5, United States Code, relating to the Senior Executive Service; to the Committee on Post Office and Civil Service.

By Mr. SMITH of New Jersey:

H.R. 2271. A bill to extend imminent danger pay to members of the Armed Forces stationed on Diego Garcia during the Persian Gulf conflict; to the Committee on Armed Services.

H.R. 2272. A bill to direct the Secretary of Defense to recommend to Congress whether the limitation on the amount of compensation of officers of the Armed Forces that may be excluded from gross income for purposes of the Internal Revenue Code of 1986 while serving in a combat zone should be increased: jointly, to the Committees on Armed Services and Ways and Means.

By Mr. SPENCE:

H.R. 2273. A bill to amend title 18 of the United States Code to permit the prosecution of a murder of a United States national abroad; to the Committee on the Judiciary.

By Mr. STARK (for himself, Mr. BROWN, Mr. CAMPBELL of California, Mr. LANTOS, Mr. RAVENEL, Mr. LANCASTER, Mr. ROE, Mr. JONTZ, Mr. JOHNSON of South Dakota, Mr. DELLUMS, Mr. BEILENSON, Mr. LIPINSKI, Mr. MAVROULES, Mr. FRANK of Massachusetts, Mr. WEISS, and Mr. FALEOMAVAEGA):

H.R. 2274. A bill to better protect and manage certain redwood forests by adding lands to the Six Rivers National Forest and by designating the Headwaters Forest Wilderness, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. VOLKMER:

H.R. 2275. A bill to provide for a combined corn and grain sorghum base for purposes of Federal agricultural programs; to the Committee on Agriculture.

By Mr. WISE:

H.R. 2276. A bill to authorize the Secretary of Transportation to carry out a heated bridge technology assessment program; to the Committee on Public Works and Transportation.

By Mr. BARTON of Texas (for himself, Mr. TAUZIN, Mr. MILLER of Washington, Mr. PALLONE, Mr. HANCOCK, Mr. BURTON of Indiana, Mr. BENNETT, Mr. HALL of Texas, Mr. TAYLOR of Mississippi, Mr. HUBBARD, Mr. MCEWEN, Mr. INHOFE, Mr. ROHRABACHER, Mr. DORNAN of California, Mr. ERDREICH, Mr. RAMSTAD, Mr. HAMMERSCHMIDT, Mr. PACKARD, Mr. LENT, Mr. STUMP, Mr. DANNEMEYER, Mr. PORTER, Mr. PETRI, Mr. SENSENBRENNER, Mr. TALLON, Mr. COMBEST, Mr. ROBERTS, Mr. WILSON, Mr. DOOLITTLE, Mr. MOORHEAD, Mr. HOBSON, Mr. CAMP, Mr. THOMAS of Wyoming, Mr. HERGER, Mr. RITTER, Mr. COX of California, Mr. OXLEY, Mr. LIGHTFOOT, Mr. SANTORUM, Mr. CALLAHAN, Mr. FAWELL, Mr. SOLOMON, Mr. BOEHNER, Mr. ZELIFF, Mr. DICKINSON, Mr. HANSEN, Mr. GALLO, Mr. HEFLEY, Mr. HASTERT, Mr. ZIMMER, Mr. SMITH of Texas, Mr. IRELAND, Mr. SKEEN, Mr. LAUGHLIN, Mr. BLILEY, Mr. BUNNING, Mr. DELAY, Mr. BILIRAKIS, Mrs. PATTERSON, Mr. STEARNS, Mr. CRANE, Mr. KASICH, Mr. MARTIN, Mr. LIVINGSTON, Mr. YOUNG of Alaska, Mr. SAXTON, Mr. MACHTLEY, Mr. FIELDS, Mr. BAKER, Mr. DUNCAN, Mr. JENKINS, Mr. MCCANDLESS, Mr. CAMPBELL of California, Mr. HAYES of Louisiana, Mr. WEBER, Mr. BALLENGER, Mr. COBLE, Mr. BLAZ, Mr. SLAUGHTER of Virginia, Mr. GALLEGLY, Mr. GOSS, Mr. HUNTER, Mr. MCCRERY, Mr. ARMEY, Mr. WALSH, Mr. QUILLEN, Mr. HOLLOWAY, Mr. DREIER of California, Mr. LAGOMARSINO, Mr. PARKER, Mr. HUCKABY, Mr. GINGRICH, Mr. MCCOLLUM, Mr. ARCHER Mr. VANDER JAGT, Mr. DE LA GARZA, Mr. UPTON, Mr. HYDE, Mr. EDWARDS of Oklahoma, Mr. JONES of North Carolina, and Mr. MONTGOMERY):

H.J. Res. 248. Joint resolution proposing a Balanced Budget Amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. MFUME:

H.J. Res. 249. Joint resolution designating September 24 through 30, 1991, as "National African-American Historical and Cultural Museums Week"; to the Committee on Post Office and Civil Service.

H.J. Res. 250. Joint resolution designating June 24 through 28, 1991, as "Vocational-Technical Education Week"; to the Committee on Post Office and Civil Service.

By Mr. WOLF (for himself, Mr. FASCELL, and Mr. BROOMFIELD):

H.J. Res. 251. Joint resolution to establish that it is the policy of the United States to encourage and support conservation efforts initiated by Brazil to protect the Amazon forest, and that the United States should redouble its efforts to reduce its pollution of

the global environment; to the Committee on Foreign Affairs.

By Mr. YOUNG of Florida:

H.J. Res. 252. Joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. HOYER (for himself, Mr. ACKERMAN, Mr. BARNARD, Mr. BATEMAN, Mr. BORSKI, Mrs. BYRON, Mr. CARDIN, Mr. COLEMAN of Texas, Mr. CONDIT, Mr. DICKS, Mr. DIXON, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. ERDREICH, Mr. EVANS, Mr. FAZIO, Mr. FRANK of Massachusetts, Mr. GRAY, Mr. GUARINI, Mr. HOCHBRUECKNER, Mr. KOSTMAYER, Mr. LEHMAN of California, Mr. MATSUI, Mr. MCCLOSKEY, Mr. MCDERMOTT, Mr. MCMILLEN of Maryland, Mr. MFUME, Mr. MORAN, Mrs. MORELLA, Mr. PICKETT, Mr. RAY, Mr. RUSSO, Mr. WOLF, Mr. MCNULTY, Mr. BURTON of Indiana, Mr. SAWYER, Mr. CHANDLER, Ms. OAKAR, Mrs. SCHROEDER, Mr. HAYES of Illinois, Mr. YATRON, Mr. HUTTO, Mr. GILMAN, and Mr. WHEAT):

H. Con. Res. 147. Concurrent resolution thanking and commending this Nation's Federal civilian employees for their contributions to Operation Desert Shield and Operation Desert Storm; to the Committee on Post Office and Civil Service.

By Mr. LENT:

H. Con. Res. 148. Concurrent resolution expressing the sense of the Congress that the Soviet Union should release the prison records of Raoul Wallenberg and account for his whereabouts; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

102. By the Speaker: Memorial of the Senate of the State of Washington, relative to the crisis in the Middle East; to the Committee on Armed Services.

103. Also, memorial of the General Assembly of the State of Illinois, relative to Operation Desert Storm; to the Committee on Armed Services.

104. Also, memorial of the House of Representatives of the State of Washington, relative to ethanol in motor fuels; to the Committee on Energy and Commerce.

105. Also, memorial of the Senate of the State of Kansas, relative to the desecration of the American flag; to the Committee on the Judiciary.

106. Also, memorial of the House of Representatives of the State of Washington, relative to driftnet fishing on the high seas; to the Committee on Merchant Marine and Fisheries.

107. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, realtive to Arbor Day; to the Committee on Post Office and Civil Service.

108. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvnaia, relative to opposing any increase in truck size and weight; to the Committee on Public Works and Transportation.

109. Also, memorial of the House of Representatives of the State of Washington, relative to adoption of a new Federal Surface Transportation Assistance Act; to the Committee on Public Works and Transportation.

110. Also, memorial of the House of Representatives of the State Washington, relative to the Hanford Reservation; to the Committee on Science, Space, and Technology.

111. Also, memorial of the House of Representatives of the State Washington, relative to the motor fuel tax; to the Committee on Ways and Means.

112. Also, memorial of the House of Representatives of the State Washington, relative to the employer-provided benefits; to the Committee on Ways and Means.

113. Also, memorial of the House of Representatives of the State New Jersey, relative to the Medicare coverage for blood work and vitamins; jointly, to the Committees on Ways and Means and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. SARPALIUS, Mr. WELDON, Mr. CLEMENT, Mr. GAYDOS, Mr. EMERSON, Mr. SAVAGE, Mr. PANETTA, and Mr. TORRES.

H.R. 68: Mr. BALLENGER and Mr. ECKART.

H.R. 77: Mr. TRAFICANT and Mr. BROOMFIELD.

H.R. 78: Mr. BALLENGER, Mr. GALLO, Mr. FISH, Mr. STUMP, and Mr. JAMES.

H.R. 100: Mr. ENGEL.

H.R. 117: Mr. SANTORUM and Mr. VENTO.

H.R. 196: Mr. DELLUMS, Mr. MFUME, Mr. RANGEL, and Mr. TOWNS.

H.R. 258: Mr. GOSS.

H.R. 303: Mr. JONES of North Carolina, Mr. BURTON of Indiana, Mr. GLICKMAN, Mr. OWENS of Utah, and Mr. KOLTER.

H.R. 304: Mr. MILLER of Washington and Mr. GLICKMAN.

H.R. 318: Mr. STOKES.

H.R. 352: Mr. COX of California and Mr. CAMPBELL of California.

H.R. 392: Mr. FORD of Tennessee, Mr. FRANKS of Connecticut, Mr. GEREN of Texas, Mr. KENNEDY, Mr. MCNULTY, and Mr. WILSON.

H.R. 393: Mr. SMITH of New Jersey.

H.R. 416: Mr. DIXON, Mr. FISH, and Mr. DELLUMS.

H.R. 431: Mr. SMITH of Texas, Mr. EDWARDS of Texas, Mr. JAMES, Mr. HEFLEY, Mr. COLEMAN of Texas, Mr. BUNNING, Mr. FAZIO, and Mr. RAMSTAD.

H.R. 461: Mr. FRANK of Massachusetts, Mrs. PATTERSON, Mr. SLATTERY, Mr. VALENTINE, Mr. COSTELLO, Mr. LANTOS, Mr. GUARINI, and Mr. DWYER of New Jersey.

H.R. 467: Mr. SCHUMER, Mr. TAUZIN, Mr. RAHALL, and Mr. RAMSTAD.

H.R. 476: Mr. MARTINEZ, Mr. SCHEUER, Mr. BEILENSON, Mr. HOYER, Mr. MCDERMOTT, Mr. JONTZ, Mr. FROST, Mr. HUGHES, Mr. DURBIN, Mr. SIKORSKI, and Mr. OWENS of Utah.

H.R. 501: Mr. CONYERS, Mr. FLAKE, Mr. LEVINE of California, Mr. MILLER of California, Mr. NEAL of Massachusetts, and Mr. WILSON.

H.R. 506: Mr. ROE.

H.R. 601: Mr. KYL and Ms. COLLINS of Michigan.

H.R. 643: Mr. BREWSTER, Mr. DELAY, Mr. HERGER, Mr. MCCANDLESS, Mr. DUNCAN, Mr. THOMAS of California, Mr. JOHNSTON of Florida, and Mr. PAXON.

H.R. 644: Ms. COLLINS of Michigan.

H.R. 672: Ms. COLLINS of Michigan.

H.R. 694: Mr. DURBIN.

H.R. 724: Mrs. PATTERSON.

H.R. 744: Mr. OWENS of Utah, Mr. CLAY, and Ms. SLAUGHTER of New York.

H.R. 776: Mr. HUGHES, Mr. SKAGGS, Mr. YATES, and Mr. MACHTLEY.

H.R. 780: Mr. HUGHES, Mr. SKAGGS and Mr. YATES.

H.R. 782: Mr. PACKARD, Mr. MCEWEN, Mr. FIELDS, and Mr. GREEN of New York.

H.R. 784: Mr. SIKORSKI and Mr. SHAYS.

H.R. 809: Mr. SARPALIUS.

H.R. 849: Mr. RANGEL.

H.R. 865: Mr. DEFAZIO.

H.R. 870: Mr. PANETTA.

H.R. 871: Mr. SCHEUER, Mr. DE LUGO, Mr. PANETTA, Mr. VENTO, and Mrs. JOHNSON of Connecticut.

H.R. 872: Mr. PANETTA.

H.R. 873: Mr. PANETTA.

H.R. 875: Mr. KOPETSKI.

H.R. 911: Mr. JONES of Georgia, Mr. GLICKMAN, and Mr. SANTORUM.

H.R. 918: Mr. FALEOMAVAEGA, Mr. HUCKABY, Mr. STARK, and Mr. MARKEY.

H.R. 961: Mr. DYMALLY.

H.R. 978: Mr. DIXON, Mr. VENTO, and Mr. LEWIS of Florida.

H.R. 1003: Mr. SANDERS.

H.R. 1004: Mr. PAYNE of Virginia.

H.R. 1007: Mr. HOBSON, Mr. MILLER of California, Mr. BURTON of Indiana, Mr. HUCKABY, Mr. KLUG, Mrs. MORELLA, Mr. DURBIN, Mr. SKAGGS, Mr. ACKERMAN, Mr. WYDEN, and Mr. HOYER.

H.R. 1055: Mr. RAMSTAD.

H.R. 1067: Mrs. LLOYD, Ms. SLAUGHTER of New York, Mr. MARKEY, Mr. TORRES. Mr. MFUME, Mr. HOUGHTON, Mr. LAGOMARSINO, Mr. ROGERS, Mr. SANTORUM, Mr. PALLONE, Mr. SKEEN, Mr. SISISKY, Mr. MARTINEZ, Mr. MILLER of Washington, Mr. STUDDS, Mr. ATKINS, Mr. OBERSTAR, Mr. BEVILL, Mr. DIXON, Mr. BROOMFIELD, Mr. DURBIN, Mr. PURSELL, Mr. ANDREWS of Maine, Mr. LOWERY of California, Mr. HUNTER, Mr. RITTER, Mr. SHUSTER, Mr. GOODLING, Mr. WEBER, Mr. ANNUNZIO, Mr. MURTHA, Mr. CLEMENT, Mr. WELDON, Mr. GEKAS, Mr. MINETA, and Mr. RIDGE.

H.R. 1072: Mr. KENNEDY, Mr. JACOBS, Mr. FEIGHAN, Mr. YATES, Mr. ROYBAL, and Mr. HOYER.

H.R. 1073: Mr. KENNEDY, Mr. JACOBS, Mr. FEIGHAN, Mr. YATES, Mr. ROYBAL, and Mr. HOYER.

H.R. 1078: Mr. PERKINS.

H.R. 1081: Mr. HORTON.

H.R. 1125: Mr. MACHTLEY.

H.R. 1130: Mr. HANCOCK.

H.R. 1177: Mrs. MINK, Mr. JOHNSTON of Florida, Mr. CARPER, Mr. BENNETT, and Ms. DELAURO.

H.R. 1218: Mrs. MINK, Mr. DE LUGO, Mr. PALLONE, Ms. KAPTUR, and Mr. LIPINSKI.

H.R. 1237: Mr. ALEXANDER, Mr. BARNARD, Mr. BARRETT, Mr. BEREUTER, Mr. BREWSTER, Mr. BOUCHER, Mr. BURTON of Indiana, Mr. CAMP, Mr. COBLE, Mr. COMBEST, Mr. DELAY, Mr. DICKINSON, Mr. DORNAN of California, Mr. DUNCAN, Mr. ENGLISH, Mr. GALLEGLY, Mr. GEREN of Texas, Mr. GORDON, Mr. GRANDY, Mr. HALL of Texas, Mr. HAMMERSCHMIDT, Mr. HEFNER, Mr. HUGHES, Mr. HUTTO, Mr. JOHNSTON of Florida, Mr. JONES of Georgia, Mr. LAUGHLIN, Mr. LEWIS of Florida, Ms. MOLINARI, Mr. MONTGOMERY, Mr. NICHOLS, Mr. ORTON, Mr. OWENS of New York, Mr. PENNY, Mr. PRICE, Mr. QUILLEN, Mr. RICHARDSON, Mr. RIGGS, Mrs. ROUKEMA, Mr. SARPALIUS, Mr. SERRANO, and Mr. ZIMMER.

H.R. 1245: Mr. RAMSTAD, Mr. BOEHLERT, Mr. SPENCE, Mrs. COLLINS of Michigan, Mr. BILIRAKIS, Mr. ESPY, Mr. TRAXLER, and Mr. MOORHEAD.

H.R. 1265: Ms. MOLINARI, Mr. WALSH, Ms. NORTON, Mr. MOORHEAD, Mr. MCNULTY, and Mr. DANNEMEYER.

H.R. 1287: Mrs. BYRON.

H.R. 1288: Mr. ECKART, MR. MORAN, Mr. AUCOIN, Mr. BOUCHER, and Mr. JOHNSTON of Florida.

H.R. 1304: Mr. MACHTLEY, MR. DELLUMS, Mr. HUGHES, Mr. ECKART, Mrs. LOWEY of New York, Mr. SIKORSKI, and Mr. MFUME.

H.R. 1305: Mr. BRYANT, Mr. KOLTER, Mr. ECKART, and Mr. ABERCROMBIE.

H.R. 1330: Mr. HASTERT, Mr. GEREN of Texas, Mr. SCHAEFER, Mr. MARLENEE, Mr. BALLENGER, Mr. DERRICK, Mr. HEFLEY, Mr. HOUGHTON, Mr. QUILLEN, Mr. DORNAN of California, Mr. BUNNING, Mr. MCDADE, Mr. CHANDLER, Mr. OXLEY, Mr. GILMAN, Mr. KOLTER, Mr. MCNULTY, Mr. HUNTER, Mr. DICKINSON, Mr. COSTELLO, Mr. DORGAN of North Dakota, Mr. YATRON, Mr. COBLE, Mr. NUSSLE, and Mr. DANNEMEYER.

H.R. 1335: Mr. MARKEY and Mr. MINETA.

H.R. 1346: Mr. ROYBAL, Mr. CARDIN, Mr. CONYERS, Mr. SANGMEISTER, Mr. TORRES, Mr. PETERSON of Minnesota, Mr. DOWNEY, Mr. FAZIO, Mr. LEWIS of Georgia, Mr. COYNE, Mr. BRYANT, and Mr. SKAGGS.

H.R. 1364: Mr. BONIOR, Mr. MATSUI, Mr. OWENS of New York, Mrs. MINK, Mr. ECKART, Mr. HAYES of Illinois, and Mr. BERMAN.

H.R. 1365: Mrs. MINK, Mr. ECKART, and Mr. SERRANO.

H.R. 1414: Mr. LIGHTFOOT, Mr. ESPY, and Mr. BEVILL.

H.R. 1423: Mr. WAXMAN, Mr. WEISS, Mr. ESPY, and Mr. DYMALLY.

H.R. 1445: Mr. ALLARD, Mr. HORTON, Mr. KLUG, and Mr. DURBIN.

H.R. 1454: Mr. WALSH, Mr. CAMPBELL of California, and Mr. MARTINEZ.

H.R. 1472: Mr. HOLLOWAY, Mr. HEFNER, Mr. SKAGGS, Mr. STENHOLM, and Mr. HANCOCK.

H.R. 1473: Mr. LEWIS of Florida, Mr. BEVILL, and Ms. ROS-LEHTINEN.

H.R. 1483: Mr. SMITH of New Jersey.

H.R. 1494: Mr. ENGEL.

H.R. 1495: Mrs. BOXER, Mr. STUMP, Mrs. UNSOELD, Mr. FAZIO, Mr. PERKINS, and Mr. SKAGGS.

H.R. 1516: Mr. KLUG, Mr. SCHAEFER, Mr. CHAPMAN, Mr. THOMAS of Georgia, and Mr. GINGRICH.

H.R. 1527: Mr. THOMAS of Georgia, Mr. HAMMERSCHMIDT, Mr. DERRICK, Mr. FALEOMAVAEGA, and Mr. HUTTO.

H.R. 1559: Ms. DELAURO.

H.R. 1566: Mr. BONIOR, Mr. BUSTAMANTE, Mr. MRAZEK, Mr. MILLER of Washington, Mr. PICKETT, Mr. LEACH, Mr. BENNETT, Mr. FISH, Mr. MAVROULES, Ms. KAPTUR, Mr. ECKART, Ms. DELAURO, Mrs. MORELLA, and Mr. FOGLIETTA.

H.R. 1588: Mr. EMERSON.

H.R. 1593: Mr. ALEXANDER, Mr. JOHNSON of South Dakota, Mr. ESPY, and Mr. RIGGS.

H.R. 1603: Mr. ANNUNZIO, Mr. CARDIN, and Mr. KENNEDY.

H.R. 1652: Mr. GOSS.

H.R. 1655: Mr. BUNNING, Mr. FAZIO, and Mr. RAMSTAD.

H.R. 1669: Mr. ROE, Mr. ECKART, and Ms. DELAURO.

H.R. 1671: Mr. RANGEL, Mr. HERTEL, Mr. POSHARD, Mr. JONTZ, Mr. HUGHES, Mr. LANCASTER, Mr. DEFAZIO, Mr. EVANS, and Mr. FALEOMAVAEGA.

H.R. 1676: Mr. GALLO and Mr. SANTORUM.

H.R. 1677: Mr. TAUZIN, Mr. WALSH, and Mr. MACHTLEY.

H.R. 1679: Mrs. UNSOELD.

H.R. 1711: Mr. HERGER and Mr. THOMAS of Georgia.

H.R. 1715: Mr. DELLUMS.

H.R. 1717: Mr. MONTGOMERY and Mr. BRYANT.

H.R. 1723: Mr. VENTO and Mr. FAZIO.

H.R. 1724: Mr. LEACH, Mrs. MINK, Mr. PENNY, Mr. DANNEMEYER, Ms. KAPTUR, Mr. BEREUTER, Mr. LAGOMARSINO, Mr. HORTON, Mr. KOLBE, Mr. KENNEDY, Mr. BAKER, Mr. MARKEY, Mr. ANTHONY, Mr. DOWNEY, Mr. LANTOS, Mr. LAFALCE, Mr. BERMAN, Mr. HAMILTON, Mr. COX of California, Mr. EVANS, Mrs. JOHNSON of Connecticut, and Mr. DWYER of New Jersey.

H.R. 1727: Ms. COLLINS of Michigan.

H.R. 1733: Mr. SANTORUM, Mr. DERRICK, and Mr. ENGEL.

H.R. 1736: Mr. LANCASTER, Mr. DURBIN, Ms. MOLINARI, Mr. EMERSON, and Mr. DORGAN of North Dakota.

H.R. 1750: Mr. ACKERMAN, Mr. RANGEL, Mr. OLIN, Mr. BEILENSON, and Mr. KOSTMAYER.

H.R. 1774: Mr. LAFALCE, Ms. MOLINARI, Mr. HAYES of Illinois, Mr. MARTINEZ, Ms. PELOSI, Mr. EMERSON, Mr. LEVINE of California, Mr. ENGEL, and Mr. RANGEL.

H.R. 1779: Mr. POSHARD, Mr. NOWAK, Mr. CLAY, Mr. OBERSTAR, Mr. ROE, Mr. HAYES of Illinois, Mr. CLINGER, Mr. MFUME, Mr. TOWNS, Mr. EVANS, Mr. DELLUMS, and Mr. FLAKE.

H.R. 1782: Mr. PAYNE of Virginia, Mr. KOLTER, Mr. HAYES of Louisiana, Mr. CARDIN, Mr. BEILENSON, Mr. SPRATT, Mr. ESPY, Mr. WAXMAN, Ms. NORTON, Mr. ALEXANDER, Mr. BORSKI, Mr. ACKERMAN, Mr. SCHEUER, Mr. JENKINS, Mr. BOEHLERT, Mr. FLAKE, Mr. DARDEN, Mr. HOAGLAND, Mr. YATRON, Mr. HUTTO, Mr. SAWYER, Mr. STARK, Mr. JACOBS, Mr. HENRY, Mr. TORRES, Mr. GUARINI, Mr. QUILLEN, Mr. TORRICELLI, Mr. JONES of North Carolina, Mr. DOWNEY, Mr. ANDREWS of Texas, Mr. FALEOMAVAEGA, Mrs. LOWEY of New York, Mr. TOWNS, Mr. EDWARDS of California, Mr. STOKES, Mr. JOHNSTON of Florida, Mr. SKELTON, Mr. WHEAT, Mr. HAYES of Illinois, Mr. LAFALCE, Ms. SLAUGHTER of New York, Mrs. COLLINS of Illinois, Mr. BACCHUS, and Mrs. BOXER.

H.R. 1860: Mr. BRUCE, Mr. OWENS of Utah, Mr. EVANS, Mr. LEACH, Ms. KAPTUR, and Mr. GREEN of New York.

H.R. 1916: Mr. VENTO.

H.R. 1955: Mr. HORTON, Mr. ACKERMAN, and Mr. WHEAT.

H.R. 1956: Mr. HORTON, Mr. ACKERMAN, and Mr. WHEAT.

H.R. 1968: Mr. WOLF.

H.R. 2001: Mr. LANCASTER, Mr. HORTON, Mr. SAXTON, Mr. SPENCE, Mr. JEFFERSON, Mr. ROGERS, Mr. RAVENEL, Mr. ROSE, Mr. VALENTINE, Mr. NEAL of North Carolina, and Mr. MONTGOMERY.

H.R. 2008: Mr. VALENTINE, Mr. DERRICK, and Mr. SANTORUM.

H.R. 2012: Mr. SHAW, Mr. FASCELL, Mr. JEFFERSON, Mr. SANTORUM, Mr. ZIMMER, and Mr. JENKINS.

H.R. 2029: Mr. MACHTLEY, Mr. FRANK of Massachusetts, Mr. ANDERSON, and Mr. MCDERMOTT.

H.R. 2049: Mr. PETRI, Mr. SANTORUM, Mr. KYL, Mr. SOLOMON, Mr. BUNNING, Mr. STEARNS, Mr. YOUNG of Alaska, Mr. LIVINGSTON, Mr. EMERSON, Mr. RINALDO, and Mr. NICHOLS.

H.R. 2056: Mr. BENNETT.

H.R. 2063: Mr. MARTINEZ, Mr. LEWIS of Florida, and Mr. ACKERMAN.

H.R. 2082: Mr. WELDON, Mr. BEILENSON, and Ms. KAPTUR.

H.R. 2099: Mr. HORTON, Mr. RAMSTAD, Mr. HYDE, Mr. SLATTERY, Mr. COSTELLO, Mr. ACKERMAN, Mr. ENGEL, and Mr. BROWN.

H.R. 2115: Mr. POSHARD, Mr. LUKEN, Mr. LEWIS of Florida, Mr. FRANK of Massachusetts, Mr. FRANKS of Connecticut, Mr. NEAL of Massachusetts, Mr. RAMSTAD, Mr. GUARINI, Mr. JENKINS, Mr. DORNAN of California, Mr. NCNULTY, Mr. KOSTMAYER, Mr. MRAZEK, Mr. PETRI, Mr. FUSTER, Mr. MARLENEE, Mr. GALLO, Mr. COMBEST, Mr. KOPETSKI, Mr. SMITH of Florida, Mr. ARMEY, Mr. THOMAS of Georgia, Mr. TOWNS, Mr. CAMP, Mr. JOHNSTON of Florida, and Ms. SNOWE.

H.R. 2149: Mr. THOMAS of California and Mr. LEACH.

H.R. 2152: Mr. VENTO, Mr. HORTON, Mrs. JOHNSON of Connecticut, Mr. CHANDLER, Mr. DELLUMS, Mr. FALEOMAVAEGA, Mr. WYDEN, Mr. WEISS, and Mr. SIKORSKI.

H.R. 2200: Mr. STUMP.

H.R. 2244: Mr. FUSTER, and Mr. RANGEL.

H.J. Res. 56: Mr. NEAL of North Carolina, Mr. GEJDENSON, Mr. DERRICK, Mr. LANCASTER, Mr. HEFNER, Mr. SMITH of New Jersey, Mr. SAVAGE, Mr. QUILLEN, Mr. STUDDS, Mr. HAYES of Illinois, Mr. YATES, Mr. HAMILTON, Mr. HOCHBRUECKNER, Mr. HYDE, Mr. WISE, Mr. RINALDO, Mrs. JOHNSON of Connecticut, Mr. DURBIN, Mr. REED, Mr. JACOBS, Mr. KOLTER, Mr. JONES of Georgia, Mr. COLEMAN of Texas, Mr. ROYBAL, Mr. LEWIS of Georgia, Mr. BRYANT, Mr. SKEEN, Mr. PRICE, Mr. GILLMOR, Mr. LEWIS of Florida, Mr. BOUCHER, Mr. KILDEE, Ms. OAKAR, Mr. OWENS of New York, and Mr. OWENS of Utah.

H.J. Res. 67: Mr. BROOMFIELD and Mr. RAHALL.

H.J. Res. 69: Mr. KOSTMAYER, Mr. SLATTERY, Mr. PICKETT, Mr. LANCASTER, Mr. TAYLOR of North Carolina, Mr. SCHAEFER, Mr. MOORHEAD, Mr. KLECZKA, Mr. KLUG, Mr. FAZIO, and Mr. UPTON.

H.J. Res. 107: Mr. MORAN, Mr. MACHTLEY, Mr. SLATTERY, Mr. KLUG, and Mr. KOPETSKI.

H.J. Res. 152: Mr. RITTER, Mr. MANTON, Ms. MOLINARI, Mr. WILSON, Mr. REED, Mr. SCHEUER, and Mr. JONES of North Carolina.

H.J. Res. 156: Mr. KOSTMAYER, Mr. BOUCHER, Mr. RINALDO, Mr. SMITH of New Jersey, Mr. SAVAGE, Mr. AUCOIN, Mr. DERRICK, Mr. DINGELL, and Mr. NEAL of Massachusetts.

H.J. Res. 185: Mr. MURPHY.

H.J. Res. 219: Mr. LANCASTER, Mr. ENGEL, Mr. LEVIN of Michigan, Mr. PURSELL, Mr. ACKERMAN, and Mr. HARRIS.

H.J. Res. 224: Mr. JOHNSON of South Dakota.

H.J. Res. 227: Mrs. KENNELLY, Mr. BORSKI, Mr. FUSTER, Mr. ANNUNZIO, Mr. CLEMENT, Mr. SMITH of Florida, Mr. MANTON, Mr. HORTON, Mr. DWYER of New Jersey, Mr. ACKERMAN, Mr. WOLF, Mr. ABERCROMBIE, Mr. SCHEUER, Mr. MCGRATH, Mr. APPLEGATE, Mr. GUARINI, Mr. TRAFICANT, Mr. BILBRAY, Mr. NOWAK, Mr. WALSH, Ms. KAPTUR, Mr. WAXMAN, Mr. JONTZ, Mr. MCNULTY, Mr. SANGMEISTER, Mr. LAGOMARSINO, Mr. SERRANO, Mr. JEFFERSON, Mr. BILIRAKIS, Mr. HERTEL, Mr. VENTO, Mr. KENNEDY, Mr. MINETA, Mr. POSHARD, Mr. KOPETSKI, Mr. LAFALCE, Mr. SAVAGE, Ms. SLAUGHTER of New York, Mr. DEFAZIO, and Mr. QUILLEN.

H.J. Res. 233: Mr. RINALDO, Mr. DONNELLY, Mr. FASCELL, Mr. DICKS, Mr. BILBRAY, Mr. CLINGER, Mr. ANNUNZIO, Mr. MAZZOLI, Mr. LENT, Mr. FRANK of Massachusetts, Mr. YATRON, Mr. WOLF, Mr. CLEMENT, Mr. MILLER of Ohio, Mr. KILDEE, Mr. DREIER of California, Mr. DORNAN of California, Mr. FALEOMAVAEGA, and Mr. DE LUGO.

H.J. Res. 234: Mr. FUSTER, Mr. ANNUNZIO, Mr. COYNE, Mrs. MINK, Mr. ROE, Mr. HERTEL, Mr. CLEMENT, Mr. DWYER of New Jersey, Mr. LAGOMARSINO, Mr. BONIOR, Mr. HOCHBRUECKNER, Mr. PALLONE, Mr. PAXON, Mr. MCGRATH, Mr. SANGMEISTER, Mr. KLECZKA, Mr. POSHARD, Mr. MCNULTY, Mr. MCMILLEN of Maryland, Mr. ABERCROMBIE, and Mr. SOLARZ.

H.J. Res. 242: Mrs. PATTERSON, Mr. FALEOMAVAEGA, and Mr. FAZIO.

H. Con. Res. 58: Mr. COX of California and Ms. COLLINS of Michigan.

H. Con. Res. 65: Mr. DERRICK.

H. Con. Res. 67: Ms. COLLINS of Michigan.

H. Con. Res. 93: Mr. BUSTAMANTE, Ms. COLLINS of Michigan, Ms. NORTON, and Ms. OAKAR.

H. Con. Res. 107: Mr. DIXON, Mr. KLECZKA, Mr. FEIGHAN, Mr. HORTON, Mr. MACHTLEY, Mr. MCGRATH, Mr. FOGLIETTA, Mrs. BYRON, Mrs. JOHNSON of Connecticut, Mr. ACKERMAN, Mr. MRAZEK, Mr. BILBRAY, Mr. MCNULTY, Mrs. LLOYD, Mr. ANNUNZIO, Mr. GOSS, Mr. GEPHARDT, Mr. WOLF, Mr. DORNAN of California, Mr. GORDON, Mr. SCHEUER, Mr. STALLINGS, Mr. APPLEGATE, Mr. ERDREICH, Mr. DANNEMEYER, Mr. DWYER of New Jersey, Mr. KYL, Mr. LENT, Mr. SHAYS, Mr. KLUG, Mr. LAGOMARSINO, Mr. SMITH of Florida, Mr. JEFFERSON, Mr. FROST, Mrs. MORELLA, Mr. PANETTA, Mr. MAVROULES, Mr. KOLBE, Mr. HERTEL, Mr. KENNEDY, Mr. BATEMAN, Mr. HUGHES, Mr. COUGHLIN, Mr. GLICKMAN, Mr. CUNNINGHAM, and Mr. ECKART.

H. Con. Res. 113: Mr. BACCHUS, Mr. MCMILLEN of Maryland, Mr. MARTINEZ, Mr. CARPER, Mr. OWENS of Utah, Mr. ROYBAL, Mr. BENNETT, Mr. DICKS, Mr. JEFFERSON, Mr. SIKORSKI, Mr. FAWELL, Mrs. LOWEY of New York, Ms. KAPTUR, Mr. VENTO, and Mrs. COLLINS of Michigan.

H. Con. Res. 120: Mr. ESPY and Mr. ENGEL.

H. Con. Res. 146: Mr. MORRISON, Mr. UPTON, and Mr. SARPALIUS.

H. Res. 26: Mr. GALLO, Mr. DWYER of New Jersey, Mr. WALSH, Mr. ENGEL, Mr. SHAYS, Mr. CAMP, and Mr. ARCHER.

H. Res. 42: Mr. BARNARD.

H. Res. 101: Mr. STOKES, Mr. HARRIS, Mr. CARR, Mr. RAY, and Mr. WOLPE.

H. Res. 134: Mr. HUGHES and Mrs. MORELLA.

H. Res. 141: Mr. ARMEY, Mr. BALLENGER, Mr. BARTON of Texas, Mrs. BENTLEY, Mr. BLAZ, Mr. BLILEY, Mr. BOEHNER, Mr. BUNNING, Mr. CALLAHAN, Mr. CAMP, Mr. COBLE, Mr. COX of California, Mr. CRANE, Mr. CUNNINGHAM, Mr. DANNEMEYER, Mr. DELAY, Mr. DICKINSON, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. DUNCAN, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. FIELDS, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GALLO, Mr. GINGRICH, Mr. GOSS, Mr. HANCOCK, Mr. HANSEN, Mr. HEFLEY, Mr. HERGER, Mr. HOBSON, Mr. HOLLOWAY, Mr. HUNTER, Mr. INHOFE, Mr. IRELAND, Mr. KASICH, Mr. KYL, Mr. LIGHTFOOT, Mr. MARLENEE, Mr. MARTIN, Mr. MCCRERY, Mr. MCEWEN, Mr. MILLER of Washington, Mr. NICHOLS, Mr. PAXON, Mr. RAMSTAD, Mr. RAVENEL, Mr. ROHRABACHER, Mr. SCHAEFER, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. THOMAS of Wyoming, Mr. TAYLOR of North Carolina, Mr. WEBER, Mr. WELDON, Mr. YOUNG of Alaska, Mr. ZELIFF, and Mr. ZIMMER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

78. The SPEAKER presented a petition of the Armenian Democratic Liberal Party, relative to the invasion of Armenia by the Soviet Army; which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

GIVE FAMILIES A BREAK

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. DUNCAN. Mr. Speaker, the American family has been put at risk by many forces attacking it. Unfortunately, the Federal Government has contributed more than its share in this attack.

The policies of the Federal Government have become so unfriendly toward the family, they reward those who destroy the family instead of those who work to preserve the family structure in American society.

The family serves as the basis for a sound and prosperous civilized society. It always has, and it always will. The Federal Government and America's future have tremendous stakes in strengthening the Nation's families. We all benefit from such a family-based civilization.

One particularly inequitable area that adversely affects the family is the tax burden. Soon after being elected to Congress, I introduced legislation to increase the personal exemption for dependents. In this Congress, I am cosponsoring the Tax Fairness for Families Act, which was introduced by my colleague, FRANK WOLF of Virginia.

This legislation will raise the personal exemption to $3,500 for dependents under 18 years old from the current $2,150. This is a modest increase. It would be about $7,800 today if it were to be put at the same level as in 1948.

Mr. Speaker, I believe we must consider the impact on the family when we discuss and debate policy proposals. The time is now to make our laws and policies family-friendly.

I ask that two articles from today's Washington Times commentary section, one by Suzanne Fields and another by Gary Bauer, be printed in the RECORD. These excellent articles illustrate exactly the problem I have been discussing, and they present changes the Congress should act on immediately.

FAMILY BILL COMES DUE

(By Suzanne Fields)

The bill run up by militant feminists now is coming due, and we're telling the waiter to give the check to the kids. If the kids don't have valid plastic, send the check to the family at the next table.

After two decades of militant feminism, the conclusion is inescapable. The American family has radically declined.

"The family is under great cultural and fiscal attack today," says Rep. Frank R. Wolf, Virginia Republican. "Nearly every statistic on family well-being, from teen suicide rates to teen pregnancy, indicates that the family is in a downward spiral. Yet while children are more at risk, parents are pushed by financial pressures to spend less time with their children."

Not all of these dismal statistics can be laid at the feet of militant feminists, of course, but the conclusion is also inescapable that it was their rhetoric and influence over public policy, which has terrorized men who know better, that hastened the deterioration of family life.

The good news is that the silly rhetoric of the early days of the movement—"a woman needs a man like a fish needs a bicycle"—is becoming passe. Many feminists are embarrassed that such zaniness was once the defining feminist philosophy. They're no longer defining man as the enemy, nor is he irrelevant.

In fact, some feminists are joining conservatives in propounding a new rhetoric to influence public policy in a different way. They want to encourage a mother and a father to raise young children together—a cultural given in the 1950s, before divorce was "creative" and nobody's fault and before motherhood was, to use a few other descriptions to make early feminist warriors blush, a "problem that has no name" and before home was considered a "comfortable concentration camp."

Phyllis Schlafly, the conservative activist, and Rep. Pat Schroeder, the liberal Democrat from Colorado, are certainly an odd couple, but they've joined hands to push for a major overhaul of the federal tax deductions for children. They're supporting tax incentives to make it easier for parents to hang on to the resources to properly raise their children.

The Tax Fairness for Families Act, sponsored by Mr. Wolf and Sen. Dan Coats, Indiana Republican, would increase the dependent exemption to $3,500 or $4,000 per child, up from the current $2,150.

It's not a lot of money, but it's a beginning in the reorganization of priorities that have become badly skewed. Measured in real dollars as a proportion of family income, the $600 tax exemption of 1948 would be worth $7,800 per dependent child in 1991.

Almost every poll tells us that mothers of young children would like to spend more time at home with them. Liberal feminists, who have until now stressed individual rights of women over the collective needs of the family, are getting that message, too. We're hearing less about women who work because they want to, more about women who work because they have to.

More money in their pockets would alleviate some of the stress on families, a leading cause for divorce, and enable mothers of young children to work less and have more family time.

Not long ago researchers asked 1,500 schoolchildren, "What do you think makes a happy family?" There were no hints about designer sneakers, record albums, television sets or Mommy's work. Most of them had a simple answer: "Doing things together."

Maybe even teaching a fish to ride a bicycle.

BUILT-IN TAX BIAS AGAINST CHILDREN

(By Gary Bauer)

The federal tax code is riddled with all sorts of anti-family biases, inequities and quirks. Some of these favor rich kids. Others favor poor kids. Almost all disadvantage middle-income children, especially those with parents who strike a good balance between meeting work and family responsibilities.

As a consequence, it is possible for some low-income mothers with out-of-wedlock children to receive $5 in tax-related cash transfers for every $1 in tax benefits claimed by some median-income married couples with children. (And this does not even take into consideration food stamps, welfare payments, nutrition benefits, day-care assistance, Pell grants and other government services for low-income families.) Likewise, it is possible for some couples earning $100,000 a year to receive more than $8 in child-based tax savings for every $1 claimed by some median-income families.

Despite all of the talk these days about tax "fairness," official Washington has given little attention to five serious inequities in the tax treatment of families.

The bias against children. The tax code views children today more as a consumption item (like, say, a speedboat, a Persian rug or a case of Chardonnay) than a socially beneficial private investment (like, say, an individual retirement account of the United Negro College Fund). This has not always been so.

In fact, the income-tax burden on a median-income family of four has risen 150 percent since the mid-'50s, while remaining fairly constant for childless couples and single taxpayers. The erosion in the value of the tax exemption for dependents is the primary reason for this increase. The exemption, which adjusts tax liability to account for differences in family size, is the tax code's way of acknowledging that raising children is both socially desirable and expensive.

If the exemption shielded from taxation the same proportion of annual income in 1991 as it did in 1948, a median-income family today would be able to exempt roughly $7,800 per dependent child. Instead, it can shield only $2,150.

The bias against middle-income families. Since families with different incomes are taxed at different rates under a progressive income-tax system, the actual value of a $2,150 exemption (which lowers taxable income) varies by tax bracket. A $2,150 exemption generates $667 in actual tax savings to upper-middle-income families in the 31-percent tax bracket, $602 in tax savings to upper-middle-income families in the 28-percent tax bracket, and $323 to middle- and lower-income families in the 15-percent tax bracket.

To offset this disparity, Congress has, in recent years, provided tax benefits to low-income families with children through the Earned Income Tax Credit. These benefits, which in 1991 offer families as much as $1,600 for the first child, are limited to families with incomes well below $22,000.

Thus, a child born to a middle-income family has a significantly lower "tax value" than one born to richer or poorer parents.

The bias against child-rearing. Crazy as it may seem, the tax code penalizes parents for spending time with their children by narrowly linking certain tax benefits to day-

care expenses. In fact, the Dependent Care Tax Credit and Dependent Care Assistance Plans are constructed in such a way that the more time a child spends in day care (and therefore, the higher the family's day-care expenses), the greater the tax benefits.

Although growing economic and cultural pressures make it difficult for some parents to spend as much time with children as they would like, tying tax benefits to day-care expenses makes matters worse. It penalizes parental efforts to maximize the amount of care they provide their children. This "parenting penalty" is especially egregious in view of the fact that families earning $100,000 a year can claim tax benefits worth up to $1,925 for day-care expenses, while families earning $30,000 a year that care for their own children receive no comparable benefit. Zero.

Ultimately, linking tax benefits to day-care expenses would be legitimate only if paid day care were indisputably better for young children than unpaid care by a family member. But the current debate among child-development experts is not over whether day care has an overall positive effect on child development; it is instead over whether, or to what degree, substitute care has an overall negative effect on children's physical health, social development and psychological well-being. Accordingly, tax benefits that favor day care over parental care should be replaced by benefits available to all families with young children.

The bias against low-income two-parent families. Under current law, the wage supplement offered to low-income families with children through the earned income-tax credit does not distinguish between married-couple and single-parent households. Consequently, a two-parent, one-child family with no tax liability receives no greater benefit than a one-parent, one-child family. This policy fails to recognize that marriage is the No. 1 escape route out of poverty and welfare dependency.

The bias against simplicity. Not only has the value of pro-child tax benefits eroded in recent years, but the increasing complexity of the tax code deters some families from claiming all of the tax benefits to which they are entitled. This is particulary true for low-income families, who are often unaware of pro-child benefits like the earned income-tax credit.

To correct these five anti-family tax biases, Congress could overhaul the income tax treatment of families with children and consolidate all existing tax mechanisms into a tax credit worth $1,800 for preschool children and $1,200 for children ages 6 and up.

Or it could work within the existing tax structure and make piece-meal changes. For example, Rep. Frank Wolf, Virginia Republican, and Sen. Daniel Coats, Indiana Republican, have introduced legislation to combat the bias against children by increasing the dependent tax exemption to $3,500. Other members of Congress are putting together an expansion of the Young Child Tax Credit, which would address the biases against child-rearing, middle-income taxpayers and simplicity.

Whatever strategy Congress adopts, tax fairness for families is long overdue. Rather than concocting new ways to raid the family pocketbook, it is time for members of Congress to find ways to let parents keep more of the money they earn. Fairer tax laws—and stronger families—are apt to be the result.

WE IN NEW MEXICO CAN SHOW BUSH HOW TO CONSERVE ENERGY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. RICHARDSON. Mr. Speaker, in a recent article in the Albuquerque Tribune Mr. V.B. Price of New Mexico proposed that, rather than a topdown approach in the realm of energy policy, the issue should be tackled at the local level first. Decentralization would promote a rational energy strategy and pragmatic environmentalism, where the president centralized structure is prey to bureaucratic turf wars and solutions which might look good on paper, but are not tailored to the needs of individual areas. In addition, local energy policies give average citizens the chance to participate in designing the desired programs and in implementing the consensual result. I urge my colleagues to consider Mr. Price's observations and to make available to their constituents this strategy which empowers and challenges individuals to take charge of their own slice of the environment:

WE IN NEW MEXICO CAN SHOW BUSH HOW TO CONSERVE ENERGY

(By V.B. Price)

A politician and a political scientist in Vermont are proposing that their state experiment in creating a radically decentralized form of democracy. They believe American politics needs to be revitalized. A rebirth in citizenship, they hold, can only happen at the local level.

Perhaps a rebirth of pragmatic environmentalism and a rational energy strategy can only happen at a local level, too. And perhaps New Mexico is the state to do it.

In the light of President Bush's proposed National Energy Strategy—designed more for the 1950s than the 1990's—states and local governments seem to be the only entities with enough imagination to revive American's traditional values of conservation and environmental stewardship.

National energy policy, like national politics, seems ill equipped to deal with reality, so devoted has Washington become to its own cynical tricks of campaign propaganda, bureaucratic secrecy and optimistic lying.

The major virtue of political and environmental decentralization is that average citizens have a greater chance to intervene in the decisionmaking process. In fact, it is possible for them to take it over.

In Vermont, the Utne Reader reports, a Republican state representative, John McClaughry, and a political science professor, Frank Bryan, are calling for the creation of semi-independent political units called shires.

Smaller than counties and operated by a direct form of democracy, shires bring politics back to a human scale. The majority of state programs would be controlled by the shires. Vermont state government would concern itself largely with environmental and economic development matters.

A shire concept might not work in New Mexico. But when it comes to environmental and energy decentralization, I think the people of New Mexico know more about conservation and stewardship than the Bush administration ever will.

New Mexico is the state to bring energy policy back to a human scale.

We are a state of citizen environmentalists. Most of us here truly love the New Mexican land. We are pained by dirty air and water, by waste and conspicuous energy consumption. We understand the relationship between pollution and energy extravagance.

The failure of Bush's National Energy Strategy to conceive of much more than increased oil and gas production leaves the way open for New Mexico to offer an alternative policy of its own—a model for the nation which it could put into practice within its own borders first.

If there has ever been a politically right moment for a state to devise a model energy and environmental protection policy, now's the time in New Mexico.

The Legislature has a potential environmental majority Attorney General Tom Udall is an avowed environmental progressive, as is Land Commissioner Jim Baca. And Gov. Bruce King has the savvy and the conservation-oriented values to supply the political energy and willpower for such an endeavor.

Moreover, when Gov. King nominated Judy Espinosa for state environmental secretary, he gave New Mexico a competent, hard-nosed administrator with a fine track record as manager of the vehicle-emissions program in Albuquerque and Bernalillo County.

Everything's in place for the King administration to give New Mexico and the nation a true legacy of environmental innovation and common sense.

In my view, a New Mexico Energy Strategy should replace the Bush proposal. It should be based on revenue-producing conservation practices and environmental husbandry.

Such a strategy would be grounded in three simple operational principles:

First, conservation should always be linked to incentives of price and rebate—be it conservation of water, recyclable materials, energy or habitat. Conservation must not be the token gesture of the well-to-do. It should contribute to the financial stability of all New Mexicans.

Second, reclamation of polluted natural resources should be seen as an integral part of an energy conservation strategy, not as an unrelated sideline. The less one wastes, the less one pollutes and the more natural resources one has to conserve and judiciously put to use.

Third, conservation and resource husbandry must be seen as an ongoing revenue-producing opportunity. Conservation should not cost taxpayers money in the long run. It should save money and generate income by creating assets in quality of life, alternative energy resources, tourism and recyclables.

The spirit needed for a New Mexico Energy Strategy is seen clearly in the multitude of environmental and conservation bills proposed during the Legislature's 60-day session.

The New Mexico Conservation Voters Alliance lists the key issues before this session as including the Waste Isolation Pilot Plant, radioactive waste transport, air quality, hazarous wastes, underground storage tanks, water quality, recycling, conservation education, conservation easements for wildlife habitats and a rapid rail proposal.

Two bills in particular—S72, the Environmental Protection Act, and S73, a "Truthtellers' Protection Act"—could be useful for new citizen-based New Mexico conservation strategy.

S72 is a "citizen suit," bill, permitting citizens to legally confront polluters when local government does not. S73 protects whistleblowers who report environmental violations.

There are so many environmental bills before the Legislature that I think the governor should call a special session in the late spring and use the bills as the foundation from which to build a conservation strategy that every other state in the union could look to and put to use.

A TRIBUTE TO SHANE MEREDITH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Shane Meredith, a brave young man from my 17th Congressional District of Ohio. I would like to take a moment to describe the incredible event for which this young man is so highly praised.

March 23, 1991, began as a typical Saturday for Shane Meredith and his father, John Meredith. Mr. Meredith and his son were on their usual father-son fishing outing on Pymatuning Lake when a great storm arose. Before they were able to reach land, their tiny fishing boat was capsized by the force of a great wind and heavy rain. It is estimated that the Merediths were struggling to retrieve their boat in the 40-degree water for approximately 35 minutes. During this time their body temperatures dropped 10 degrees and their muscles began to stiffen. John had been swept away from the boat and as his son tried to drag him back, John's life jacket became untied and he went under. Shane dove after his father and managed not only to pull him up, but strapped his life jacket back on and carried him back to the boat. Approximately one-half hour later, two fishermen spotted the capsized boat and rescued the men.

Mr. Speaker, I would like to take this opportunity to recognize Shane Meredith for his quick thinking and his ability to stay calm during a life threatening situation. It is due to the courage and bravery of this exceptional young man that John Meredith is alive today. I would like to commend Shane for his heroism and express my gratitude on behalf of the entire community. It is truly an honor to represent this remarkable young man.

PUBLIC SERVANTS SHOULD SERVE THE PUBLIC

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. DUNCAN. Mr. Speaker, as I have said many times, we are fast becoming a government of, by, and for the bureaucrats instead of one that is of, by, and for the people.

While there are many good people in Government today, there are also many who seem to forget that it is Government service—that they are in office to serve and help the people, and not there just to show how much authority they have or how powerful they are.

There are many bureaucrats today who seem to be out to get people rather than to help them. There is a real antibusiness attitude in Government today which will ultimately do great damage to this Nation if it is not changed.

Also, there are very real problems caused by our civil service system—a system that does nothing for good, dedicated employees, but serves to protect lazy, incompetent ones.

At any rate, the abuses that can occur when Government employees become too powerful is pointed out in an article by Paul Craig Roberts, a columnist for the Washington Times, in an article entitled "Brass Ring of Public Service." I hope all my colleagues and others will read this very informative column.

BRASS RING OF PUBLIC SERVICE

Twentieth-century Americans have been propagandized into the naive view, contrary to our founders, that government serves the people's interest.

When we hear about the privileges of our rulers—such as the congressman who takes his woman friend on an 11-day, taxpayer-funded junket to the Middle East or the White House official who charges taxpayers $27,000 flight expenses for a weekend of golf or skiing—we see them as examples of personal corruption and departure from the democratic norm. Perhaps the best way for Americans to dispel their naive trust is to observe democracy's new aristocrats in full-fledged action.

Despite the country's democracy, Brazilian government employees have become a true aristocracy. Once well-connected Brazilians grab the brass ring of public service, their material welfare knows no limits. Politicians and officials at all levels enjoy aristocratic prerogatives that would make a feudal lord blush. In addition to their regular salaries, Brazil's rulers receive bonuses and extra compensation that can more than double their pay. They are able to rent government mansions, complete with marble floors and heated swimming pools, for less than the poor pay to rent slum housing. State-run country clubs cater to their every whim, and luxurious official cars are at their disposal. President Fernando Collor de Mello's efforts to curb the privileges are stymied, because the ruling class has had the foresight to entrench its privileges into the law, obtaining "acquired rights" that are difficult to overturn.

The Brazilian press rages against the "maharajahs"—bureaucrats and politicians who carve out special privileges for themselves and enjoy phenomenal incomes at the expense of society. The Sao Paulo newspaper, Jornal da Tarde, recently reported that several hundred former government employees receive the equivalent of more than $3,700 per month in retirement benefits, a huge sum in Brazil, with some receiving princely sums reaching $56,000 per month—a king's fortune.

Jose Arnaldo Rossi, president of the Brazilian National Social Security Institute, told the newspaper that he is obliged to pay the fantastic pensions because the powerful bureaucrats have obtained judicial decisions ensconcing their privileges in law. In his view, the only way to extinguish the privileged caste is to persuade the Congress to amend the Brazilian Constitution.

It seems unlikely that the Brazilian legislators, themselves members of the aristocracy, will act to eliminate privileges when the senators and representatives treat the federal budget like their own bank account. For example, in a country where public education is so bad that 25 percent of the population is illiterate, Brazilian legislators divert government funds to pay for exclusive private schooling for their children.

According to newspaper reports, almost a fifth of the budget of the National Social Service Council, a welfare agency created to aid the poor, is spent to pay the tuition expenses of the children of congressmen and their friends and relatives at elite schools. Most of the rest supports a plethora of nonprofit organizations run by members of Congress themselves or by their relatives and friends. For example, the Eva Candido Institute for Political and Social Development, named for the daughter of Delegate Raquel Candido of Rondonia state, reportedly functions as the congresswoman's campaign headquarters. The president of the National Social Service Council lamented that Congress renders him powerless even to account for the expenditures of the organization supposedly under his control.

In Brazil, members of the ruling class do not even have to work to obtain a hefty salary. Last month, the news magazine Veja reported that maharajah Antonio Rogerio Magri, minister of labor and social welfare, receives in addition to his regular monthly salary of $4,000 another $4,000 monthy from the Sao Paulo state electric company, Electropaulo. Although he left employ there 14 years ago, his career at Electropaulo has advanced five grades!

The difference between the rapacity of Brazil's rulers and our own is a matter of diminishing degree. The audacity of the U.S. Congress to vote itself six-figure salaries—four times higher than the median American income—and the right to convert campaign funds ranging upward of $1 million into their personal wealth—shows an attitude similar to that of Brazil's democratic aristocrats, such as Luiz Gonzaga Mendes de Barros, procurator-general of the Legislative Assembly of Alagoas state, who told the news magazine Veja, "There is nothing wrong with a public official who wants to live well. . . . To be a maharajah is a way of life."

INTERIM REPORT ON ELECTIONS IN EL SALVADOR

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. RICHARDSON. Mr. Speaker, the lawyers' exchange for justice is a joint project of the nongovernmental Human Rights Commission of El Salvador and the Central American Refugee Center in Washington, DC. In early March a team of LEX lawyers traveled to El Salvador to act as international observers during the elections. The LEX group were able to travel freely throughout the country, met with representatives of the five largest parties, with U.S. Embassy officials, representatives of popular organizations, and members of the repopulated communities in Chalatenango and Morazán. I urge my colleagues to read the LEX preliminary report, as the number of social, political and economic difficulties which will require attention for truly free and fair elections in the future will need to be considered by the United States Congress before more aid to El Salvador is authorized:

INTERIM REPORT ON THE 1991 GENERAL ASSEMBLY ELECTIONS IN EL SALVADOR

On March 1st 1991, a delegation from Lawyers' Exchange for Justice travelled to El

Salvador to observe the General Assembly elections. The objective of the delegation was to determine whether existing conditions in El Salvador were adequate to permit free and fair elections which could contribute to a negotiated peace in that country. For sixteen days members of the delegation travelled throughout the country to meet with representatives of the five main political parties, U.S. Embassy officials, representatives of a number of popular organizations, and members of "repopulated" communities in Chalatenango and Morazán. While this round of elections was particularly important for a number of reasons including the seriousness of the current negotiation process, the electoral reforms instituted by the Interparty Commission, and the landmark FMLN decision not to boycott or disrupt the voting, the findings of the delegation raise serious questions concerning electoral freedom under the current administration. The following is a preliminary report highlighting problems which should be remedied to ensure truly democratic elections in the future. The report addresses three major areas of concern: (1) Pre-Election Violence and Intimidation; (2) Systematic Irregularities on Election Day; (3) Post-Electoral Fraud.

(1) PRE-ELECTION VIOLENCE AND INTIMIDATION

Each of the party representatives we spoke to, with the exception of the ARENA party and the Party of National Conciliation (PCN),[1] expressed concern about the tense political climate and its effect on the voting. The party representatives were also joined by the popular organizations and members of the repopulated communities in accusing the ARENA government of a deliberate policy of intimidation and repression orchestrated to limit the support for the opposition. While the Christian Democratic Party also complained of harassment from the FMLN and intimidation of its supporters in Eastern El Salvador, such instances were not recognized as problematic to the extent of the government party policy.

Among the examples of intimidation attributed to the ARENA party are the following:

The brutal murder of UDN candidate Ignacio Heriberto Aristedes Robles Garcia and his wife, Vilma del Rosario Palacios de Robles on February 21st, shortly after giving a critical TV interview;

The shooting of UDN activist Blanca Mirna Benavides Mendoza while hanging propaganda on March 6th; eye witness accounts say the shooting was perpetrated by ARENA party members;

The burning of the newspaper El Diario Latino, the only paper giving coverage to the opposition parties; previously the paper had been accused of FMLN affiliation;

The destruction by grenade of Usulután office of the opposition party Convergencia Democrata on January 31, 1991;

The February 3rd ransacking of the Santa Ana office of the MNR (one of the three parties belonging to the Convergencia Democrata) by paramilitary groups who accused the activists of being FMLN supporters;

Military intervention in campaigning including door to door pressure against voting for opposition parties in Usulután and the use of military vehicles for the purpose of displaying ARENA emblems at a party rally in Mejicanos;

Military harassment of suspected oppositions supporters including an incident in Chalatenango where some of the peasants were told that some warned that the Atlacatl Battallion would know who they voted for;

Large scale military operations in Chalatenango and Morazán in which both Guarjila and San Jose las Flores communities were subjected to mortar fire, injuring at least four residents on March 7th; and

Threats of unemployment for workers in state ministries who failed to support the ARENA party.

(2) SYSTEMATIC IRREGULARITIES OF ELECTION DAY

Although the ominous events preceding the election left in question the openness of the political climate reflected by a poll showing nearly three-quarters of Salvadorans questioned were afraid to express their political preferences,[2] the opposition parties nonetheless participated and the FMLN did not disrupt the elections. Unfortunately for the opposition parties however, the election day itself was rife with anomalies and evidence of fraud. Below is a partial list of our findings:

Polling booths were often placed in front of the reception table and offered little or no privacy for the voter. In Suchitoto, Cuscatlán Department, when a member of our delegation suggested that the polls be moved against the wall to insure privacy, the official in charge (an ARENA party member) decided such a move was unnecessary because he himself would not be intimidated to vote for the party of his choice;

Also in Suchitoto, the closing act in which the vote count is listed had been signed by the members of one of the polling tables prior to the counting of the votes; when the question was raised as to how it could be signed before knowing the final tally, the response was that it didn't matter because the ARENA party official had to review them all anyway;

In Ilobasco, Cabañas Department, poll watchers of the Christian Democratic Party (PDC) informed us that various people who arrived to vote had been told that their names had already been stamped as having voted;

Also in Ilobasco, voting at one of the tables was suspended because it was discovered that there were two ARENA party members administering the process;

In Tenancingo, Cuscatlán Department, an observer of the Nationalist Democratic Union (UDN) informed us that ARENA party members from other municipalities were voting in that jurisidiction with the help of the ARENA party members in charge of the polling tables; while he was speaking to us he was interrupted by a well dressed man in dark sunglasses who accused him of lying. Shortly after, an observer from the Convergencia Democrata confirmed the UDN accusation, but said that they feared the possible consequences of alerting us to the fraud;

In San Pedro, Cuscatlán Department, the ARENA poll watchers were actively involved in the final counting of the ballots and were participating in preparing the final closing act of the polling table;

Also in San Pedro, a number of extra ballots had been signed and stamped by the President of one of the polling tables; when questioned about the ballots the observers were told that it would be taken care of later and that the members of the table were too busy to talk;

In San Francisco Gotera, Morazán Department, ARENA party members reportedly let party members vote twice and would not allow the Convergencia delegate to participate in the counting of the ballots;

Members of Segundo Montes city told us that in San Francisco Gotera Colonel Ohoa Perez arrived and declared that people who had registered but had not received their carnets could not vote even if they had their receipt, despite the fact that one day earlier a decision had been made to allow such people to vote;

Also in San Francisco Gotera, a Convencia Democrata vigilante from the Segundo Montes Community was captured by the 4th Military Department upon leaving the polling place; he was interrogated and humiliated for voting for the Convergencia and was set free about 8:30 p.m. after the intervention of the OAS;

In Villa Dolores, one of the polling stations was inexplicably moved without notice and when the members of the Christian Democratic party arrived to take their place at the polling tables, they were told that their seats had already been filled; and

All polling places we attended there were reports of people with carnets being unable to find their names on the lists—a phenomena which members of the opposition parties said was technical fraud intended to keep their supporters from voting.

(3) POST-ELECTORAL FRAUD

Since the elections, evidence of fraud has increased and the credibility of the results have decreased. Dr. Ruben Zamora of the Convergencia Democrata appeared at a press conference with a number of ballots that had been marked for the Convergencia but discarded in San Salvador, and representatives of the Christian Democratic party showed us discarded ballots they had found in San Miguel. They also reported that in a number of the Junta Departmentales, the boxes containing the counted results had been opened and were recounted and altered, and that in San Gerardo, San Miguel Department, the Municipal Electoral Directorate was comprised only of ARENA members. Also in San Miguel, one of the polling places had been moved without notice from Villa Dolores to Sensuntepeque and when the members of the Christian Democratic Party arrived to be accredited to work at the polling booths, they were told by ARENA party officials that other people had already been accredited. Finally, the representaives we met with from the UDN also claimed that the PCN had prepared a number of marked ballots with the intention of substituting them for CD votes in order to place third in the voting. The tallying of the votes was also prolonged to such an extent that the credibility of the final results have become have been significantly diminished.

CONCLUSIONS

The increased climate of repression prior to the elections, coupled with violations of the electoral code, problems with voter registration, and the overwhelming evidence of fraud bring into question the validity of the elections and the desire of the ARENA government to bring an end to the armed con-

[1] The PCN is the party which, after losing the elections to a broad opposition coalition (UNO) in the 1970's, rejected the election results and named a military leader as President. Their complete disrespect for the electoral process caused widespread frustration and ultimately led to the civil war which began in 1979. Not of small importance is the fact that the civilian faction of this military party later formed a new party with many of the same values; the new party is known as ARENA.

[2] Instituto Universitario de Opinion Publica, Universidad Catolica, poll of January 12-26, 1991.

flict in El Salvador. Based on our findings, it seems apparent that the ARENA government is as yet intransigent to serious participation of opposition parties and therefore the elections are not likely to be considered a viable alternative to armed conflict. While the opposition parties were able to win a few seats in the Legislative Assembly, the support they received in spite of the bad faith efforts of the ARENA party should be considered a manifestation of the overwhelming desire for peace rather than a reflection of a legitimate democratic election. The General Assembly elections raise serious questions regarding the value of continued support for the government of El Salvador and highlight the need for serious debate among members of the U.S. Congress regarding additional aid.

A TRIBUTE TO DAVID DEILY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to David Deily of my 17th Congressional District of Ohio. I would like to commend David for his new found interest in environmental cleanup.

David Deily, age 13, is a student at Mineral Ridge Middle School in Middle Ridge, OH. David is involved in a number of organizations, including the local Boy Scout chapter, troop No. 85, in which he has earned the rank of first class scout. Troop No. 85 holds its weekly meeting at the Lady of Lebanon National Shrine in North Jackson, OH. To earn the Boy Scout star rank, David must fulfill the requirements of a service project of his choice. Aware of the many environmental problems facing our Nation today, David Deily believes that cleaning up the environment would be an ideal community service project.

David began picking up trash along side Salt Springs Road near his home in Mineral Ridge. He has collected 13 bags of refuse to date and has sorted out the recyclable materials such as glass for separate pick up. Of the 13 bags of refuse, 440 pounds were glass materials which were sent for recycling at the local plant in Niles, OH.

Mr. Speaker, I would like to take this opportunity to recognize David Deily for his outstanding service and contribution to the local community. It is an honor to represent this dedicated, hard working young man.

THE CAMPAIGN AGAINST PROZAC

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. McDERMOTT. Mr. Speaker, humanity's struggle with mental illness has taken many forms. Centuries ago, mental disorders were regarded as witchcraft or demonic possession. Later they were considered untreatable handicaps whose victims had to be separated from society. Still later, psychotherapy and inpatient treatment brought real help to many people. More recently, as we have learned more about the organic and chemical aspects of mental illness, we have developed effective medications that allow more people to live in the community as they get well.

Psychotropic drugs have brought major advances in the treatment of mental illness. Their use has permitted the treatment of many conditions outside institutions. But they have also brought unintended consequences, like massive deinstitutionalization without adequate community services, and the side-effects of some of the drugs themselves on some patients.

We still have much to learn about providing treatment and services to the mentally ill. Psychotropic drugs are not a cure-all, and they are not right for everyone at all times. Researchers, manufacturers, and physicians must always be cautious in their expectations, and in the way they communicate those expectations. But we cannot let irrational fear keep beneficial treatment from those who need it.

That is why the campaign by the so-called "Church of Scientology, against Prozac" and other psychiatric treatments, is so disturbing. Prozac, a medication used by 3.5 million Americans, has been proven effective in treating depression, in clinical trials conducted at the University of Washington and elsewhere. Like any drug, it must be prescribed with caution, and only in appropriate cases. I am inserting in the RECORD an article by Thomas M. Burton, from the Wall Street Journal of April 19, 1991, describing the effects of this attack on Prozac.

Mr. Speaker, there was a time when mental illness was defined in religious terms. We call that period the Dark Ages. Today, religious leaders of all faiths recognize mental illness for what it is, and call for compassion, understanding, and service to those who suffer from it. It would be cruel if the false claims of a pretended religion were to deprive thousands of beneficial treatment:

MEDICAL FLAP—ANTI-DEPRESSION DRUG OF ELI LILLY LOSES SALES AFTER ATTACK BY SECT

(By Thomas M. Burton)

INDIANAPOLIS.—L. Ron Hubbard, the late founder of the Church of Scientology, long harbored a profound and obsessive hatred for psychiatrists, who, he declared, were "chosen as a vehicle to undermine and destroy the West."

Five years after Mr. Hubbard's death, Scientologists are still waging war on psychiatry. The quasi-religious/business/paramilitary organization's latest target is Prozac, the nation's top-selling medicine for severe depression. The group is calling it a "killer drug" that drives people to murder or suicide. Its tactics include scores of condemnatory mailings and press releases, going on the talk-show circuit and lobbying with Congress and the Food and Drug Administration to ban Prozac.

To the dismay of some doctors and the drug's manufacturer, Indianapolis-based Eli Lilly & Co., the campaign has had some success. Although Prozac's sales are huge, its share of the antidepressant market has slipped to 21% from 25% last July.

PUBLIC-HEALTH PROBLEM

"The public's fear of Prozac as a result of this campaign has itself become a potentially serious public health problem as people stay away from treatment," says Jerrold Rosenbaum, a Harvard psychiatry professor.

Moreover, the Scientologists' arguments are being repeated in courts of law. In about a dozen cases pending around the nation, defense lawyers are arguing that their clients shouldn't be held responsible for any crimes because they were taking the drug. In five criminal cases already decided, however, the defendants were convicted. In addition, more than 50 civil suits related to violence allegedly induced by Prozac are pending against Eli Lilly; none have been resolved.

Lilly says it hasn't any evidence that the drug can turn patients either murderous or suicidal, but Prozac, like all antidepressants, does have side effects, including nervousness and sleeplessness. For many people, it is by far the easiest antidepressant to tolerate and doesn't leave the user feeling drugged or sleepy, as other antidepressants tend to do. And it has been known to dramatically relieve depression and improve the lives of some patients.

GOING OFF THE MEDICINE

Yet at the St. Vincent Stress Center in Indianapolis, severely depressed patients were frightened enough by one Scientology official's remarks on television to stop taking the medication, only to deteriorate rapidly. "I have people coming off Prozac, and some of them are ending up in the hospital," says Paul Riley, the medical director. "I'm very angry about this. Somebody's going to end up dead from coming off the medicine," Dr. Riley says.

For Lilly, the Scientologists' campaign poses special problems. The company is very conservative. Lilly rarely seeks publicity and, with most of its drugs sold by prescription. It isn't used to marketing to the public.

Lilly also is vulnerable because of problems with two earlier products. It was one of several companies that sold DES, a drug blamed for an abnormal incidence of cancer in women whose mothers took it to avoid miscarrying. And in 1985, it pleaded guilty to 25 misdemeanor charges for failing to inform federal officials of four deaths and six illnesses after patients took Oraflex, an anti-arthritis medication.

COMPANY'S POSITION

Nevertheless, Lilly feels strongly that Prozac is safe. Leigh Thompson, the company's top medical official, says: "It's a demoralizing revelation to watch 20 years of solid research by doctors and scientists shouted down in 20-second sound bites by Scientologists and lawyers."

Lilly researchers first synthesized Prozac, known medically as fluoxetine hydrochloride in 1972. The drug didn't hit the U.S. market until 1988, partly because Lilly had never made an antidepressant before and management didn't push its development. Now, Prozac has become crucial to the company: its sales, despite the late 1990 dropoff, were up 116% to $777 million last year. It is Lilly's No. 2 product, trailing only the antibiotic Ceclor, and many analysis predict that this year Prozac will top $1 billion. Pfizer, Inc. and SmithKline Beecham PLC have chemically comparable antidepressants that are on sale in Britain but not yet in the U.S.

The attack on Prozac is only the latest battle in Scientology's war against psychiatry. Mr. Hubbard was a Nebraska-born science-fiction writer who, after a stint in the Navy, took to calling himself "commodore." His best-selling book, "Dianetics," led to creation of the group.

Mr. Hubbard's hatred of psychiatry may have sprung in part from the fact that "the

mental-health community early on rejected" his ideas, suggests Cynthia Kisser, executive director of the Cult Awareness Network. He also realized, she contends, that "the best recruits were people whose problems were not being solved by the mental-health profession. These people might buy into Scientology." Church officials didn't respond to phone calls seeking comment.

Scientologists' central belief is that human beings have a soul-like entity called a "thetan" that is perfect and travels from galaxy to galaxy. Their goal is to help their thetans get rid of something called engrams—essentially, bad memories.

To this end, Scientology developed a lie-detector-like device called an E-meter, which is used to treat mental problems often at hundreds of dollars per session. Psychiatrists consider these "treatments" quackery. In 1984, the Internal Revenue Service successfully challenged the tax-exempt status of the Church of Scientology of California, then the mother church, arguing that it was more business than church. Scientology boasts of having millions of members, but the Cult Awareness Network and former Scientologists put the number closer to 12,000.

In recent years, the Citizens Commission on Human Rights, a Scientology-founded group, lambasted Ritalin, a Ciba-Geigy Corp. drug for hyperactive children. Last year the group, many of whose members have "Psychiatry Kills" stickers on their cars, alerted church members that some favorable press coverage of Prozac was "a declaration of war" that "cannot go unanswered."

"Psychiatrists are in their way," asserts Dennis Erlich, a former Scientologist minister. "Scientology is a serious conspiracy to derail psychiatry, pharmaceutical companies, and so on." He notes the group's paramilitary nature: Some members have military ranks, wear Navy-style uniforms and can be judged for offenses against the church by military-style tribunals.

A MINISTER'S OBSERVATIONS

Sanford Block, a college dropout and Scientologist minister who serves as executive director of the Citizens Commission, says his group isn't run by the church but is mostly staffed by church members. He says he became convinced that psychiatry kills after noticing that "there's an enormously high rate of suicide for people who leave mental institutions" and that "a large portion of mass murderers had been psychiatric failures first."

In attacking Prozac, Scientologists often cite a 1989 mass murder at the Standard Gravure printing plant in Louisville, Ky. They say Joseph Wesbecker, who killed eight co-workers, wounded 12 and then shot himself to death, was "turned psychotic" by Prozac. On a recent Phil Donahue Show on NBC, Dennis Clarke, president of the Citizens Commission, characterized Mr. Wesbecker as a man who before Prozac "had no history of violence" and "didn't have an argument on the job for 32 years." Mr. Block, the Scientology minister, adds in an interview, "There was no evidence about any threats" made by Mr. Wesbecker against co-workers or bosses before taking Prozac.

That is far from the truth. In fact, Mr. Wesbecker was for years a tragically tormented man who tried to commit suicide at least 12 times. During a period when he wasn't taking Prozac, he was diagnosed as a borderline personality, regularly talked about killing his bosses (according to nine separate witnesses who talked to the police), bought the guns he eventually used—including an AK-47 assault rifle—and went to a gun range to practice. He even bragged about his plans to kill his bosses to a man who came to his house regarding some tile work.

The Scientologists' anti-Prozac material often assumes that any criminal who takes the drug must have committed his crimes because of it. "The numbers of persons who have been driven or are being driven suicidal or homicidal by Prozac is astronomical," one press release says.

SOME SUICIDES INEVITABLE

But the number of people on Prozac exceeds 3.5 million, more than the population of Chicago, where hundreds of people commit murder or suicide every year. And Frederick K. Goodwin, the U.S. government's top psychiatrist and an authority on depression, says it wouldn't be surprising over time to see thousands of suicides among more than three million depressive patients. "For many," Dr. Goodwin says, "Prozac has truly been a miracle, the first medication to rescue them from the living hell we call depression."

Often, the Scientologists' campaign has involved taking a seed of truth and then stretching it. In February 1990, Martin Telcher, a psychiatry professor at Harvard medical school, wrote that six of his mental patients had "serious" suicidal thoughts while on Prozac. Five had previous suicidal tendencies, but Dr. Telcher said these new "obsessive and violent" notions had strengthened. He estimated that the side effect occurred in 3.5% of his patients on Prozac.

However, he adds in an interview that he doesn't think it fair to extrapolate that percentage to all patients using the drug. Harvard's Dr. Rosenbaum and colleagues surveyed records of more than 1,000 patients on Prozac and found no tendencies such as those described by Dr. Telcher. Yet the Scientology group extrapolated from Dr. Telcher's limited report to conclude that "up to 140,000 people in the United States have become violent and suicidal by Prozac" and "can explode any moment without provocation."

Dr. Telcher says the Scientologists' use of his paper is "absolutely irresponsible." He says they are twisting his research "to advance their purpose, which is to destroy psychiatry." He considers Prozac, used properly, safe and helpful.

Despite their credibility problems, the Scientologists have little trouble obtaining publicity for their cause. For instance, last year, numerous newspapers ran articles saying Scientologists had petitioned the FDA to ban Prozac on the ground that it prompts thoughts of suicide. One such article quoted Mr. Block of the Citizens Commission as saying, "Persons who were never depressed in their lives are going onto Prozac and suddenly wanting to kill themselves."

Likewise, the Smyth County News in Marion, Va., ran an article that appeared to come straight from a Scientologist press release. "A nationwide warning has been issued on the psychiatric antidepressant drug Prozac cautioning that the drug can generate intense, violent suicidal thoughts and can push unsuspecting users of the drug to commit murder," the article said. It contained no response from Lilly or any psychiatrists.

Linda White, the Virginia paper's editor, says such press releases often get printed because small newspapers, including hers, "don't have the resources to check out all press releases."

Psychiatrists say they can't rule out the possibility of a few dangerous side effects with Prozac or any drug. A Yale-New Haven Hospital study in 1990 found some suicidal thoughts among obsessive-compulsive adolescents taking Prozac. But many psychiatrists prescribe it for hundreds of patients without problems, and scattered incidents hardly bear out Scientologists' allegations that "psychiatrists have destroyed thousands of lives" with Prozac.

Far more common are experiences such as those of Jill Silver, a 56-year-old artist and grandmother from Wynnewood, Pa. In the past five years, panic attacks associated with moderate depression forced her to run out of restaurants—and out of her job. In January, she "bottomed out," crying incessantly and constantly needing her husband or a relative with her. "I'd become a baby again," she says.

Her doctor prescribed Prozac. Gradually, over four weeks, with therapy and the support of her family, she improved substantially. Now she is counseling the mentally ill at a crisis hot-line center.

CLINICAL TRIALS RESULTS

To fight the Scientologists, Lilly is taking the unusual step of publishing results from clinical trials conducted before Prozac entered the U.S. market. The results, compiled by doctors unaffiliated with Lilly on 3,065 depressed patients, show a lower tendency toward suicidal thinking with Prozac than with other antidepressants, or with the starch capsules given to a control group. Neither doctors nor patients were told what was in the capsules.

After the Scientologists' attack began, David Wheadon, a Lilly psychiatrist, met with European suicide experts to explore whether the company missed something significant in these tests. Dr. Thompson, Lilly's chief physician, also met with four psychiatrists who scrutinized its findings. Inside and outside the company, psychiatrists concluded that nothing in the clinical trials linked suicidal thinking—common in depression patients—to Prozac.

Lilly also sent out "Dear Doctor" letters about all this. And last January, the company convened its 1,700 U.S. salespeople and urged them to tell any concerned doctors about the clinical-trial results and discuss the Scientiologists' campaign.

But that campaign has been effective in frightening Prozac patients. Watching a recent Donahue talk show on which Mr. Clarke and others blamed the Louisville killings on Prozac were 21 severely depressed patients at Oakville-Trafalgar Memorial Hospital near Toronto. Some had been hospitalized after trying to slit their wrists; some were then put on Prozac.

As they heard Mr. Wesbecker described as "your average nice Joe" turned killer by Prozac, the patients became distraught, some hysterically so. Doctors and nurses had to lead them out of the hospital's day room. It took three days for Robbie Thompson, the chief of psychiatry, and his staff to calm many of them.

"I'm all for looking at both sides of the coin," Dr. Thompson says, "but this just isn't right. How this has been allowed to go this far is beyond me."

STUDENTS OPINIONS ON HOW TO REDUCE OUR DEPENDENCE ON FOREIGN OIL

HON. HENRY J. HYDE
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. HYDE. Mr. Speaker, it is my privilege every year to sponsor jointly with schools in the Sixth Congressional District an essay contest featuring the works of numerous young people.

This year's contest elicited more than 130 entries directed to the question of what we might do, both as individuals and as a nation, to reduce our dependence on foreign oil.

In reading some of the winning essays, two of which are featured here, I was very heartened by the time and thought that was invested in these projects.

Bensenville, IL, resident Rubina Hadi-Tabassum, a senior at Fenton High School placed first among high school seniors with her essay, which described how the United States could rapidly develop and market methanol as an alternative to gasoline.

In her winning junior division essay, eighth-grader Mary Sessa of Addison, IL, suggested more diligent conservation practices, including use of more fuel-efficient automobiles, further development of atomic energy sources, development of electric automobiles, and more widespread use of propane gas autos. Mary attends St. Joseph School in Addison.

Please permit me to add my heartfelt congratulations to these and the other participants who took the time to research, write, and edit their papers. A special note of thanks also to Mrs. Vivian Turner, former principal of Blackhawk Junior High School, who coordinates this event.

I commend the following two well-written essays to my colleagues for their consideration:

HOW CAN THE UNITED STATES BECOME LESS DEPENDENT ON FOREIGN OIL?

(By Mary Sessa)

In order for the United States to reduce its dependence on foreign oil, it must improve in the following areas: 1. It must do more to conserve energy. 2. It must develop alternate sources of energy. 3. It must further develop its existing energy sources.

There are many ways that the United States could conserve energy. We could have stricter laws mandating more fuel efficient automobiles. If the average auto in the United States got only three miles more per gallon of gasoline, the country would save over 10 percent of all gasoline used. In the northeast area of the United States many people have old, inefficient, oil burning furnaces. Replacing these furnaces with fuel efficient devices that burn natural gas would save millions of barrels of oil daily in the winter season. Air conditioning use could be curtailed in public buildings. Airlines could analyze their flights and eliminate those flights that serve few passengers. Those few passengers could be handled by other airlines or by other flights on the same airline. These few suggestions alone would help reduce our dependence on foreign oil.

In the area of alternative energy sources there are many available. Some are being worked on today. For example, engineers at Ford, Chrysler and General Motors are developing electric automobiles. These automobiles would not only save gasoline but they would be pollution free. Since electric autos can only go about 100 miles between battery charges, engineers are developing hybrid autos that use electric power when driving in the city, and gasoline power when driving on the highway. Geothermal power should also be developed in the United States. France and Italy have been using geothermal power for many years. Geothermal power is generated by drawing heat from the Earth and using it to boil water, creating steam which drives generators to produce electricity. Solar power can be used to heat homes. Ethanol and methanol can be mixed with gasoline to generate power for cars, trucks, and buses. Propane gas powered autos and trucks are widely used in the United States, if more propane "gas stations" were available we could have more propane powered vehicles.

The United States must develop its existing oil reserves. Oil companies must be given incentives to invest in exploration for oil and natural gas. New technologies must be developed to extract oil that remains deep in existing wells. Environmentally safe methods must be devised to produce oil from offshore wells. This country has a tremendous quantity of oil locked in shale rock in the west. If technology could be developed to free this oil cheaply, America would be totally energy independent. The United States also has large reserves of coal. In World War II Germany produced gasoline from coal by a process called coal gasification. If we could find efficient ways to produce gasoline from coal we could greatly reduce our dependence on foreign oil. This country could also produce far more power from atomic energy than it does now. If ways can be found to safely dispose of the nuclear waste products produced in a reactor, nuclear power would greatly help reduce our dependence on foreign oil.

Through a combination of conservation, alternative fuels, and development of new technologies, America could become energy independent in the next twenty years.

IF YOU WERE THE SECRETARY OF ENERGY, WHICH PROGRAMS WOULD YOU RECOMMEND TO THE PRESIDENT AND CONGRESS TO LESSEN OUR DEPENDENCE ON IMPORTED OIL

(By Rubina Hadi-Tabassum)

THE NEW ALTERNATIVE

The future is forever questionable and inevitable. What the human race decides to do today shapes all futures, good or bad, tomorrow. In order to build a stable future for the hopes of tomorrow, society must resolve the pressing problems of today. Homelessness, poverty, racism, and drugs are all but a few of the problems facing this nation. The United States of America must overcome these obstacles or else it will slowly perish to a memory, washed away by the tide of the future. There lies, however, a graver crisis that I have not yet mentioned. This problem I address affects every individual of this nation, day after day, year after year. It is buried beneath the arid desert, shaped by severing heat and extreme pressures. This organic threat has metamorphasized from various forms of ocean plant life to black gold: petroleum.

Petroleum is often known as crude oil as it comes to the surface, either by fissures naturally gouged in the earth, or by the steel drills of oil barons. The U.S. is the number one world consumer of crude oil averaging 6,323.6 million barrels, used in 1989 alone. About 12.3 percent of that oil comes from individual Arab nations, 23.8 percent from OPEC, and 41.6 percent from other international countries. The rest of the oil budget, about 22.3 percent was provided by the U.S.'s own oil reserves. All in all there is a 77.7 percent dependency upon foreign oil, a 7 percent rise from 1988. The United States is economically and socially dependent upon foreign oil. Oil in the U.S. is mostly converted into gasoline, diesel fuel, and kerosene. These fuels are all used for transportational purposes. The rate at which the percentage of oil used for transportation is growing is quite alarming. Each time you start your car or truck, and each time you voyage on a plane or ship, you are contributing to the 62.9 percent of oil consumed by transportation alone. The other 37.1 percent of oil is used for either heating fuels, industrial usage, or for electrical utilities. The large quantity of oil consumed by this nation must be either drastically reduced or eliminated by other alternatives.

"There is no longer much argument with the conclusion that U.S. resources of conventional oil will be depleted by the year 2000 * * *", Earl T. Hayes, former chief scientist at the U.S. Bureau of Mines.

The United States' dependency on foreign oil is a dilemma. Vital steps toward solving this crisis must be taken. The American society must both recognize and react to this grave realization. We must put money, tradition, and differences aside in order to enter this twenty-first century free from the shackles of foreign oil.

Of the oil produced internationally, 45 percent of it is refined into forms of gasoline. Of that 45 percent, 7 percent is used for diesel fuel and another 7 percent into kerosene aircraft fuel. The rest is consumed by the standard automobile. Cars provide both mobility and convenience, not to mention personal

freedom. The automotive industry is also very lucrative. It accounts for more than 10 percent of the gross national product and 20 percent of all consumer expenditures. There is, however, a bad side to all this. The automobile is the single major contributor to the U.S.'s dependency on foreign oil. The U.S. employs nearly two thirds of its entire crude oil budget to the automobile. Automobiles also threaten the quality of life by contaminating urban air and the global atmosphere. More than 100 cities in the United States have high levels of carbon monoxide that exceed the levels established by the Environmental Protection Agency to protect public health. In the next decade the air quality will worsen unless vehicles can be developed that are much cleaner than those on the roads today. In order to achieve this goal, I believe the United States should make a transition to a new automotive fuel.

Currently, scientists are proposing many alternatives to the standard petroleum-based automotive fuel of today. All, however, agree upon this conclusion: change must come, and soon. Today's automotive fuel, gasoline, is composed of many double-carbon chemical bonds. This "complex" molecular structure makes combustion a more complicated process. It increases the probability of incomplete combustion, which emits unburned carbon-carbon bonds. A threat to the environment. The ideal future fuel would then have to be a simple hydrocarbon, such as one in the alcohol family. Ethanol and methanol are the two most promising alternatives. They burn more cleanly than gasoline because they have no (or few) carbon-carbon bonds, and the hydrocarbons they do emit are less likely to generate ozone. However,

ethanol carries a price tag twice that of methanol because of the relatively low abundance of ethanol. This leaves us with methanol, the most practical and expedient of the energy alternatives.

Methanol may quite possibly be the fuel of the future. To the environmentalists methanol means a sigh of relief from the strained atmosphere and ecology of the United States. Tests have shown that emissions from a methanol fueled car contain one fifth as much carbon dioxide and one tenth as much of various types of hydrocarbons. Toxic compounds and the release of airborne particulates would be almost nonexistent in the proposed methanol powered car of the future. Another key element in methanol's relatively environmentally safe aspects is its low vapor pressure, about half as much as gasoline. The leading source of hydrocarbon pollution comes from motor vehicle emissions of evaporated gasoline trapped within a car's tank and fuel lines. Methanol can reduce by 90 percent the vehicle emissions that form ground level ozone, the most serious urban air pollutant. The properties of methanol make it possible to design a far more efficient automobile than those on the road while still maintaining very low emission levels.

The methanol fueled car would integrate various features to attain higher efficiency and generate fewer emissions than a conventional gasoline fueled car. Methanol has a high octane value which would mean an increase in the energy output of the car. The low heat loss of methanol combustion makes possible an efficient small engine, reducing the size of the fuel tank, exhaust pipe, and the transmission as well. The cooling system could be made smaller by replacing the radiator and fan with thermal insulation and a hotter coolant. This change would decrease the size and aerodynamic drag of the front end of the car. A flywheel start-stop system could shut down the engine whenever the car slowed down. A hydraulic pump-motor could store energy during braking. Also, one gallon of methanol is equivalent to two gallons of gasoline. Now, combining all the efficiencies of the methanol automobile together, you would end up with a car that looks much like today's gasoline fueled car, but one that is 30 percent more efficient. If the new frontier of methanol cars is pushed forward today by American manufacturers, a new era of creative innovation will be sparked. A new era of automotive technology born in the U.S.A., made in the U.S.A. will emerge from the years of stagnation by American automobile manufacturers, outdone once by their Japanese counterparts. Our nation will once again introduce the world to new ideas in the automotive industry, while still achieving its goal to lessen its dependence on imported oil.

Methanol is an abundant natural resource. Coal could be synthesized to produce methanol. Once synthesized this coal could provide all the methanol needed by the U.S. for decades to come. Methanol can also be tapped from different types of trees and plants. This should supply us with an infinite amount of methanol if ever our coal reserves should falter. The U.S. would no longer have to rely so heavily on foreign countries for petroleum for our transportational system. Powerplants may once again be run on coal reserves in the Southeast and West, eliminating the need for oil. Heating utilities could be converted to electricity or natural gas. Our nation's oil addiction would be stopped with these changes. Our environment and ecology would also benefit. The country Brazil has yielded to the amazing possibilities of methanol. It has switched its transportation system over to alcoholic fuels and has done so with success. The United States government spends billions of dollars to protect its foreign oil investments. It makes complete sense to set aside some of that money for government subsidies, for the development of methanol. Methanol lies just over the horizon and the time is now to reflect these illusions into our own present. If we do not develop methanol fueled cars, we will vividly feel the grip of foreign oil closing in upon us. Lives will be lost as this nation sets up more battlefronts to protect its foreign oil investments. Oil prices will continue to rise, but human life will always be priceless.

GOVERNMENT IS OFTEN THE PROBLEM

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. DUNCAN. Mr. Speaker, we make a serious mistake in this Nation when we think that there has to be action by some type of Government agency every time there is any type of problem.

In fact, it is becoming increasingly obvious that Government is more often part of the problem rather than part of the solution.

Many of the problems this Nation faces today have been made worse by governmental action of some sort.

Another example of this was reported by the Wall Street Journal on May 7. I hope my colleagues will read this interesting article by Rael Jean Isaac:

PROTECT THE MENTALLY ILL FROM THEIR ADVOCATES

(By Rael Jean Isaac)

Congress has an unusual opportunity to contribute to the welfare of the mentally ill by saving taxpayer money: It can refuse to reauthorize the Protection and Advocacy for Mentally Ill Individuals program. That program is fostering the very abuse and neglect of the mentally ill it was designed to prevent. Hearings are scheduled for May 16 by the House Subcommittee on Health and Environment and will be held shortly thereafter by the Senate Subcommittee on Disability Policy.

In 1984, a Senate staff report found widespread abuse and neglect of mentally ill people in institutions. This led to Senate hearings in 1985 and the signing of the Protection and Advocacy for Mentally Ill Individuals Act in 1986. The act provided funds, to be administered by the National Institute for Mental Health, for programs in each state to "investigate incidents of abuse and neglect of mentally ill individuals" residing in institutions providing "care and treatment" and to "protect and advocate the rights of such individuals."

There is no mystery about what Congress intended the primary focus of these programs to be. The law gives as examples of abuse "rape or sexual assault," "striking of a mentally ill individual," or "the use of excessive force" and in defining neglect speaks of failure to carry out "a treatment plan for a mentally ill individual" or failure to provide "adequate nutrition, clothing or health care."

In practice, however, protection and advocacy agencies for the mentally ill, with few exceptions, have become playgrounds for civil libertarian attorneys who view all involuntary treatment for mental illness as abuse. In the view of many of the attorneys and other "advocates" who staff the P&As, as they are familiarly called, those suffering from major mental illness do not suffer from disease, but simply pursue alternative life styles that they are entitled to pursue without oppression from (mentally) straight society.

Much of the thrust of P&A activity has been to obstruct any effective treatment of the mentally ill. In many states, P&As have made their top priority the right to refuse treatment with anti-psychotic medication (even for those mentally ill committed to hospitals because they are dangerous to themselves or others).

Several P&As have selected legal staff on the basis of their prior success in such right-to-refuse-treatment lawsuits. (At one institution studied in upstate New York, the additional cost simply of keeping a patient untreated in the hospital awaiting legal procedures necessary to override his or her refusal averaged more than $10,500—and this did not include clinical, attorney or court expenses.)

P&As also lobby in state legislatures to prevent needed reforms of civil commitment laws that would make it possible to hospitalize patients before they have deteriorated to the point of "dangerousness." (In some places, courts insist the patient must be on the point of death to qualify for involuntary commitment.)

P&As are permitted to use 10 percent of their funds for education and training. Much of this money goes to promote an antiquated anti-psychiatric ideology, rooted in the 1960s counterculture, that denies that existence of mental illness. Since 1986, under the rubric of "training," P&As have been sponsoring, organizing, funding and sending staffers to the annual conferences of the National Association for Rights Protection and Advocacy (NARPA), a private organization established in 1980 to bring together members of the mental health bar and other "advocates."

At the annual conferences a handful of maverick psychiatrists and psychiatric "survivors" (i.e., ex-patients) declaim on the alleged evils of psychiatry. Sample from a psychiatrist at the 1989 meeting: "Psychiatry is the most abusive institution in the United States today." And from a "survivor": "Psychiatry is a bitter joke on humanity. It's like Nazism or Communism." At these conferences "advocates" also plan how best to use P&A funds in the "war on treatment." For example, at both NARPA's 1988 and 1989 conferences, plans were unveiled for P&As to bring large numbers of liability suits against the makers of anti-psychotic drugs. As one attorney put it at the 1988 conference (cosponsored by Oregon P&A): "And if it puts the manufacturers and all of them out of business so be it."

Every one of the 50 state P&As has opposed reclassification of ECT devices by the FDA, as part of a broader game plan to outlaw electro-convulsive therapy.

But as legal scholar Samuel Jan Brakel and psychopharmacologist John Davis point out in a forthcoming article, "for patients suffering from one of the major mental illnesses there is no alternate, 'less restrictive' treatment to drugs or ECT. The alternative is no treatment."

The organization of families, the National Alliance for the Mentally Ill (NAMI), which helped create the P&A program, has been

horrified—and helpless. In many states they have found P&As unwilling to investigate cases of neglect or abuse brought to them by family members, refusing to take any complaint not initiated by the patient himself. As Carol Rees, a member of the NAMI board, observes: "This effectively eliminates any protection for the more severely disabled (like my own son) because they are unable or too intimidated to complain." Moreover, because P&As take pride in representing the "expressed wishes" of their mentally ill clients (often based on delusional thinking), they often act contrary to their clients' best interests.

Incredibly, NAMI is nonetheless urging that P&A activities be expanded to include the mentally ill in VA hospitals, prisons and the general community. Reluctant to admit it has created a Frankenstein's monster, NAMI hopes to salvage the program by persuading Congress to change the composition of P&A boards and to institute grievance procedures. But such efforts are doomed to failure.

P&As are essentially federally funded legal services programs with all the built-in problems of clientless lawyering—paid by the government, staff members are free to select their own clients and cases, even search for clients for preconceived cases. The problem, endemic to such programs, is compounded because of the vulnerability of the mentally ill. Moreover, P&As are attracted to "impact litigation" in accordance with their ideological preferences. Those preferences lead them to act in effect as the litigation arm of the radically anti-psychiatric NARPA.

Nor can boards—or the filing of grievances—do anything about this. Attorneys in the programs loftily invoke canons of professional conduct that emphasize the attorney's responsibility to exercise his independent judgment on how best to advance the client's interests. The end result is to leave P&A attorneys free to do exactly as they please.

Congress is deeply, and rightly, concerned about the growing population of homeless mentally ill. It makes no sense to fund a program that can only increase the numbers abandoned on our streets.

FALSE HOPE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 8, 1991

Mr. CLAY. Mr. Speaker, last week the President and the Secretary of Housing and Urban Development visited a public housing project in St. Louis. The purpose of their visit was to promote the sales of public housing projects to tenant management corporations. Unfortunately, this ill-conceived program threatens to undermine the Federal Government's support for all public housing programs. The following editorial from the St. Louis Post-Dispatch—May 3, 1991—highlights the problems with the HOPE 1 Public Housing Sale Program. I urge my colleagues to give serious scrutiny to this proposal:

FALSE HOPE

President Bush is scheduled to visit St. Louis today partly to promote a program called Homeownership Opportunities for People Everywhere (HOPE), which would permit the sale of public housing to tenants. The poor don't need HOPE—not this kind, anyway. They need relief from the unmerciful cuts in low-income rental housing programs during the past decade.

Mr. Bush is scheduled to visit Cochran Gardens on the near North Side and is certain to praise Bertha Gilkey's tenant management program. This innovative concept, which began in St. Louis, is laudable because it gives residents control.

The president also is likely to argue that HOPE would build on the successful experience with tenant management to allow tenant ownership of some public housing, including nearby Carr Square Village. This plan is rightly being opposed by U.S. Rep. William L. Clay of St. Louis and others.

Though there is no denying that public housing has largely been a failure, the answer is not HOPE, which is an excuse for the federal government to walk away from its 50-year-old commitment to decent housing for the needy. The answer is for the government to make as strong a commitment to public housing as it does to housing for middle-income and affluent Americans.

As Rep. Clay notes, it might cost as much as $81,000 a unit, or $39 million, to renovate the 485 units in Carr Square for tenant ownership. For the same money, the government could build 780 new units of minimum standard public housing at $50,000 a unit. In addition, there is no assurance that tenants will be able to buy the units, since the average cost of home ownership would be $300 a month while the average income of public housing tenants is only $600 a month. HOPE, then, could mean less housing for the needy. Moreover, people who by definition are too poor to buy homes cannot be expected to assume the responsibilities of home ownership.

For Mr. Bush to imply that the answer to urban problems lies in tenant ownership of low-income housing is to downplay the federal responsibility to tackle the enormous social and economic ills that poor people didn't create by themselves and will never solve alone. These ills have worsened since the 1980s, when the Reagan administration cut domestic spending. It reduced HUD's budget by more than 75 percent between 1981 and 1989.

Because the Bush administration has never sought to restore the Reagan cuts, it is no wonder that the number of Americans who are either homeless, living in substandard housing or on the waiting list for public housing continues to grow. In place of funds to respond to their plight, President Bush offers a cost-ineffective home-ownership plan that would deny housing to many in order to help relatively few. This drawback speaks to the need for a national housing policy that emphasizes more rental units for those lacking basic shelter.

CITIBANK'S MR. WORLD SETS AN EXAMPLE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. GUNDERSON. Mr. Speaker, in these times of tight Federal budgets, it is encouraging to see examples of private sector initiatives that seek to help solve some of the Nation's problems, particularly in the field of education.

As a member of the House Education and Labor Committee, I was pleased to read recently that Citibank has initiated a major program to improve geography education by providing a grant to the National Geographic Society for its "Mr. World" project.

David Finn, chairman and CEO of Ruder Finn, Inc., wrote about the project in the January 21, 1991, issue of Marketing News. Mr. Finn's public relations firm worked with Citibank in developing the initiative, now in its second year.

The program includes distribution of a school kit developed as part of National Geography Awareness Week as well as a tour by "Mr. World" of schools across the country to help teach geography.

I commend Citibank for this initiative and submit the entire article for the benefit of my colleagues:

SCHOOL-BASED MARKETING PROGRAM MAKES A WORLD OF DIFFERENCE

Ever since the 1983 landmark publication of a Nation at Risk by the National Commission on Excellence in Education—which pointed out that the U.S. was facing a major crisis in its schools—more companies have devoted funds to constructive and creative local and national educational programs.

Some have been focused on employees: to overcome illiteracy and achieve greater quality performance at the workplace, to broaden personal horizons as a step toward advancement, and to make it possible for sons and daughters of employees to seek higher education.

Other efforts have concentrated on communities in which there are company facilities; these take the form of adopt-a-school programs, grants for innovative projects, and working with political leaders to gain support for expanded educational appropriations. Still others have provided prizes for excellence in subjects such as science studies and writing.

Recently, some companies have discovered that their contributions to education not only help society but also gain visibility for their products and services. Some school-based marketing programs are winning kudos from the educational community because of their imaginative approach to teaching. And, although they are often conducted on a noncommercial, public-service basis, they are proving to be extraordinarily effective in projecting the character and commitment of the sponsoring company to key audiences.

One such program, sponsored by Citibank MasterCard and Visa, is aimed at encouraging the study of geography education in grade schools throughout the country. American children are woefully ignorant of goegraphy; 42 percent of American high school seniors can't name three countries in Africa. This shocking problem carries over to the adult population as well; one out of seven Americans is unable to locate the U.S. on a map!

The Citibank MasterCard and Visa Division of Citicorp decided to do something about it by developing a program that began with a major grant to the National Geographic Society to help sponsor a school kit developed in conjunction with National Geography Awareness Week.

A new dimension was created when Citibank hired "Mr. World" to visit schools and teach geography in a new and creative way. Mr. World, a former teacher and professional storyteller named William Fritzmeier, showed how the teaching of geography can be brought alive for school-age children. He wore a colorful cape embroidered with a

world map and put on a show about geography which incorporated humor and drama.

"Many students think of geography as memorizing state capitals," Mr. World said in describing his approach. "I try to stress that I'm not an encyclopedia. Rather they must learn how to find information and to use their own experience about their own geography and the way it changes and impacts on their world."

In each classroom he visited, he left oversize pages from his "I Love Geography" book, and students were invited to add "geonews" stories about events in their area for inclusion in the book. The results were displayed in a dramatic multimedia presentation at Citibank's New York headquarters.

In 1990, the second year of his travels around the country Mr. World made whirlwind tours to Pittsburgh, Los Angeles, Denver, San Francisco, Atlanta, Washington, D.C. Dallas, Phoenix, Chicago, and New York. In the course of his class visits, he worked with approximately 300 teachers and principals, taught an estimated 8,000 students, and gave out take-home materials for an estimated 12,000 parents.

Each student received a world map and a button highlighting Citibank's sponsorship role. Each classroom received the National Geographic School Kit: an inflatable globe with a Citibank imprint, a laminated world map with Mr. World's tour logo, and a Mr. World poster highlighting tour dates, cities, and Citibank sponsorship.

Mr. World proved to be an extraordinary subject for press interviews. In every city he visited, there was extensive print and broadcast media coverage. These included pre-event publicity, calendar listings for his appearances, PSAs, and extensive newspaper, radio, and TV features based on personal interviews.

In some cities, exhibitions were arranged to coincide with Mr. World's visit and, wherever possible, there were tie-ins with local Citibank facilities. A total of 60,000 National Geographic Society kits were distributed.

Citibank MasterCard and Visa was credited as the sponsor in all of the publicity as well as in the school appearances. And to top it all, the company described the program in an insert that went out to its 26 million cardholders with their monthly statements.

Thus, the cardholders as well as employees and shareholders could feel a part of a remarkably creative and successful program sponsored by the company to bring geography home to the children of America.

ONE OF A VERY SPECIAL KIND—EUNICE K. BAREHAM

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. VANDER JAGT. Mr. Speaker, as the year 1990 drew to a close Eunice K. Barehamn, treasurer of Ottawa County, MI, in the Ninth Congressional District completed 20 years of service as the elected chief financial officer of the county. It is worth recognizing this record of service since she was reelected and serves as the first and only women to hold that job in the county. Eunice Bareham is an outstanding example of a dedicated public servant and involved member of her community.

As a public servant, Eunice Bareham has served the public on the county board of commissioners, rising to the position of vice chairman, and finance chairman. She served on the county allocation board, the mental health board, and the jury board. Her community service includes participation in PTA school activities, leadership of millage and bond efforts for the Spring Lake Board of Education, and involvement in the Spring Lake Education Foundation.

The Michigan and Ninth District Republican Party has also benefited from Eunice's public spiritedness. For nearly 40 years she has dedicated herself to the support of Republican efforts and has served at all levels of party activities, including the county and State executive committees and as a delegate to a national convention. I am fortunate to count her as a dear friend.

At the State level, Eunice currently serves on the Mackinac Bridge Authority, responsible for the administration and operation of the vital physical link between the upper and lower peninsulas of the great State of Michigan. Since 1989 she has distinguished herself in her service on the authority.

A while ago, in the Grand Haven Tribune, an article outlined Eunice's story—and her dedication to public service. As the article ends, Eunice notes that "I want to be involved." Eunice is involved, and I offer her story as an example to my colleagues of a public-spirited, involved, and dedicated woman:

MILLIONS PASS THROUGH HER HANDS—EUNICE K. BAREHAM, OTTAWA COUNTY TREASURER

(By Martin Visser)

Whether it's buying a new dog license or making a connection to the top members of the state Republican Party, Ottawa County Treasurer Eunice Bareham is the person to see.

And despite the fact that she has been one of the most influential people in county politics for the past 20 years, be assured this small, gaily talkative woman will treat your matter with the same level of courtesy and importance as any other.

"As I say to the people in my office, we do not sell widgets or produce anything," Bareham said. "We're a service organization, and it's our job to serve the people of this county. We can't afford to put anyone down."

Bareham, 62, has held the elected position of county treasurer since 1980, and yes, she does intend to seek re-election in November to her third term for the job. In her position, she is responsible for collecting more than $195 million per year (1987 figures) in taxes, grants and other revenues. She also oversees the daily investment of those funds and last year brought in more than $2.5 million for the county.

But Bareham, who was the first woman to ever hold the treasurer job, is much more than the county numbers cruncher. Indeed, for the past 25 years, she has either been in the spotlight of Republican Party politics or has been a key Republican player behind the scenes. Those partisan activities have included everything from ringing doorbells for candidates to serving as the Republican County chairman during the years Gerald R. Ford was president.

"During the 1970s, there were a lot of calls from the White House," she said.

Locally, Bareham is probably best remembered as the former Ottawa County commissioner, a position she held from 1972–78. During that time, she served as vice-chairman and chairman of the county's Influential Finance Committee and served as county representative on Mental Health and Child and Family services among other positions. She is also an active member of St. John's Episcopal Church in Grand Haven and has served as the president of the church vestry.

But while some may see Bareham as a pioneering female, especially in the world of politics, this mother of four and widow talks about it only as an interesting aside. She acknowledges she was the first woman to take on some of the jobs she has had, but she noted being a woman has seldom kept her from moving ahead with the task at hand.

"I think it's harder for women to (work effectively) because they are the new kids on the block. But it has never bothered me," she said. "I have been in politics since high school.

"I don't feel I'm in a man's role," she added. "I'm in a role I'm qualified for."

However, Bareham does admit to at least one time in her life when she took a back seat to a man. Following World War II—having left her job at the Pentagon working in the signal corps under Gen. Dwight Eisenhower—she dropped out of the nursing program at the University of Michigan to help her husband Robert complete his education at William & Mary College.

Robert eventually got a job as an engineer at Keller Tool (later Gardner-Denver) in Grand Haven. During that time, Eunice had twin boys, Robert and Bruce, and while raising those two, also kept active in the Republican party by campaigning for local Republican politicians. Most of the work available for women in those days she said, was ringing doorbells in the local neighborhood.

"We did a lot of volunteer work for the party, but it was unheard of for a woman to work full-time," she said. "We did most of the door to door work."

One of the candidates she helped get elected was Congressman Ford, who represented the Tri-Cities among other areas then.

"When I came on board in 1951, one of the first people I met was Jerry Ford," she said. "We have been good friends ever since then."

One of the turning points in Bareham's career, and some ways the impetus behind her seeking public office, was the death of her husband Robert Bareham in 1971. After he died, Eunice, who had always been involved in politics, jumped into the fray nearly full-time.

When Bob died, I got involved in the area I loved the most: "Government and politics," Bareham said. "Would I have done that if my husband hadn't died? probably not," she added, "but it was a natural thing to do at the time."

The list of activities where Bareham has been involved goes on, including Spring Lake and Grand Haven politics. But Bareham does not quickly trumpet her own accomplishments, nor is it her style to use her elected position as a platform for airing other issues. Aside from an occasional comment at a county board of commission meeting, Bareham maintains a low profile on public policy, something which is often difficult to do in the often fractious environment of county and state politics.

"I have tried to be low key as a treasurer," she said. "I think you can catch more flies with honey than with vinegar, and I don't mean that as a mean statement. You can go about doing something in different ways.

Bareham, who has lived in Ottawa County for more than 35 years, said she will continue

to be active in local politics or, turning from that, will take on a new project. Not being involved with people at some level does not seem to be an option.

"Could I go back to coffee klatches? I doubt it" Bareham said. "I don't think I could feel comfortable just sitting. I would want to be involved."

CUT TAXES TO STIMULATE ECONOMIC GROWTH

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. DUNCAN. Mr. Speaker, last year this Congress passed the largest tax increase in history. However, this year's budget deficit is estimated to be even higher.

Now, we are in the midst of a recession that is straining the economy and casting shadows on the coming months' prospects for growth and recovery.

We make a serious mistake when we think that a tax increase will solve our budgetary woes or stimulate the economy.

During the 1980's, our Nation experienced a strong, steady economic expansion. The key to this growth was a much needed and healthy cut in income tax rates and in capital gains taxes.

The Wall Street Journal on May 7 reported on this phenomenon. I urge my colleagues to read this interesting article by Alan Reynolds:

REAGANS'S AWESOME ECONOMIC BOOM

(By Alan Reynolds)

The 92-month economic expansion that began in November 1982 and ended July 1990 was 3½ times as long as the average peacetime expansion since 1991, and second only to the record of 106 months in 1961–69. Such an exceptionally long period of rising output and employment left the country with enormous cumulative gains that will be barely dented by what appears to be a mild downturn.

From trough to peak, read GNP rose 32 percent, or 4.2 percent per year. That means the entire U.S. economy, including government, grew by nearly one-third in fewer than nine years. The output of nonfinancial corporations grew even faster, by 38.6 percent over nine years—an annual rate of 5 percent.

NO DEINDUSTRIALIZATION

The Federal Reserve's index of manufacturing production grew faster still—by 6.3 percent a year—yielding an awesome total increase of 48.3 percent. All the talk about the "deindustrialization of America" turns out to have been not only false but ludicrous. The near-doubling of exports, in real terms, over those nine years is equally at odds with conventional unwisdom about an alleged loss of "competitiveness." Indeed, it is quite unlikely that exports have peaked, even now.

What happened to investment is more controversial. Total private investment was up more than 71 percent, despite early cutbacks in housing and nonresidential construction. Producers' durable equipment, which studies by Larry Summers and others have shown to be particularly vital to economic growth, was up 76.3 percent.

To make such a big number look small, some economists would have us believe that most of the increased investment was eaten away by depreciation, leaving little improvement in the "net" capital stock. There are complex conceptual and measurement problems with that argument. The quality of capital equipment, for example, cannot be measured by the number of dollars spent. Replacing a depreciated electric typewriter with a similarly priced computer may not add a dollar to "net investment," but it certainly generates more valuable goods and services.

The evidence contradicts the pessimistic claim that the investment boom yielded little "net" improvement in the nation's captial stock. Since manufacturing output rose by more than 48 percent, and exports by nearly 93 percent, there must have been substantial investments in added capacity to generate all that added production. U.S. production of business equipment last September was nearly 76 percent higher than it had been in 1983, and imports of capital goods have exceeded imports of consumer goods since 1987. It surpasses credibility to believe that most of the new machinery that was produced or imported in recent years is now all worn out, or "depreciated," leaving little "net" improvement.

Farm income is not included in the graph, because farming does not simply follow the overall ups and downs of the overall economy. The trough for farmers was 1983, not 1982, and the most recent peak appears to have been in the first quarter of last year, dipping slightly since then. In the first quarter of 1990, real net farm income was up 188 percent from the deeply depressed average of 1983, but also up 125 percent from 1980.

Government certainly grew too. However, like farming, the timing of government activities does not quite match the overall cycle. Measured in constant 1982 dollars, federal tax receipts soared by 36.8 percent between fiscal 1983 and fiscal 1989. So much for the canard that lower tax rates starved the central government. Purchases by state and local governments grew by 30.2 percent. Before last year's increases in federal and state taxes, real after-tax income per person (which had risen only 7.5 percent from 1973 through 1980) had risen by 19.2 percent from 1980 through the first quarter of 1990.

Another statistic that tracks a different cycle is labor productivity. Indeed, productivity rose during 1981–82, as it did in previous recessions and will again this year. When productivity in nonfinancial corporate business reached it characteristically early cycle peak, at the end of 1988, it was up 14.1 percent from 1980. When considered alongside the huge and important increase in employment of millions of less-skilled new workers, the combination of a 25 percent increase in hours of work, plus more output per hour, was really quite an achievement.

A unique feature of this expansion was the enormous growth of small entrepreneurial ventures, indicated by an increase of nearly two-thirds in the real income of nonfarm proprietors. It is difficult to imagine this burst of individual creativity and enterprise occurring were it not for the sharp reduction in marginal tax rates on individual income and, until 1987, on capital gains.

The unusually rapid increase in the number of people seeking and finding jobs is likewise surely attributable to the improvement in after-tax rewards. The percentage of the working-age population with jobs had hovered around 58 percent—59 percent from 1966 to 1983. It soared to 63.4 percent by early 1990. Back in 1980, the Labor Department's intermediate projection was that the civilian labor force would be 119.3 million in 1990. The actual labor force turned out to be 124.8 million, 4.6 percent higher than expected. Despite this unexpected surge in the number of eager job seekers, the unemployment rate is lower today—in the middle of a recession—than it was in all but two of the years from 1975 through 1986.

There were 19.3 million more people working at the peak of the job cycle than at the end of 1982, an increase of 19.5 percent. And nearly all of these added workers are still working, despite the recession. Hours of work rose even more than the number of jobs, by 25.3 percent, as more people became willing to work overtime, or as self-employed proprietors, or at second jobs.

Those who spent the past decade telling us that "Reaganomics" could not possibly succeed are still mystified by what happened, so they employ remarkable ingenuity and self-deception in trying to deny that it happened at all. Even now, we still hear such critics leaning on such elementary fallacies as complaining about the increase in household debts, while ignoring altogether the larger increase in both real and financial assets.

There are several statistical tricks favored by those who search in vain for ways to denigrate what was obviously the second longest and strongest expansion on record. The most common device is to compare 1980–89 with 1970–79, since the 1980s (unlike the 1970s) began with three tough years, as we wrestled with runaway inflation and brutal taxation. Even if we switch to 1980 as a base for comparison, though, real GNP had nonetheless increased 30.8 percent by the third quarter of 1990, and manufacturing output was still up by 41 percent. No amount of statistical gamesmanship can make gains of that magnitude disappear.

MORE REAL OUTPUT

Another common trick is compare annual rates of change with previous, much shorter, cycles—as though the durability of an expansion makes no difference whatsoever. The inflationary 36-month 1971–73 expansion, and the similar 58-month 1975–80 expansion, did indeed show rapid annual rates of increase in certain data—especially prices and inventories. But a 4.2 percent rate of economic growth over 92 months adds up to a lot more real output, income and accumulated wealth than any conceivable rate of growth over 36 or 58 months.

Facts are often politically inconvenient, but the facts about this expansion just won't go away. Call it dumb luck or smart policies, the prolonged U.S.-led expansion of 1983–90 must go down in the history books as one of the most impressive economic performances on record.

Trough to Peak

Increases in real U.S. economic activity from the fourth quarter of 1982 to July 1990:	*Percent*
Exports	92.6
Business equipment	76.4
Nonfarm proprietors	65.4
Manufacturing output	48.3
Nonfinancial GDP	38.6
GNP	32.0
Employment	19.5
Per-Capita net income	18.8

Source: Hudson Institute.

RESOLUTION TO PROTECT THE AMAZON RAIN FOREST

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. WOLF. Mr. Speaker, today I am reintroducing a foreign policy joint resolution calling for the United States to support and encourage conservation efforts in the Amazon Rain Forest. This legislation was passed with overwhelming bipartisan support in the 101st Congress, attracting 123 cosponsors, including 27 members of the House Foreign Affairs Committee.

This legislation also has the support of the U.S. State Department, and the endorsement of two leading environmental groups, the World Wildlife Fund and Conservation International.

I would also like to recognize Foreign Affairs Committee Chairman DANTE FASCELL and ranking Republican WILLIAM BROOMFIELD for their support on the legislation last year, and for joining again this Congress as original cosponsors of the resolution.

Recently, you may have seen reports in the news which indicate that rain forest destruction has sharply declined in the Brazilian Amazon. The New York Times reported that Brazilian farmers and ranchers burned 27 percent less forest in 1990 than in 1989, according to a study by the National Space Research Institute. This decline spared an expanse of rain forest the size of Delaware.

Brazil has taken positive steps to help reduce rain forest destruction in the Amazon, and it is vitally important that the United States now look for ways to help our friend Brazil save the precious Amazon rain forest. Nowhere on Earth is the abundance of plant and animal life more vividly displayed than in the Amazon. Home to more types of fish than in all the European rivers, more bird species than in all the forests of North America, and plant life which has produced startling advances in medical science, the Amazon Rain Forest has a unique and critical role in the Earth's environmental stability.

I urge all my colleagues to lend support to this legislation, and send a clear signal throughout our country, to our friend Brazil, and to the entire world, that the United States stands ready to build on and continue the encouraging conservation efforts in the Amazon Rain Forest:

H.J. RES. —

Whereas the Federal Republic of Brazil is a longstanding friend of the United States, being our most populous neighbor in the Western Hemisphere, and a trading partner with whom we have conducted over $10,000,000,000 of trade per year;

Whereas Brazil possesses within its borders over six hundred million acres of one of the greatest natural resources on Earth, the vast forest of the Amazon, comprising 30 percent of the world's tropical forests, 18 percent of the world's fresh river water, and the habitat of approximately 30 percent of all life species, including more species of primates, flowering plants, and psittacine birds than are found in any other nation;

Whereas this great resource is indisputably under the sovereign authority of Brazil, and any suggestion to subject the Amazon to international control or in any way diminish Brazil's sovereign authority over it should be condemned as inappropriate;

Whereas the conservation and preservation of its Amazon forest is ultimately the responsibility of Brazil and it is developing a body of environmental law and has included in its new constitution a strong commitment to environment protection;

Whereas the increasingly large and accurate body of scientific knowledge regarding the greenhouse effect has demonstrated that the environmental degradation of Amazonia makes a significant contribution to the greenhouse effect;

Whereas the environmental degradation of Amazonia results in a loss of genetic resources found in its rich biological diversity, degradation of soil quality, erosion, and accelerated siltation of waterways;

Whereas such environmental degradation jeopardizes the renewable nature of Amazonia natural resources;

Whereas the United States supports the sustainable economic development of all tropical nations, including Brazil, for humanitarian, political, economic, and environmental reasons, and, to a great extent, the development of these nations depends on increasing production from their potentially renewable soil, forest, and water resources in an environmentally sound manner; and

Whereas the United States has historically faced, and continues to face, many environmental problems of its own, resulting in a wealth of technology and experience useful to sustainable development and environmental protection: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) it is the policy of the United States to unequivocally recognize Brazil's sovereign authority in the Amazon, rejecting any suggestion of international control or foreign domination over the area;

(2) where appropriate, the United States should adopt a policy to encourage and support conservation efforts initiated by Brazil to protect the Amazon forest and should be open and willing to respond positively, through means such as technical assistance, international financing coupled with environmental assessments, and various mechanisms to reduce unsound development of the Amazon forest which is a result of economic and social factors; and

(3) the United States should redouble its efforts to address development within its own borders in an environmentally sound and sustainable manner.

EXPANDING INDIVIDUAL RETIREMENT ACCOUNTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 8, 1991 into the CONGRESSIONAL RECORD:

EXPANDING INDIVIDUAL RETIREMENT ACCOUNTS

The Congress is giving increased attention to plans to expand Individual Retirement Accounts (IRAs). These tax-deductible savings accounts were popular in the early 1980s, with more than 15 million Americans contributing to them annually, but the 1986 Tax Reform Act sharply reduced the appeal of IRAs. New efforts to expand them are picking up steam on Capitol Hill, with more than three-fourths of the Senate signed on as cosponsors of a recent IRA bill.

HISTORY OF IRAS

IRAs were first authorized by the Congress in the mid-1970s for employees not covered by pension plans, and were expanded to all working Americans in 1982. Earners were allowed to make tax deductible IRA contributions of up to $2,000 per year. The IRA funds would grow tax-free, though they would be subject to taxation when withdrawn during retirement years. In 1986 the law was changed to allow full IRA deductibility only for individuals not covered by employer pension plans or for individuals with adjusted gross income less than $25,000 and married couples with income less than $40,000. Over the next $10,000 of income the deduction is totally phased out. Others could contribute to their IRAs and the funds would still be allowed to accumulate tax free, but the initial contribution would no longer be tax deductible. These changes, made as part of the tax reform package lowering overall tax rates, sharply reduced taxpayer interest in IRAs. The number of people contributing to IRAs fell from 16.4 million in 1985 to 7.4 million in 1987, and the money flowing in dropped from $38 billion to $14 billion.

One of the main ideas behind IRAs is that the federal government should encourage individuals to save more in order to boost our national savings rate. National savings, made up of government, business, and individual savings, creates the pools of capital available for productive investment and economic growth. Americans save far less than their German and Japanese counterparts—saving less than 5 cents of every dollar they earned in 1990 compared to 16 cents by the Japanese and 11 cents by the Germans. The U.S. net national savings rate dropped 25 percent in the 1980s. Economists say that our low savings rate is one of the major problems facing the American economy. It needs to be addressed.

NEW PROPOSAL

The latest plan to expand IRAs would again allow all taxpayers to have deductible IRAs (up to $2000 per year). It would allow contributors the option of putting their money into a new type of IRA, called a Super IRA, in which initial contributions would be taxed, interest and dividends would accumulate tax-free over the years (as before), but the funds held in the IRA for at least five years could be withdrawn tax-free. A problem with past IRA plans is that many people were finding that they were paying heavy taxes on the IRA money they were withdrawing upon retirement. The plan would also waive the early withdrawal penalty from IRAs if the funds are used to purchase a first home, pay higher education expenses, or pay major medical expenses. Currently there is usually a 10 percent penalty if IRA funds are withdrawn for any purpose before age 59½, which has helped keep down participation in the program.

ASSESSMENT

The new IRA plan has the benefit of being familiar to most Americans, and it should prove popular with those saving for college or other major expenses. The Super IRA should provide a greater return on investment at retirement than the traditional IRA. The plan overall would likely give a much needed boost to the personal savings rate.

At the same time, various concerns have been expressed about the new proposal. First, much of the benefit goes to those in higher income brackets. Second, some IRA contributions would no doubt be shifted from other savings accounts, rather than be new savings. Third, the U.S. savings rate might improve somewhat on its own through demographic factors—as the babyboomers move from their prime consumption years (when they buy their homes, for example) into their prime saving years (when they save for their children's education and for their own retirement). Fourth, some question allowing IRAs to be used to pay for college, new homes, and medical expenses. It is not clear that IRAs are the most efficient way of doing this, since the greatest tax benefit goes to the wealthy, with little or no benefit to low-income people; moreover, allowing IRAs to be used for other purposes will mean less funds left for retirement, the original purpose of the accounts. Finally, the quickest way for the federal government to boost national savings is to cut the federal deficit, but given the record of recent years we should not be overly optimistic about that prospect.

Yet the main question is how to pay for the new IRA plan. Under the 1990 deficit reduction law, any new tax break must be revenue neutral and financed on a pay-as-you-go basis; the revenue it would lose over five years would have to be offset by increased revenue elsewhere. Critics claim the new IRA plan could cost the U.S. Treasury up to $25 billion over five years. The large possible cost is the main reason President Bush has not supported the new plan.

The projected costs could be offset somewhat, for example by allowing people to shift their old IRA money into Super IRAs by paying a tax on it. Moreover, if the IRAs work as planned, producing a significant jump in new savings, that should help spur new productive investment, which in turn should eventually boost economic growth and generate more federal revenues. However, most observers expect the new plan to be a revenue-loser, so the major challenge facing proponents is to find reasonable offsetting cuts. The tax code certainly subsidizes less productive things than individual savings, so some acceptable trade-offs might be found.

I intend to support efforts to expand IRAs that find reasonable trade-offs—changes in the tax code that fully offset the cost of the expanded IRAs, spread out the cost burden as much as possible, and do not have the net effect of giving additional tax breaks to better-off Americans at the expense of everyone else.

NATIONAL LIBRARY WEEK

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mrs. PATTERSON. Mr. Speaker, today, I am pleased to join many of my colleagues in observing "National Library Week."

As we all know, one of the most serious problems facing this country today is illiteracy. The most recent statistics show that one out of five Americans has inadequate reading, writing, and mathematics skills.

In my own State of South Carolina, it has been estimated that 25 percent of the population is considered functionally illiterate. This percentage is higher than the national average.

With the help of Library Services and Construction Act [LSCA] funding, libraries in South Carolina have been actively involved in the fight against illiteracy. In my district, the Spartanburg County Library has developed a model program using LSCA funds to train volunteer tutors at the library and to use the library to publicize literacy-related services in the community. Another library in my district, the Greenville County Library, recently received a LSCA grant to assist with the development of a collection of close captioned videos which will aid illiterate adults in learning to read.

Mr. Speaker, I am pleased to have an opportunity to join the gentleman from New York in recognizing the contributions of our Nation's libraries to eradicate illiteracy and the Library Services and Construction Act funds which are vital to the continuation of these efforts.

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. RANGEL. Mr. Speaker, I am honored to call your attention to a happy anniversary. This month marks the 125th year of the noble work of the American Society for the Prevention of Cruelty to Animals.

The ASPCA was born in the 19th century, in a society that knew little kindness to animals. Blood sports like dogfighting and bearbaiting were popular. Sheep, calves, cows, and pigs were hauled to market in an agony of broken legs and gouged eyes. Horses were regularly lashed, beaten, and clubbed.

Into this brutal climate stepped Henry Bergh. A strong-willed and compassionate New Yorker, Henry Bergh resigned an important post in President Lincoln's government to combat cruelty to animals. Lobbying his friends in New York State and city government, Henry Bergh eventually won a charter for the organization he would lead for 22 years—the American Society for the Prevention of Cruelty to Animals.

Since its founding on April 10, 1886, the ASPCA has led the struggle for humane treatment of animals. Only 9 days after its creation, the ASPCA sought and won passage of the Nation's first anticruelty law, prohibiting the neglect, injury or killing of any animal in New York State.

Since then, the ASPCA has played an instrumental role in protecting animals in the United States and throughout the world. In the last decade alone, the ASPCA spent almost $100 million on direct care and advocacy programs for animals, sheltered over 1 million animals, and gave veterinary care to over 300,000 animals. Comprising over 350,000 members, the ASPCA actively educates millions of Americans from coast to coast about humane stewardship of animals.

Yet, sadly, Mr. Speaker, the work of the ASPCA is far from finished. As we in Congress well know, animals continue to suffer abuses at human hands. In response, the ASPCA and other American animal protection organizations have issued a series of resolutions on animal care for the next decade. I submit these joint resolutions for the careful consideration of the House.

New York City, I am proud to conclude, continues its original commitment to the humane care of animals. The national headquarters of the ASPCA, which features an adoption center, animal hospital, and animal center, is located in my congressional district, the 16th of New York. Mr. Speaker, I congratulate the ASPCA on 125 years of eminent work in animal rights and wish it further success in the next 125.

JOINT RESOLUTIONS FOR THE 1990S BY AMERICAN ANIMAL PROTECTION ORGANIZATIONS

INTRODUCTION

In order to establish the 1990s as a decade of rapid progress in diminishing the pain and suffering that billions of animals experience each year in laboratories, on farms, in the wild, as pets, in sports and entertainment, in exhibits and work situations, the undersigned humane organizations, representing millions of concerned American citizens have adopted the following Resolutions to promote and guide both individual and joint efforts on behalf of these animals who are so much in need of our immediate and compassionate care and protection.

NONVIOLENCE

Whereas the foundation of the animal protection movement is that it is wrong to harm others; and

Whereas threats and acts of violence against people and willful destruction and theft of property have been associated with the animal protection movement; therefore be it

Resolved that we oppose threats and acts of violence against people and willful destruction and theft of property.

Resolved that we shall energetically work to reduce, as rapidly as possible, the massive pain and suffering of billions of animals through non-violent means.

LABORATORY ANIMALS

Whereas millions of animals are confined and subjected to experimentation and testing in research, testing and educational facilities each year; and

Whereas current laws and regulations do not require or actively encourage corporations and institutions to reduce animal use, pain or suffering, nor develop and implement alternatives; and

Whereas many corporations and institutions continue to perform the classic Lethal Dose 50% test (LD50), the Draize test, and other needless and outdated tests which cause suffering and death to millions of laboratory animals; and

Whereas the United States Food & Drug Administration has stated that it does not require use of the classic LD50 test but has not stated which tests it would find acceptable in lieu of the classic LD50; and

Support efforts to make institutional animal care and use procedures (protocols) and the minutes of institutional animal care and use committee meetings available to the public.

FARM ANIMALS

Whereas billions of farm animals are raised each year using intensive production systems; and

Whereas the conditions under which farm animals are raised frequently do not meet

the animals' basic physical and behavioral needs; and

Whereas frequently the confinement systems used for raising farm animals necessitate the routine use of sub-therapeutic doses of antibiotics and other drugs; and

Whereas antibiotic and other drug residues in meat and dairy products raise public health concerns; and

Whereas Sweden and other western European countries have enacted laws and regulations to provide farm animals with an environment in which their natural behavior is considered, and in which husbandry practices are designed to safeguard animal health and well-being; and

Whereas there are no laws and regulations in the United States which specifically define standards for the raising of animals for food; therefore, be it

Resolved that we shall work together to secure enactment of legislation that requires the basic behavioral and physical needs of farm animals be met, so that America's farm animals are assured the following minimum standards: the freedom to be able to stand up, lie down, extend their limbs or spread their wings, and make other normal postural adjustments; an adequate supply of nutritious food; adequate veterinary care; and an environment that suits their physical and behavioral requirements.

Resolved that we shall work together to eliminate, where applicable, state legislation which exempts animals used for food from the protection of anti-cruelty statutes, as regards husbandry practices.

Resolved that to facilitate the establishment and passage of such legislative efforts, we shall encourage state and federal bodies to study alternative systems used in other countries as well as existing practices in the United States.

Whereas commercial and recreational trapping results in cruel and brutal destruction or injury to millions of pets and other non-target animals each year; and

Whereas the world's tuna industry, in the course of fishing with purse seine nets, knowingly kills tens of thousands of dolphins annually; and

Whereas some commercial fishermen engage in particularly cruel practices such as the use of drift nets which indiscriminately kill hundreds of thousands of dolphins, sea birds, turtles and other animals each year; therefore, be it

Resolved that we shall work together to educate the public about the cruelty involved with the trapping, raising and hunting of animals for their fur, and to urge the public not to purchase or wear fur.

Resolved that we shall work together in an effort to enact laws to ban particularly cruel practices associated with the capture and raising of animals for their fur such as, but not limited to, the use of steel jaw leghold traps.

Resolved that we shall work together to secure the passage of laws to prohibit particularly cruel hunting practices and activities.

Resolved that we shall work together to secure passage of a law to prohibit sport hunting and trapping on national wildlife refuges.

Resolved that we shall work together to require local and federal wildlife agencies to develop and promote programs to curb overpopulation of wildlife through means which do not involve the killing of animals.

Resolved that we shall work together to ensure that species are appropriately designated as threatened or endangered and receive the protection afforded under federal laws and international treaties.

Resolved that we shall work together to secure a ban on the indiscriminate use of drift and purse seine nets.

Resolved that we shall work together to secure passage of legislation and regulations to end the slaughter of dolphins by the tuna industry; and to urge the public not to purchase tuna products derived from fishing practices that result in the death of dolphins.

EXHIBITION/WORK ANIMALS

Whereas millions of animals are used in circuses, zoos, carnivals, rodeos, races, films, videos and in other animal acts, exhibits and work, and

Whereas these animals often are made to perform in ways that are both dangerous and unnatural for their species, and

Whereas the behavioral and physical needs of these animals often are not adequately provided for, and

Whereas the training practices that animals are subjected to are often abusive, and

Whereas some animals are captured from their natural habitats for the sole purpose of putting them on public display; and

Whereas the confinement of animals in zoos, roadside zoos, and menageries results in indiscriminate breeding and production of large numbers of captive animals which are often subject to cruel and abusive treatment and disposal; therefore, be it

Resolved that we shall work together to secure the enactment of laws to prohibit abusive training practices, to prohibit practices that are dangerous to the animals, to prohibit the capture of animals in the wild to be used for exhibition or work purposes, to limit the breeding of captive, wild animals and to prohibit their cruel disposition and to require that the behavioral and physical needs of exhibition/work animals be considered.

Resolved that we shall work together to secure greater enforcement of laws and regulations which provide protection to animals used for exhibition/work purposes.

THE INAUGURAL ADDRESS OF RICHARD M. DALEY, MAYOR OF THE CITY OF CHICAGO

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. ROSTENKOWSKI. Mr. Speaker, on Monday, May 6, 1991, I had both the honor and the pleasure to be present at the second inaugural of my good friend Mayor Richard M. Daley at the Navy Pier in Chicago.

Mayor Daley, over the past 2 years has brought to the city of Chicago a sense of stability and direction. If any one accomplishment stands out is the sense of community and cooperation that he has generated in these 2 years.

Now, as he embarks upon a full 4-year term as mayor, he has put forth a program that is both comprehensive and innovative. No other local official has been more forthcoming in his commitment to improving education, law enforcement, and public service—and to utilize every available resource to the benefit of the people of Chicago.

Mr. Speaker, I insert the remainder of Mayor Daley's address at his Monday, May 6, 1991, inaugural:

INAUGURATION SPEECH BY MAYOR RICHARD M. DALEY

It's customary, at occasions like this, to emphasize the positive. And no one feels more strongly than I about Chicago and the special character of its people. Since the beginning of our history, Chicago has weathered trials and setbacks that would have overwhelmed lesser communities. And in the past two years, we've demonstrated our strength again by overcoming the divisiveness that stood in the way of progress. Working together, we have moved forward.

Today, Chicago remains strong and viable at a time when other cities are threatened with bankruptcy, cuts in basic services and endless strife. But this should not simply be a day of back-patting and congratulations, nor a time to rest on our laurels. This should be a day of renewed commitment. Because we're still facing serious challenges that seem to grow in number with each passing day.

From crime and drugs on our streets, to failure in our schools, to economic decay, cities everywhere are under siege. And Chicago is not immune. But my greatest concern is not the problems we face. It's our willingness to confront them. The most powerful force in government is inertia, and it's the one thing Chicago can least afford. Because to stand still today, with all the challenges we face—is to fall behind. Our problems are more complex, and our financial resources more limited, than at any time in recent history.

We will continue to fight in Washington, D.C. and Springfield for every available dollar. And we will send a strong message to the federal and state governments that they cannot solve their fiscal problems by shifting their responsibilities to the people of Chicago and other cities. Still, it's clear that there is no pot of gold at the end of the rainbow to solve all of our problems. Chicago's future depends on our ability to find new and efficient ways to get things done. This process won't please everyone. Change never does. But we should never forget that our mission is to serve people, not to perpetuate needless bureaucracy.

That lesson is important, not just for city government, but for the local agencies beyond our direct control who, too often, seem unaccountable. We've scored dozens of victories over waste and inefficiency in city government over the past two years. And we're just beginning. My goal in the next four years is to mold a government that is smaller in size, but greater in performance. And those who manage our schools, our parks and our transit system must do the same, or these vital services will collapse under the weight of their financial problems.

As for the city departments—which are under my control—I'll continue to search for every available avenue to save money and improve services. What works, we will keep. What doesn't work, we will scrap. That process will soon begin in the police department, where a panel of outside experts will evaluate operations to see how we might save both money and lives. But with drugs and guns overwhelming the system, a bureaucratic overhaul alone will not solve the current crime epidemic. And here, we do need help from Washington and Springfield.

I've said it before and I'll say it again: Drugs are a national plague. They breed crime. They destroy lives and communities.

The seeds of violence are being distributed on our streets each day. Huge sums of money are rewarding the drug traders and, too often, corrupting the system. And we can not truly attack the problem unless and until the federal government cuts off the drug pipeline at America's borders. Now that we've freed Kuwait, it's time we bring the same level of commitment to the liberation of Lawndale and Pilsen and every community that today held hostage to drug-related crime. And we also have to liberate ourselves from the power of the national gun lobby.

I strongly support the Brady bill, the seven-day waiting period for the purchase of handguns. We have our own bills in Springfield to increase penalties for gun crimes. But these are modest steps. With blood running in America's streets, it's time to seriously consider a total ban on the manufacture and sale of handguns in this country. It's a drastic measure. But with handguns becoming a leading cause of death in our communities, we need drastic action.

Whatever steps we take, we must be prepared for a long and difficult battle to reclaim our streets and our children from the gangs and the drug dealers. The battle for our children also extends to another front, and that is the continuing crisis in our public schools. The creation of local school councils was a step in the right direction, and many of these councils are waging a valiant struggle to redeem education in their communities. But there are miles to go. And with each passing year, thousands more young Chicagoans are doomed to a life of ignorance and failure.

Many are not being equipped with the skills and training they need to win and hold the jobs of the future. They are being warehoused and forgotten, often in schools that are crumbling. So the call for new money to sustain what many see as the same, old system simply will not fly.

The people of Chicago are frustrated. The General Assembly is skeptical. The pace of real reform has been too slow. The school bureaucracy still stands in the way of change, rather than leading it. And the current financial crisis threatens to trigger another round of doubt and fingerpointing, in which the real mission of our schools, and the welfare of our children, are lost. I will not prejudge the debate that is about to unfold in Springfield. But I do know this: Bandaid solutions will not solve the critical problems of Chicago's school system, nor will a quick infusion of cash.

Faced with similar problems, some cities are experimenting with even more dramatic ideas, such as voucher programs, to upgrade their schools. And if we can't break the strangle-hold of bureaucracy and school board politics in Chicago, we may have to take that next step. Because the key to hope for a whole generation of Chicagoans is our ability to improve the quality of education. We want our children prepared for the jobs of the future. And we want to insure that they don't have to move to California to find them. That's why I've been so outspoken on behalf of a second international airport and other projects vital to our future.

There are no quick fix solutions to the economic challenges we face. But the airport would mean 200,000 new jobs for the Chicago-area and the economic revival of a section of our city that badly needs help. I know that this proposal has been controversial. Any proposal of this magnitude ought to provoke discussion. But it would be tragic if, in debating among ourselves, we squandered the opportunity to take this important step for our children.

We will continue to work with the people of the Southeast Side to address their concerns fairly and compassionately. And I urge all political leaders to play a constructive role in that process, instead of jeopardizing the region's future for their own political gain. Another issue that has bogged down in politics is the McCormick Place expansion. Chicago's prominence as a convention center is vital to the entire state of Illinois. But other cities across the nation have caught on to the benefits of the convention trade, and they are hard on our heels.

We must expand McCormick Place or lose our competitive edge in the battle for convention and tourism dollars. We also remain committed to the development of small businesses in our neighborhoods. And it's my hope that in the years to come, we move beyond the false struggle between downtown development and neighborhood development.

We need both. Without thriving communities, Chicago will lose its heart. Without a thriving and prospering downtown, Chicago's economy will wither and die. So let's unite as a city behind essential building blocks such as the new airport, the McCormick Place expansion, and downtown circulator. At the same time, let's continue to build our neighborhoods.

There is much work to be done—work to maintain and enhance all that is right in Chicago. And work to address what is wrong. And in this tough environment, progress most often comes in small but meaningful victories. Two years ago, a pregnant woman in Lawndale would wait up to four-and-a-half months for her first appointment at a city clinic.

Today, thanks to our efforts to cut through red tape and delays, that wait has been reduced to a matter of weeks, and more babies will be born healthy because of it. Two years ago, many of our police were shuffling paper behind desks.

Today, civilians are handling more of the paperwork, freeing the police for duty on our streets. Two years ago, the city lacked a strong commitment to tackle the problems of the homeless.

Today, a one-cent cigarette tax for the homeless is in place, available bed space is up eight percent, and homeless Chicagoans are being referred to private programs that offer help and rehabilitation. Two years ago, abandonded cars littered our communities.

Today, thanks to an innovative partnership with private towing companies, we're removing thousands more cars and earning millions in revenue for the city. Two years ago, the gangs and drug dealers roamed freely in our schools.

Today, there are two uniformed police in every high school, regular meetings between the police commanders and school principles, and spot-checks for weapons. We can't solve every problem overnight, or even in four years. But we can make a difference. And the struggle is not just the responsibility of government. Each and every one of us can make a difference. It's time we acknowledge that government simply can't find or finance all the answers, nor solve every problem. But we can work to promote solutions, in partnership with business and labor, civic and community organizations; religious leaders, foundations and universities. And each of us, as individuals, can help build a better Chicago.

The person who helps a senior citizen across a busy street makes this a better community.

The caller who turns in the local drug dealer makes this a better community.

The men and women who volunteer their time to tutor disadvantaged children make this a better community.

The employer who hires a disabled worker makes this a better community. To preserve what is best about Chicago and improve what is not, we all have to stretch our energies, talents and commitment, as past generations did, in response to the challenges of their day. More than a century ago, Chicagoans rebuilt this city from ashes and rubble. Faced with disaster, Chicago emerged stronger than ever, thanks to a determined people.

Today, the danger is not a great fire, but indifference and conventional thinking in the face of changing times. We either rise to the challenge of these times, or be engulfed—not by flames, but by decay, despair and defeat. I love this city. I love it enough to make the difficult decisions that are right for Chicago's future, not just for the political moment.

Chicago's problems are large, but so is our heart. If you doubt it, consider the history of the pier on which we stand. Left for years to rust and rot, this great resource is undergoing a stunning rebirth many thought would never come. After a decade of discouragement and delay, a renovation has begun that will transform this pier into yet another jewel on Chicago's shining lakefront.

Because we refused to give in . . . because we had a dream and saw it through . . . we will, on this site, leave our children one more lasting asset. Our larger dream is to hand our children at Chicago that has a bright future as well as a glorios past. The truth is that it won't be easy. Results are not guaranteed.

But if we pull together, committed to the goal of a better Chicago rather than simply business-as-usual, we can and will make a difference. And that difference may make it possible for future mayors to stand at this very place, on a refurbished pier, as proud and hopeful as I am today.

Thank you very much.

IN RECOGNITION OF THE MIAMI CHORAL SOCIETY ON THEIR 25TH ANNIVERSARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the Miami Choral Society, which is celebrating its 25th anniversary this year.

Twenty-five years ago, a small group of people gathered in a Miami home to share a love of choral music. From this small beginning, the now nationally recognized Miami Choral Society was formed. Divisions of the choral society have performed for countless civic, convention, and television audiences, including appearances with the Greater Miami Opera, the Philharmonic Orchestra of Florida, Disney World, the NBC Today Show, and the Papal Mass.

The choral society is the umbrella organization for the Miami Girl Choir, which was founded in 1977; the Miami Children's Choir, founded in 1980; and the Miami Youth Choir, founded this year. Under the direction of Music Director Timothy A. Sharp and Associate Music

Director Vanessa Pinto, the staff includes six professional musician/teachers and offers a musical experience for children ages 8 through 16.

Dedicated to excellence in the performance of choral music, the purposes of the society are to provide an opportunity for talented singers to study and perform a variety of choral literature, to bring together people of diverse backgrounds who are unified in the purpose of making music, and to enhance the cultural life of the community through the public performance of choral music. The result is a music organization of high quality that reflects the multiethnic composition of the Greater Miami area with choristers from more than 50 different public, private, and parochial schools.

The society will be celebrating its 25th anniversary by holding a Mozart Festival Spring Concert on May 18, at the Lincoln Theatre on Miami Beach. The honorary chairman for this event is Roberta Rymer Balfe, who has fostered music education for children for 50 years, and the chairman of this important event is Mary Bergman.

I would like to take this opportunity to salute the Miami Choral Society and the many individuals who have kept this important cultural group going, including Executive Director Elizabeth H. Beach, Accompanist Millicent Callobre, President Lucrecia Loumiet, First Vice President Mary Bergman, Second Vice President Pat Parker, Corresponding Secretary Silvia Winitzky, Recording Secretary Vicki Wyman, Treasurer Joelle Cerge, Director Kathleen Abrahams, Director Aruna Airan, Director Suzanne Bognar, Director Marta Fernandez, Director Pilar Forman, Director Dr. Kenneth Knopf, Director Betty Loth, Director Joyce Pippo, Director Carole Polstein, Director Phyllis Stoller, and Director Lourdes Weider.

HONORING QUEENS COUNTY DISTRICT ATTORNEY JOHN J. SANTUCCI

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. MANTON. Mr. Speaker, on Thursday, May 9, 1991, Queens County District Attorney John J. Santucci will be honored at the Queens County Democratic Organization's annual dinner. On June 1, John Santucci will retire after serving more than 15 years as Queens District Attorney.

Mr. Speaker, John has enjoyed a long and distinguished career in public service. In 1968, John was elected to the New York Council where he served until 1968 when he was elected to the New York State Senate. He served in the New York State Senate until 1977 when he became the Queens District Attorney. Queens County will sorely miss this dedicated and hard-working law enforcement officer when he retires next month.

Mr. Speaker, I urge my colleagues to read the following proclamation which will be presented to John Santucci by the Queens County Democratic Organization tomorrow night. I insert the proclamation at this point in the RECORD.

PROCLAMATION

Whereas, John J. Santucci was born on April 2, 1931, in the County of Queens, city and State of New York; and

Whereas, he attended public school in the city of New York, John Adams High School, St. John's College, St. John's University Law School; and

Whereas, he was admitted to practice before the bar of the State of New York, on December 16, 1953, and before the United States Supreme Court on May 27, 1957; and

Whereas, he married the former Edna Ann Hayes on August 28, 1954, and they have six children, Mary L. Scantlebury, Thomas J. Santucci, Esq., John J. Santucci, M.D., Carol A. Santucci, Robert F. Santucci, and Edna A. Masone, and four grandchildren, Gregory and Matthew Masone, John Santucci, and Nicole Santucci; and

Whereas, he entered public service on April 7, 1958 as an assistant district attorney in and for the County of Queens, where he conducted major organized crime investigations and rose to the rank of bureau chief; and

Whereas, he thereafter served with distinction as a member of the New York City Council from 1964 to 1968, where he authored a number of local laws for the benefit of the people of the city of New York; and

Whereas, he served as a member of the New York State Senate, from 1968 to 1977, during which time he sponsored various laws designed to protect the consumer, to provide job opportunities for young people, and to ensure speedy health care for individuals without regard to insurance coverage; and

Whereas, he was appointed district attorney of Queens County by the Governor of the State of New York on January 1, 1977, and was thereafter elected and re-elected to that post in 1977, 1981, 1985 and 1989 with ever-increasing majorities; and

Whereas, in more than fourteen years of service as district attorney, and more than thirty-three years of public service, he served the people of the State of New York with dedication, integrity and innovative and aggressive planning; and

Whereas, as district attorney, he has established outstanding programs for the benefit of the community, to rehabilitate young offenders and to ensure equal-handed justice.

Whereas, he established a "second chance program" for young first offenders, a 24-hour hotline to provide public access, a special victims bureau to deal with domestic and elderly violence, child abuse, rape victims, school teachers and elderly victims of crime. He created a forfeiture bureau to recover the profits of crime from criminals, some of which money was used for addict treatment and rehabilitation, an anti-bias bureau to fight racism and bigotry, a 24-hour homicide bureau to investigate and videotape evidence, an integrity bureau to ensure against public corruption, a forensic bureau to evaluate and prosecute cases against individuals suffering or alleging mental defects, and a "CAPS" program to speed up arraignments of accused individuals and to save valuable police time. He established outstanding relationships with Federal agencies which resulted in the recovery of millions of dollars from various offenders; and

Whereas, during his tenure, the office of the district attorney of Queens County established outstanding records in terms of prosecutions and appropriate sentencing of violent criminals; and

Whereas, he has been honored throughout the years by various civic, business, labor, police and professional organizations, including the bestowal upon him of an honorary doctor of laws degree by St. John's University, the Prime Minister's Medal from the State of Israel, the mayor of New York City's Activist Award, the Distinguished Public Service Award from the Catholic War Veterans, the Meritorious Service Award from the Ministerial Council on Race Relations, and recognition from the National Organization for Victims' Assistance for his meritorious service to the cause of victims' rights.

Whereas, he has otherwise committed himself to public service as a director of the Boy Scouts of America, legislative advisor to the Muscular Dystrophy Association, honorary director of the Multiple Sclerosis Society, and the board of trustees of Jamaica Hospital, and now, therefore, be it

Resolved, That on the occasion of his retirement from the office of district attorney of Queens County, John J. Santucci shall be recognized as having earned the esteem and profound respect of his colleagues and shall hereafter be held in the highest regard by his fellow citizens.

COMMEMORATING NATIONAL SMALL BUSINESS WEEK

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. SARPALIUS. Mr. Speaker, small business has always been an integral and viable force in the makeup of the U.S. economy. As we commemorate National Small Business Week, we realize what an important job generator that small business provides in the United States.

Over the last 20 years, small businesses in the United States produced a disproportionately large share of the Nation's net new jobs since 1970. Of the 4 million enterprises that employ people other than their owners, only 15,500 are large, compared to the 3¼ million that employ fewer than 10 people.

Small business provides other significant benefits for our economy. For instance, by producing a large number of goods and services, small business helps to create wealth, competition, and provide consumers with a wide selection of products and services. The creation of new technologies and innovative methods of production, are many times the result of the work of small business.

Small business also creates a cushion for our economy, this is because of the ability it has to shift resources rapidly from one use to another. Furthermore, small business can provide a sense of identity as well as economic stability, for any individuals willing to put their resources into a small business.

Knowing these incredible benefits of such a valuable component of our economy, it makes sense for Congress to do all in its power to help promote and work for the survival of a strong small business community. In part, the future of a strong U.S. economy depends upon small business.

THE FREEDOM FROM WANT ACT

HON. TONY P. HALL
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. HALL of Ohio. Mr. Speaker, as chairman of the House Select Committee on Hunger, I am today introducing the Freedom From Want Act, landmark omnibus antihunger legislation. I am pleased to be joined in this endeavor by my colleague BILL EMERSON, ranking Republican on the Select Committee.

The Freedom From Want Act is omnibus legislation which combats hunger not only in its immediate symptoms by expanding domestic and international food assistance programs, but at its root causes through innovative domestic antipoverty programs, international human rights policy and U.N. reform. The bill takes its name from President Roosevelt's historic four freedom speech, delivered to a joint session of Congress half a century ago.

Thus far, provisions of the bill are supported by organizations as diverse as Bread for the World, the U.S. Committee for UNICEF, the National Council for International Health, RESULTS, the Food Research and Action Center, InterAction, World Vision, CARE, the International Eye Foundation, the Salvation Army, the U.S. Committee for Refugees, Save the Children, the Friends Committee on National Legislation, the National Association of State Universities and Land-Grant Colleges, Helen Keller International, the Community Nutrition Institute, the Committee on Sustainable Agriculture, and National Association of WIC Directors, and the Center on Budget and Policy Priorities. Grassroots support for the bill is growing. I am confident that the Freedom From Want Act will become the rallying point for a national constituency for solving hunger.

For the benefit of my colleagues, a summary of the Freedom From Want Act follows:

SUMMARY OF THE FREEDOM FROM WANT ACT

TITLE I—DOMESTIC ASSISTANCE PROGRAMS

Part A—Nutrition, Education and Health Care

The bill establishes a five-year program for achieving full participation in the Special Supplemental Food Program for Women, Infants and Children (WIC) by FY '96, specifying increases of: $256 million above the current services level in FY '92; $306 million above the current services level in FY '93; $304 million above the current services level in FY '94; $399 million above the current services level in FY '95; and $397 million above the current services level in FY '96.

The bill proposes funding the Head Start Program at levels adequate to assure the participation of 60 percent of the eligible children in FY '92; 80 percent in FY '93; and 100 percent in FY '94.

The bill increases the existing 56.76 cents per meal reimbursement provided by the U.S. Department of Agriculture for congregate and home-delivered meals under the Older American's Act to 65.66 cents in FY '92. In FY '93 and FY '94, the reimbursement would be adjusted for inflation in accordance with the increase in the Consumer Price Index.

In recognition of the fact that immunization against preventable childhood diseases significantly increases the rate of child survival, the bill requires the Secretary of Health and Human Services to work in consultation with the World Health Organization and the United Nations Children's Fund to establish a Children's Vaccine Initiative. The bill proposes $30 million in FY '92 and $40 million in FY '93 for the purpose of researching, developing, testing, producing and delivering vaccines to prevent infectious diseases among children.

The bill requires that food labeling standards imposed on meat and food products for sale to the general public apply to meat and meat food products distributed by the U.S. Department of Agriculture through domestic commodity food assistance programs.

Part B—Individual Development Account Demonstration

To help low-income persons achieve economic self-sufficiency through home-ownership, higher education, self-employment, or savings for retirement, the bill authorizes the Department of the Treasury to establish Individual Development Accounts (IDAs). An IDA, which is similar to an IRA, is a tax-benefitted savings account in the name of one person that can be used without penalty for only the aforementioned purposes. To stimulate savings among the poor, deposits into an IDA would be matched with Federal, State, and private contributions, and amounts in an IDA would not reduce or terminate one's public benefits (e.g., Food Stamps, AFDC, and Medicaid). These accounts would be administered on a demonstration basis by private organizations which would work closely with the holder of the IDA.

Part C—Microenterprise Programs

To promote economic development and economic self-sufficiency for low-income persons through microenterprise (commercial enterprises employing five or fewer employees, one of whom is the owner), the bill sets up community-based, public-private partnerships which will provide small loans and business assistance to persons who wish to develop a microenterprise. Specifically, the bill: (1) encourages a one percent set-aside of funds from Community Development Block Grants, the Rural Development Administration, and the Small Business Administration to be used for microenterprise development; (2) ensures that microenterprise training is included in Federal job training programs like AFDC-JOBS and JTPA; (3) modifies the AFDC rules that impede or prohibit microenterprise development; and (4) sets up, through the Department of Labor, one million dollar competitive grants for ten States to develop microenterprise programs for low-income persons.

Part D—Increasing the Food Purchasing Power of Low-Income Households

The bill authorizes a total of $2 million in each of FY '92, FY '93 and FY '94 for grants to non-profit community-based organizations for the purpose of developing and implementing strategies for increasing the availability of affordable, nutritious foods in areas underserved by supermarkets. Approved activities under the grants would also include strengthening the operation of existing food retail stores in underserved communities by providing them with services that lower their food costs and increase the nutritional value of their food inventories.

The bill authorizes $450,000 for each of FY '92, FY '93, and FY '94 for grants to community-based organizations to identify and implement strategies for promoting the use of low-cost food outlets. Grantees would initiate programs of education and outreach for expanding Food Stamp Program participants' use of farmers markets and other direct marketing outlets and for encouraging agricultural producers and direct marketers to become certified to redeem food stamp vouchers.

The bill increases from ten to twenty the number of States authorized to provide WIC participants with coupons to purchase fresh fruits and vegetables from farmers markets. Grants to States, awarded on a competitive basis, would total $5 million in FY '92, $6.5 million in FY '93, $8 million in FY '94, and $9.5 million in FY '95. This program is designed to encourage WIC participants to purchase and consume fresh fruits and vegetables and to establish new markets for small farmers.

Part E—Assessing Food Security Within Communities

There is currently no standardized system for assessing food security problems at the community level (food security is defined as "access by all people at all times to a consistent nutritious food supply from conventional sources). The accuracy of past research efforts have been challenged on grounds of their scientific validity. The bill proposes the establishment of food security centers at seven land-grant colleges and universities (selected on a competitive basis by the Cooperative Extension Service) which would assist community-based organizations and local government agencies in developing scientifically sound surveys for assessing community food insecurity and in analyzing the data collected through these surveys.

Part F—Communities Making the Transition to Hunger-Free Status

The bill establishes criteria communities can use to initiate programs and activities for assuring that low-income residents have access to food.

Part G—Infant Mortality Reduction

The bill proposes the establishment of demonstration projects designed to reduce the high incidence of low birthweight and infant mortality in high-risk rural and urban populations. The demonstration projects will provide comprehensive maternal child health services to high-risk pregnant women and infants, with an emphasis on addressing the variety of socioeconomic and demographic factors which affect birth outcomes for these populations. Criteria for the projects' design seek to encourage early identification and follow-up of high-risk pregnant women and infants via intensive outreach services, and seeks to promote grass-roots project participation by establishing local Infant Mortality Advisory Panels in each project location. The bill proposes that $6 million be used each fiscal year beginning in FY '92 through FY '94.

The bill proposes that a study be conducted by the Secretary of the Department of Health and Human Services to assess the impact of breastfeeding on infant morbidity and mortality among high-risk populations, with an emphasis on minorities. The bill proposes that $500,000 be used per fiscal year beginning in 1992 until such time as the study is completed.

Part H—Amendments to the Food Stamp Act

The bill removes eligibility restrictions in the Food Stamp Program which are based on outdated assumptions about the amount of resources low-income households have available to expend on food and increases basic benefit rates by: (a) providing incremental increases in the Thrifty Food Plan from 103 percent in FY '91 to 104⅔ percent in FY '96; (b) excluding from income the first $50 in child support payments received monthly by a food stamp household; (c) excluding from

income all child support paid by a member of a food stamp household; (d) revising the household definition so that relatives who reside together, but purchase and prepare food apart, would be considered separate households; (e) annually adjusting the current allowable $4,500 fair market value of a car to reflect inflation; (f) allowing food stamp participants full benefits for the month in which their eligibility is recertified; (g) increasing the dependent care deduction from $160 per month to $200 per month for a child under two years of age and $175 per month for other dependents; (g) raising the limit for reimbursements for work-related expenses from $25 per month to $75 per month; (h) providing incremental increases in the excess shelter deduction from $186 per month in FY '92 to $335 per month in FY '96; (i) excluding from income vendor payments that are defined as transitional housing for the homeless; and (j) increasing the Nutrition Assistance Program in Puerto Rico to make benefits more comparable to those provided under the Food Stamp Program.

TITLE II—INTERNATIONAL PROGRAMS

Part A—Food as a Human Right

As part of an international effort to strengthen the ability of the U.N. to respond to disasters, the bill proposes that the United States lead the effort to strengthen the right to food in international law. To accomplish this, the U.S. should present a proposal for the drafting and consideration of a Convention on the Right to Food to the General Assembly of the United Nations. Such a convention, similar to international conventions on torture and other human rights abuses, would provide an effective tool for the U.N. to force governments to respect the right to food and to permit humanitarian inverventions.

The bill proposes that no assistance be provided to the government of any country which engages in gross, intentional violations of the right to food and medical care. This provision would add gross abuses of the right to food to the list of human rights abuses already in law which are intended to trigger a cessation of U.S. non-emergency, government-to-government assistance.

Since the United Nations plays a critical role in preserving the right to food, it is critical that it have adequate systems for responding to disasters which threaten this right. The bill proposes the appointment of a high level United Nations official responsible for emergencies, as well as other structural reforms, to strengthen the United Nations response to international disasters and other humanitarian emergencies.

Part B—Democratic Empowerment

The bill proposes a $200 million no-year fund (to be replenished as necessary) available only to poor countries (less than $1000 in per capita income or an under 5 mortality rate higher than 100 per 1,000 births) that are making a transition—including a free and fair election or referendum—from an undemocratic system to a democratic one. The Fund would be administered by the head of AID. Money under the Fund would be provided in 4 ways:

(1) directly from AID to local nongovernmental organizations (NGOs) which work with poor people at the local level;

(2) from AID to PVOs to strengthen the work of these local NGOs;

(3) from AID to the government's health ministry, but only for direct support of child survival, nutrition, or basic education activities; and

(4) to international organizations, like UNICEF, in cases where these new democracies also are emerging from civil wars.

Part C—Children

The bill proposes increasing the U.S. contribution to UNICEF from $75 million in FY '91 to $85 million in FY '92 and $100 million in FY '93.

The bill proposes increasing the Agency for International Development (AID) child survival activities from the President's request for FY '92 of $211 million to $275 million in FY '92 and $335 million in FY '93. Within this total, the Child Survival Fund would be increased from $100 million in FY '91 to $150 million in FY '92 and $210 million in FY '93.

The bill proposes creating an "International AIDS Prevention and Control Program" as part of AID's health activities.

Vitamin A deficiency is a major cause of childhood illness and death. Iodine deficiency is the major preventable cause of mental retardation in the world. The bill proposes a $35 million earmark for AID's programs to reduce vitamin A and iodine deficiency. Within the $35 million total, the bill proposes increasing AID's Vitamin A Deficiency Program from $10 million in FY '91 to $13 million in FY '92 and $17 million in FY '93.

The bill proposes increasing AID's basic education funding from an estimated $100 million in FY '91 to $135 million in FY '92 and $175 million in FY 93.

In order that the Congress and the American people may be fully informed of efforts undertaken by the President to improve the health and well-being of children, the bill requires the President to transmit to the Congress, no later than February 1 of each year, a report detailing United States contributions to the achievement of goals and strategies to end unnecessary child suffering and death. This would formalize AID's present practice of submitting a child survival report to the Congress every year.

Part D—Women in Development

The bill proposes that AID's Office of Women in Development be strengthened by increasing the funds available each year from $3 million to $7 million, beginning in FY '92, to be used as matching funds to support activities designed to better integrate women into AID's projects. The bill also proposes that funding to support hiring of staff, as well as training, monitoring, and evaluation needs of the Women in Development office he increased from $2 million to $5 million each fiscal year beginning in FY '92.

Part E—Refugees

The bill proposes increasing the overall Migration and Refugee Assistance Account from its present level of $485 million to $600 million for FY '92 and $650 million for FY '93. These increases are accompanied by an earmark in the same account for U.S. support for refugees overseas, increasing this activity from $214 million in FY '91 to $300 million in FY '92 and $350 million in FY '93.

The bill states the Sense of the Congress that other donors need to join with the U.S. in ensuring that refugee relief and rehabilitation efforts are adequately funded and otherwise supported.

Part F—Agriculture and the Environment

The bill proposes that AID develop guidelines and standards of environmental sustainability to apply to both bilateral and multilateral foreign assistance for agricultural development programs. Aimed at establishing a management system for renewable natural resources, these principles should be incorporated into project design, implementation, and evaluation. In addition, the bill states that bilateral support for agricultural research efforts should include long-term commitments to research on the ecological and socio-economic components of sustainable development.

In order to inform the Congres on the progress in implementing this effort, the bill requires that AID prepare a report on how AID programs and projects have incorporated the sustainability guidelines.

Part G—World Bank and International Monetary Fund Purposes and the Right to Food

The bill proposes that by June 30, 1993 at least 50 percent of the International Development Association's loans must go to countries which have developed their own national development and poverty alleviation strategies.

The bill proposes that the U.S. urge the World Bank and the International Monetary Fund (IMF) that the joint Bank-Fund Policy Framework Papers, which establish the lending programs and conditionalities of the World Bank and IMF policy, be done for all borrowers, and that these papers should include mandatory sections on environmental goals and objectives.

The bill proposes that the World Bank give greater programmatic and budgetary support to child survival, and to devote 5 percent or more of its annual lending to projects in primary health and 5 percent to basic education. The bill also proposes that the Bank promote environmental sustainability as a guiding principle in its agricultural projects, emphasize "food-based" policies, and target women in agricultural lending.

The bill proposes that the International Monetary Fund adopt a policy of avoiding any actions which would contribute to a deterioration of basic human needs in borrower countries or to an unsustainable use of the environment.

The bill proposes that the Treasury Department report to Congress by March 1992 on the progress the World Bank has made in implementing its poverty alleviation strategy. In particular, the report should assess how the Bank's increased emphasis on poverty effort has affected the Bank's lending patterns, and the significance of various factors in alleviating poverty.

Part H—Debt Relief

The bill proposes providing the President with additional flexibility to extend debt relief to developing countries which are pursuing national economic policy reforms that promote democratic, environmentally sustainable, market-oriented, and long term economic development.

Part I—Private and Voluntary Organizations

The bill increases the required level of AID support for the activities of private voluntary organizations (PVOs) from 13.5% to 18%, and increases the target level for such support from 16% to 20%.

THE CITY OF HIALEAH SAYS "NO" TO CUTS IN EDUCATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the mayor and city council of the city of Hialeah, FL approved resolution number 91–31 on

March 26, 1991, to request Gov. Lawton Chiles to reconsider cuts being exacted upon Miami-Dade Community College and all community colleges in the State of Florida. As education issues receive greater attention nationally, it is admirable that the city leaders of Hialeah draw attention to important education needs at home. That resolution follows:

Whereas, Miami-Dade Community College is the only opportunity many of our students have to pursue a college education; and

Whereas, Miami-Dade Community College is the only affordable institution of higher learning in Dade County; and

Whereas, eighty percent (80%) of Miami-Dade Community College students must work to help pay for their tuition and books or go to college part time; and

Whereas, the $10 million in cuts includes eliminating athletic programs, community youth sports programs and financial aid, thus leaving the students stranded in their educational pursuits; and

Whereas, one area high school magnet program at Miami-Dade Community College was cut, thus cutting short the advancement of our academic achievers; and

Whereas, many of our students work at Miami-Dade Community College as student assistants and in work-study programs, and rely on these funds to attend Miami-Dade Community College; and

Whereas, the Hialeah Center has been reduced by 25%, thus affecting residents of the City of Hialeah and Hialeah Gardens.

Now, therefore, be it resolved by the Mayor and the City Council of the City of Hialeah, Florida, that:

Section 1: The Mayor and City Council of the City of Hialeah, Florida, urgently request that Governor Lawton Chiles and the State Legislature reconsider the cuts being exacted upon Miami-Dade Community College, said cuts having a severe impact upon the students and their families.

Section 2: The Mayor and City Council of the City of Hialeah, Florida, request that Governor Lawton Chiles and the legislative leaders give consideration to, and understand the positive impact that Miami-Dade Community College, and all community colleges in Florida, have upon their respective counties, and realize that the community colleges in the State of Florida serve hundreds of thousands of students who would not otherwise have the opportunity to pursue higher education and the opportunity to share in the American Dream through education.

Mr. Speaker, I am very pleased that the community leaders in south Florida are in many ways taking the lead to ensure the quality and future of education in their area. In particular I commend the leadership of: Mayor, Julio J. Martinez; president of council, Herman Echevarria; council vice president, Natacha S. Millan; and council members, Salvatore D'Angelo, Evelio Medina, Alex Morales, Paulino A. Nunez and Roberto Ruiz.

WAITING PERIOD NEEDED TO PREVENT HANDGUN VIOLENCE

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. JAMES. Mr. Speaker, I would like to insert for the RECORD the following editorial by the Daytona Beach News-Journal. The editorial appeard in the May 6, 1991, edition, and is titled "National Waiting Period Needed To Prevent Handgun Violence."

[From the Daytona Beach News-Journal, May 6, 1991]

NATIONAL WAITING PERIOD NEEDED TO PREVENT HANDGUN VIOLENCE

When Congress began its work this year, the Brady Bill was dismissed by many as a well-intentioned piece of legislation that would go nowhere. Yet support has grown for a nationwide seven-day waiting period for the purchase of handguns and even former President Ronald Reagan has endorsed it. This Wednesday, the measure is set for a vote by the full House of Representatives.

It does not make sense that in most states any felon or crazed person can buy a handgun over the counter without inconvenience and immediately walk out armed and dangerous.

The effects of this policy are witnessed every day, particularly in America's urban centers. According to the Bureau of Alcohol, Tobacco and Firearms, 90 percent of the guns used in crimes in New York City were bought in states without waiting periods or background checks. Florida is a major exporter of guns used for criminal activities in the Northeast.

Texas, too, is a major exporter of handguns and handgun violence. In that state, a disturbed youth named John Hinkley bought a gun in a pawn shop on a murderous whim. He used it to shoot former President Reagan and cripple James Brady, for whom the bill is named.

Under the provisions of the bill, a prospective handgun owner would be required to fill out a form which would be forwarded to the local police. The gun sale would go ahead seven days after the prospective buyer signs the form. Unless, of course, the local law enforcement agency notifies the dealer that the would-be buyer is a felon or otherwise not allowed to carry a weapon.

States with more stringent requirements would keep them. And if a local police department believes someone who wants a gun is under some kind of threat to his life, the waiting period may be waived.

It's hard to oppose such a commonsense procedure for preventing crime.

And, in fact, many opponents of the legislation are not attacking it directly. Instead they are proposing an amendment which they know will render the bill ineffective and kill it in Congress.

The Staggers amendment named for Rep. Harley Staggers, D-W.Va., would substitute an instant national computer check in place of a cooling-off period. It's an idea that sounds fine in theory but stands no chance of being implemented any time soon. Since state laws and record-keeping vary widely, setting up a computerized national system would be a huge and expensive undertaking. Forty states do not have fully computerized criminal record files.

Furthermore, an instant point-of-sale computer system would not work to deter someone with no criminal record who is arming himself while distraught, in the heat of passion, or under the influence of drugs.

The Staggers Amendment needs to be defeated; it is unworkable and full of loopholes. The Brady Bill stands a real chance of saving lives but only if Congress will act responsibly and approve it.

RECOMMENDATIONS OF THE 16TH DISTRICT STUDENT CONGRESSIONAL COUNCIL

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. REGULA. Mr. Speaker, every year I sponsor a student congressional council in the 16th District of Ohio. High school students are selected to participate and are assigned a problem of national importance to research and debate.

They spend many weeks researching and discussing the annual topic and conclude the project by making recommendations as to possible policy options.

I am proud of the program and of the many bright students who participate in it. Mr. Speaker, I insert their recommendations for U.S. policy to solve the Middle East conflict at this point in the CONGRESSIONAL RECORD:

MIDDLE EAST CONFLICT, 1990–91—16TH DISTRICT STUDENT CONGRESSIONAL COUNCIL

(Participating high schools: Massillon Washington High School, Fairless High School, Tuslaw High School, and R.G. Drage Career Center. Officers: Amy Andrews, Chairperson; Dean Van Dress, Vice-Chairperson; and Angie Utterback, Secretary)

Committee One of the Ralph Regula's Student Congressional Council respectfully submits the following suggestions on the topics of Middle East conflicts. On the 22nd day of April, 1991, Committee One recommends the following:

KUWAITI GOVERNMENT

1. The U.S. use its new influence in the country of Kuwait to encourage a transition from its current feudal monarchy to a democratic system.

ENERGY POLICY

1. Congress provides incentives through taxes for alternative fuels.

2. Congress provides incentives for auto manufacturers to eventually phase out the use of unleaded fuel with alternatives such as natural gas.

3. Congress opens ANWR (Alaskan National Wildlife Reserve) for tabled oil testing and possible drilling in order to decrease dependence on foreign oil imports.

ARMS SALES

1. The U.S. push for the enforcement of current legislation to control arms sales. This legislation could be accomplished through an international organization with the authority to monitor arms sales, issue export guidelines, and punish violators. This organization, composed of as many nations as are willing to join, would require unanimous approval from members for certain arms sales on export licenses. The U.S. could demand the violators be punished, perhaps through embargoes. Under terms of the organization, all potential arms buyers would be treated equally.

ARAB-ISRAELI RELATIONS

1. The U.S. put pressure of an economic nature on Isreal to at least negotiate about the occupied territories of the West Bank, Gaza Strip, and Golan Heights. The U.S. could withold a portion of Israel's foreign aid or cancel its "major non-NATO ally" status until some documented process is made.

2. The U.S. end all dialogue with the Palestinian Liberation Organization; in particu-

lar, Yasser Arafat, due to his past actions and open show of support for Saddam Hussein in the Persian Gulf War. In future talks with the Palestinians, a new, moderate representative could speak on behalf of the Palestinians.

RALPH REGULA'S STUDENT CONGRESSIONAL COMMITTEE, FINAL REPORT, APRIL 1991

(Heidi Zeller, Chairperson; Mike Thoman, Assistant Chairperson; and Lindy Powell, Secretary)

Our objective in the 1991 Student Congressional Committee was to deal with all aspects of the Persian Gulf war. We now respectfully submit the following proposals to Congressman Regula:

1. It is proposed that a United Nations peacekeeping force made up of Arab states remain in the area. Also, a naval force will remain, made up of coalition forces with prepositioned military supplies in the area in case they are needed to maintain the balance of power.

2. It is proposed that Iraq should be monitored so that no mass destruction facilities, such as nuclear missile plants, enter into production. The United Nations should reserve the right to use force against such production.

3. It is proposed that a formal treaty be established by the United Nations between Iraq and Kuwait. This treaty should include the following:

a. Weapon sanctions against Iraq,

b. U.N. peacekeeping forces placed to monitor Iraq,

c. Food and medical supplies sent to the people of Iraq and Kuwait.

4. It is proposed that Saddam Hussein should be punished for war crimes. Punishment should not affect Iraq, only him personally. Trials shold take place in a neutral country, such as Switzerland.

5. It is proposed that land boundaries of the country remain intact, as the Iraqi people as a whole were only following their chief executive's orders.

6. It is proposed that the United Nations investigate reports that Saddam Hussein and his family took money from Iraq and put it into private accounts. If any moneys are found, they should be used toward repaying Iraq's war debts.

7. It is proposed that the Secretary of State encourage Israel to meet with individual Arab states. The second phase would be to hold a regional conference of the Middle Eastern countries. The last step in this proposal would be to have a meeting between the five permanent members of the United Nations and the PLO representatives as well as representatives from each Arab state and Israel.

8. It is proposed that, in regards to Palestine and Israel:

a. USA act as a mediator in talks between Israel, Palestine, and the Arab states in order to solve the Palestinian problem;

b. Arab countries be encouraged to acknowledge Israel's right to exist and vice versa;

c. USA promise an increase in non-military foreign aid to Israel upon completion of the Palestinian issue which is satisfactory to all parties;

d. All hostilities between Palestine and Israel cease while talks are formally in session.

9. It is proposed that the United States review and revise its policy on military arms sales to Middle East countries from Western nations as well as the Middle East countries.

10. It is proposed that a comprehensive energy policy should be implemented to reduce dependence on foreign oil.

Section I: All passenger vehicles must improve fuel efficiency to 40 miles per gallon by the year 2010, including foreign automobiles.

Section II: Funding will be increased for the development of alternative fuels for heating, electricity, and automobiles.

Section III: Tax incentives will be implemented to encourage the use of energy-efficient building materials.

Section IV: Low-pressure sodium lighting shall be installed in all federal buildings and shall be properly shielded.

Section V: Corporate tax evaders shall be more rigorously pursued for funding.

RALPH REGULA'S CONGRESSIONAL COUNCIL 1991 COMMITTEE THREE FINAL REPORT

(Officers: Colleen Garton, Chairperson; Mike Lofgren, Vice-Chairperson; and Jennifer DeVille, Secretary)

The Ralph Regula Student Congressional Council Committee Three hereby respectfully submits the following proposals to be presented to Congressman Regula regarding the post-war conditions affecting the entire region of the Middle East.

1. In dealing with United States-Israeli relations, it is proposed that the U.S. implements a gradual reduction in non-military aid to Israel over a period of five years.

a. reduce in $.3 billion per year until a level of $1.5 billion is reached at the end of the fifth year.

b. diplomatic persuasion towards using funds for positive environmental research to be audited by a Congressional committee.

c. no aid given in the form of military equipment.

2. With regard to the Israeli-Palestinian situation, it is proposed that the U.S. takes immediate action to peacefully resolve the volatility which currently exists, and with whatever means are needed.

3. It is proposed that Iraq be forced to pay reparations to Kuwait, which shall begin in seven years.

4. Concerning Iraqi War Criminals, it is proposed that the United Nations proceeds with prosecution immediately.

5. Regarding military occupation in the Persian Gulf region, it is proposed that:

a. the U.S. maintains troops in the region, with particular concentration around Baghdad, for one year, or until a resolution is made.

b. the U.N. sets up a security zone in the region, with particular concentration in southern Iraq and Kuwait, until stability is established.

6. It is proposed that the U.S. enforces an arms embargo on Iraq for a minimum of five years.

a. encourage allies to follow suit with the embargo.

b. levy sanctions against Iraq.

7. With regard to the U.S.'s need for an alternative to oil as an energy source, it is proposed that the U.S. form a defined energy policy in the next year.

a. take action to implement alternative energy source in the next ten years.

b. set aside at least $1.5 billion per year for research.

c. decrease by 25 percent the funds used to locate U.S. oil, and redirect it toward alternative research as well.

THE MIDDLE EAST CRISIS PROPOSAL, 1991—16TH DISTRICT STUDENT CONGRESSIONAL COMMITTEE

(Officers: Jason Riley, Chairperson; Jen Spitler, Vice President; and Jody Hoffman, Secretary)

The Student Congressional Committee introduces the following proposals to be presented to Congressman Regula on the Friday, April 26, 1991:

1. The United States should not provide funding for the rebuilding of the country of Iraq.

2. There will be a complete economic sanction with Iraq until Saddam Hussein relinquishes control of the country.

3. Economic sanctions will continue until Saddam Hussein gives up his power and free elections are held to elect a new leader.

4. The United States should not financially help the country of Kuwait in the rebuilding of the country.

5. United States Congress should replace monetary aid for Kuwait with food, building supplies, medical aid, and education.

6. American businesses are to use American labor in the rebuilding of Kuwait.

7. Ten-thousand troops are to remain stationed in middle east bases.

8. These troops will be responsible for halting further hostilities between nations in the region.

9. The troops will remain in the middle east until Iraq has met all United States proposals.

10. Excess fighting equipment should be removed to other bases.

11. Excess equipment that the United States does not need should be sold to countries with good foreign relations with the U.S. The result, less money would be spent for defense and the money could be put back into the economy.

12. The United Nations should continue to pressure Iraq to accept the new "cease fire" resolutions.

13. The United States should make increased efforts to decrease reliance on fossil fuels. We should search for alternative energy sources such as solar or wind powers, that do not deplete the environment. This excludes the use of harmful options such as nuclear power.

INTRODUCTION OF THE U.S. MARSHALS SERVICE AMENDMENTS ACT OF 1991

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. HUGHES. Mr. Speaker, today I am introducing the U.S. Marshals Service Amendments Act of 1991. This bill is in two parts, and I believe will resolve two pressing problems for the U.S. Marshals Service. The first part deals with the consequences of the U.S. Supreme Court decision in *Demarest* v. *Manspeaker, et. al,* (No. 89–5916), decided January 8, 1991. In that decision, a unanimous Court rules that section 1821 of title 18 requires the Marshals to pay a witness attendance fee to a convicted State prisoner who testifies at a Federal trial pursuant to a writ of habeas corpus ad testificandum.

I have reviewed the Supreme Court's decision and believe that this opinion would cover incarcerated witnesses from Federal, State

and local jails. I have also contacted the U.S. Marshals Service and they estimate this decision could cost the U.S. Government an extra $8 to $11 million a year.

Persons who are incarcerated incur no personal expenses when they testify in court, and suffer no loss of wages or other economic detriment. It was never our intention that prisoners be compensated on the same basis as persons who do suffer these losses.

In these difficult budget times, I believe that we should correct this legislative oversight as soon as possible. The House has already taken action to prevent the use of fiscal year 1991 funds for this purpose in H.R. 1281, the recent supplemental appropriations bill, and this bill will permanently fix this loophole in the law.

The second part of the bill will add a new flexibility to the Marshals' Witness Protection Program involving potential alien witnesses who could help us convict terrorists, drug traffickers and money launderers. Foreign witnesses who have knowledge of crucial events involving major criminal activities are often fearful for their lives if they testify in U.S. courts and then have to return to their homelands. Under current immigration law, foreign witnesses can be paroled into the United States to testify; and, while on parole can continue in the United States as long as a reasonable danger to their lives remains. However, the witnesses and their families do not have permanent immigration status.

Many witnesses who presently will not testify would be willing to testify if they could be guaranteed permanent status in the United States.

In addition, permanent resident status confers benefits that would enable prospective witnesses to live more normal lives. Employment is nearly impossible to obtain for these alien witnesses; few employers are willing to hire foreigners lacking the status of resident aliens. Without permanent resident status, the job seeker attracts unwanted attention and adds risk to himself and his family.

This bill will allow the Attorney General to waive admission requirements for 2 years. After the 2-year probationary period, permanent residence status could be granted. The number of aliens and their immediate families eligible for this program is limited to 100 persons in any 1 fiscal year.

It is my belief that the provisions of this bill will significantly facilitate the administration of justice in this country, and it deserves your support.

THE SENIOR EXECUTIVE SERVICE IMPROVEMENTS ACT

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. SIKORSKI. Mr. Speaker, the Senior Executive Service was designed to be an elite corps of top Federal managers and administrators—the best and the brightest—to run the Federal Government. The Service encompasses approximately 8,000 people with over 90 percent career Federal employees and less than 10 percent political appointees. Supporters envisioned this elite corps as people who would be highly compensated, highly accountable, and with a strongly developed sense of mission to run the Federal Government effectively.

Senior executives run the programs that are vital to our Nation's health and American's lives. They conduct and analyze AIDS research at NIH; they provide expertise in space exploration; and in the past months they have been charged with the civilian implementation of Operation Desert Storm. In other words, we count on senior executives each and every day to ensure that the programs and laws passed by Congress are properly implemented throughout the Federal Government.

Since the creation of the Senior Executive Service, the General Accounting Office (GAO), the Merit Systems Protection Board [MSPB], the Grace Commission, President Reagan's Commission on Career Executives Compensation, and the Volcker Commission have all recommended changes that need to be implemented in order to meet the original goals of the Civil Service Reform Act. The legislation that I am introducing today, the Senior Executive Service Improvements Act of 1991, is intended to remedy some of the problems which have been raised in these reports.

In brief, the bill aims to reinforce the rank-in-person concept, the idea that an SES member's rank is related directly to their experience, capabilities, and performance, rather than the specific position they hold. The legislation will prohibit Federal agencies from forcing SES members to accept a reduced grade or pay level in order to fill a different position or to participate in sabbaticals.

The legislation requires that general schedule employees, when promoted to the SES, be placed in a pay level that is at least equivalent to the pay they were receiving before promotion to the SES. The legislation also encourages the use of sabbaticals, professional development, and requires a minimum number of hours of executive training for career members of the SES. The bill gives the Merit Systems Protection Board jurisdiction to mitigate penalties in conduct cases involving members of the SES just as they have for actions against other Federal employees in the civil service. The bill also includes other provisions which are designed to match the needs of the Senior Executive Service in the 1990's.

As we rapidly approach the 21st century, the demands placed on senior executives will become greater and greater. The S&L bailout, the war on drugs, the aftermath of Operation Desert Storm, EC '92 and Hong Kong '97, reducing the budget deficit—all create a demand for an American Senior Executive Service that is increasingly flexible, talented, and knowledgeable.

Americans rightfully demand and expect a dedicated, talented, and competent corps of senior executives who will faithfully discharge the responsibilities of our democratic society. However, it is absolutely critical that we provide our Nation's senior executives with the tools necessary to achieve this goal. As we have seen and heard in reports and committee hearings, task forces and conferences, the original goals of the Civil Service Reform Act have not been met. The Senior Executives Service Improvements Act is intended to provide the Government with the tools necessary to make the original promises of the Senior Executive Service a reality.

IN CELEBRATION OF SISTER JEANNE FELION'S 15 YEARS OF SERVICE TO STANFORD SETTLEMENT, INC.

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Sister Jeanne Felion upon her celebration of 15 years of commitment and service to the Stanford Settlement, Inc. Sister Jeanne has served as executive director of Stanford Settlement, and has led this community service group to become a central pillar for outreach and caring in the Sacramento metropolitan area.

Sister Jeanne was born in Chico, CA, and spent her formative years in the Del Paso Heights area of Sacramento. She graduated from Grant Union High School and joined the Sisters of Social Service.

Mr. Speaker, I would also like to note that this will be Sister Jeanne's silver jubilee with the Sisters of Social Service. Their inspiring mission includes: having a positive view of life; valuing work and prayer; and sharing hospitality. These sisters have a social concern for the plight of women, children, and families. Additionally, this community lives as a family, promoting peace and justice.

Upon completing her religious training, Sister Jeanne went to Kansas City, MO, where she worked at the Settlement House, a neighborhood center. Her accomplishments included the establishment of Girl Scout troops for disadvantaged girls. Moreover, with wisdom and foresight, she started Girl Scouts leadership training for area residents so that low-income girls would always have access to the positive influence of Scouting.

Sister Jeanne then went to San Diego. While there, she was instrumental in creating a county-wide Campership Council. Sister Jeanne was also named the executive director of a major neighborhood center where she worked to improve the life of community residents. This work included extensive expansion and refurbishment of the center. Sister Jeanne left San Diego in 1975 to continue her education so she could further fulfill the goals of her order.

Sister Jeanne returned to Sacramento in 1975 to attend California State University, Sacramento. She completed her degree requirements while continuing her social work as an intern at the Stanford Settlement, where she has carried out her inspiring work for the last 15 years.

The Stanford Settlement is the reflection of Sister Jeanne and the Sisters of Social Service. The settlement's mission is to build moral and spiritual awareness in the individual and to strengthen the family. The Stanford Settlement, guided by Sister Jeanne, encourages participation in community activities and pro-

vides opportunities for people so they can reach their fullest potential.

Under the leadership of Sister Jeanne, the Stanford Settlement has grown to become an essential part of the Sacramento community. As executive director, she achieved many accomplishments. Under her direction, a local hospital set up a clinic on settlement land, and other direct service providers also use the facilities to help serve the community. In an effort to bring understanding to the community, many different religious organizations are able to hold and facilitate meetings at the settlement. Additionally, American River Community College holds outreach courses at Stanford in their effort to help educate the community. Sister Jeanne directed the building of a facility specifically for senior citizen activities.

Sister Jeanne's achievements and devotion to the Sacramento community extend beyond her role as executive director of the Stanford Settlement. She is a strong advocate for low-income housing. Additionally, she is working to expand programs for children and seniors. Sister Jeanne hopes to find future funds to build a new senior center activities building and a surrounding park setting.

Mr. Speaker, I know my colleagues will join me today in expressing our sincere appreciation and praise to Sister Jeanne Felion. Her devotion, skills, and extraordinary contributions to the community are shining examples of what all of us should strive for in our lives. I would personally like to extend my sincere best wishes to Sister Jeanne Felion in the years to come.

SUMMARY OF 1990 TAX RETURN DATA

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. DOWNEY. Mr. Speaker, I am once again making a summary of my income tax return public because I believe that Federal officeholders should be forthcoming about the sources of their income. Therefore, I ask that the following summary be printed in the official record of the day's proceedings.

Hon. Thomas J. Downey, Summary of 1990 Tax Return

Salary—U.S. House of Representatives	$95,417
Less: Contributions to section 401(k) plan	−4,771
Salary—U.S. House of Representatives, Mrs. Downey	10,616
Salary—U.S. Senate Disbursing Office, Mrs. Downey	14,380
Interest income	3,336
New York State tax refund	430
Rental and partnership losses (after application of passive loss limitations)	−985
Business income—Honoraria (gross)	33,300
Less: Contributions to Keogh retirement plan	−4,344
Adjusted gross income	147,379
Itemized deductions:	
Taxes	8,902
Interest expense (after 10 percent phase-out for personal interest)	20,021
Contributions	9,498
Miscellaneous deductions (after 2 percent AGI limitation)	5,172
Total itemized deductions	43,593
Subtotal	103,786
Less: Personal exemptions	8,200
1990 taxable income	95,586
Federal income tax	23,405
New York State income tax	7,660
Virginia income tax	27
Louisiana income tax	20
New Jersey income tax	39

LENDERS AND THEIR SUPERFUND DUTIES

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. TORRICELLI. Mr. Speaker, a recent issue of Roll Call contained a Guest Observer article, which I feel, merits your attention and the attention of my colleagues. The article deals with the issue of lender liability as it pertains to Superfund. This topic is especially timely since we recently have witnessed the reintroduction of the LaFalce lender liability legislation and much consideration and debate is sure to ensue.

The author of the piece, David Rosenberg, is the executive vice president of Environmental Compliance Services, Inc. [ECS]. Mr. Rosenberg has been an active voice on Capitol Hill on issues relating to protecting the environment and guaranteeing the cost of cleanup.

I hope you find Mr. Rosenberg's article informative:

[From Roll Call, Mar. 28, 1991]

DON'T LET LENDERS OFF HOOK IN THEIR SUPERFUND DUTIES

(By David Rosenberg)

Rarely do Capitol Hill observers find a bill that attracts support from dozens of Members, other than National Motherhood Week, that is.

During the last Congress however, Rep. John LaFalce (D-NY) introduced legislation that saw a majority of Members of the House sign on.

That bill, H.R. 4494, sought to protect mortgage lenders, not-for-profits, and even the Small Business Administration from the environmental liability established by the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), a.k.a. Superfund.

Corporate fiduciaries which hold title to property for purposes of administering an estate or trust would have been exempted. LaFalce recently reintroduced the bill (as H.R. 1450) with a few changes and more than 120 co-sponsors.

Superfund was passed in 1980 by a lame-duck Congress in the wake of Love Canal. It authorized the Environmental Protection Agency (EPA) to recover pollution cleanup costs from potentially responsible parties. This includes past or present owners of property. This cost has, as a result of federal court decisions, often been laid at the doorstep of the "deepest pockets," which in-

Most recently, the Federal Court of Appeals in Atlanta's 11th Circuit held in US v. Fleet Factors that if a lender has "the capacity to influence the corporation's treatment of hazardous waste," they can be held liable for cleanup costs under Superfund.

The LaFalce proposal seeks to exempt lenders from this liability. But if they do not pick up the cleanup tab, who will? The remaining segments of American commerce will be stuck with the cost. The very basis of Superfund, cleaning up the nation's most dangerous toxic-waste sites, would be undermined.

One group of advocates for this measure is the American banking community. Much of their lobbying effort has involved local bank presidents calling their Members.

This campaign has resulted in a lengthy list of backers to the LaFalce bill. "The banking industry has gone all out in terms of public relations and lobbying for this legislation," an angry Rep. Frank Pallone (D-NJ) told the House Energy and Commerce subcommittee on transportation and hazardous materials last year, "and I am concerned that many Members of Congress co-sponsored it before environmental and public interest groups had an opportunity to present the other side of the argument—that it could have severe environmental ramifications."

There are inequities in Superfund. But to exempt one segment of the business community to the eventual expense of someone else is wrong.

Perhaps in the reauthorization of Superfund, Congress should closely examine the procedures for determining liability and the many inequities created by several aspects of American business who only have a peripheral involvement in causing contamination.

Virtually every American buys financial protection from costly contingencies in the form of insurance. We buy insurance to demonstrate financial responsibility and protect assets from the catastrophic financial casualties of claims against us.

An environmental insurance policy would pay for cleanup costs of the site the policy was written on. As in all actuarial matters, the chances of claims being paid out and their size must be factored into the cost of the policy.

If lenders would require all commercial mortgage applicants to perform a comprehensive audit and obtain environmental insurance, lenders wouldn't have to seek the redress manifested in the LaFalce bill.

With the Persian Gulf crisis easing and the new Congress hard at work, there will be time for ample reflection on all the ramifications of exempting lenders from liability.

Instead of tinkering with parts of the issues surrounding pollution liability and cleanup, as the LaFalce proposal suggests.

Congress should think "big picture."

Members of Congress, we hope, would be more reticent about signing on to a bill like LaFalce's, which addresses but one view of the complicated problems surrounding Superfund. These are signals from Sen. Frank Lautenberg (D-NJ) and Rep. Al Swift (D-Wash), the chairs of the subcommittees with appropriate jurisdictions, that they will be taking fresh looks at pollution liability.

A broad view will more likely achieve more equitable results.

Last Congress, the committee system worked well to prevent a rush to judgment on the LaFalce bill, preventing final passage until all appropriate and interested committees had their say. The result was equitable.

After all, is it fair for the lenders to shirk its corporate responsibility and transfer the

cost of cleanup to the taxpayer? The same strong scrutiny should be instituted the second time around for the bill.

Instead of being taken off the hook, banks can insist on having borrowers demonstrate the financial responsibility of handling cleanup costs through the purchase of environmental insurance, and if problems became evident down the line, the sites in question would be cleaned up without cost to the federal government.

THE BELEAGUERED JEWISH COMMUNITY OF SYRIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. GILMAN. Mr. Speaker, the Persian Gulf war has renewed attempts to find a lasting peace in the Middle East. It has therefore brought a number of important issues to the forefront. As we grapple with alleviating the tragedy of the millions of Kurdish refugees made homeless by Iraqi President Saddam Hussein's savagery, as well as the many thousands who endured the terror of the Iraqi invasion of Kuwait, postwar discussions are being held by Secretary of State James Baker among the nations of the region. As these discussions progress, I want to alert my colleagues to the continued plight of the small Jewish community in Syria, held hostage by Syrian President Hafez el-Assad. Their free and open emigration must be one of our highest priorities.

This community, consisting of only 4,000 individuals, remains confined to a ghetto area in old Damascus, under constant surveillance by the Mukhabarat, the Syrian secret police. Their activities, mail, and phone calls are monitored. Emigration is forbidden. Any attempt to do so results in arrest, torture, and arbitrary detention without trial. Currently, four men are in prison—the Swed brothers, who were arrested in 1987, and two men arrested this past fall. Of two women arrested at the same time, one gave birth while in prison. They were subsequently released in December 1990.

The congressional caucus for Syrian Jewry, of which I am a cochairman, urged Secretary Baker prior to his visit, to ensure that the emigration of Syria's Jewish community be one of our Government's highest priorities. A few days later, President Assad stated that any improvement in the situation of Syrian Jews must be linked with Israel's relinquishing the Golan Heights. Clearly, we cannot allow innocent men, women, and children, already hostage to a dictator, to be used as geopolitical pawns.

One result of the world's focus on the Middle East was a congressional human rights caucus briefing last week about human rights abuses in Syria. We heard testimony from a number of expert witnesses, including Amnesty International and the Council for the Rescue of Syrian Jews. Also involved in efforts on behalf of the Syrian Jewish community is the Anti-Defamation League of B'nai B'rith, which distributed copies of the "Chronicle of the Jews of Syria" at the briefing.

Though it is too lengthy to reprint in its entirety, I want to share with our colleagues the front page article entitled "Let My People Go!", and to urge their membership in our congressional caucus for Syrian Jews. It is only by heightening our advocacy on behalf of the Syrian Jewish community that we will be successful. Syrian President Assad must understand that ours is a humanitarian concern of the highest order, and that we will not rest until every Syrian Jew has been freed.

LET MY PEOPLE GO!

While all Syrians face some restrictions on emigration and travel, Jews are the only group to be universally barred from emigration.

Jews cannot easily obtain permission to travel abroad. In most cases, it is granted only to seek medical treatment or to visit relatives. Every traveler abroad must leave a substantial—and sometimes unaffordable—monetary deposit. This deposit is typically $5,000-10,000 dollars (annual per capita income in 1987 was $2,880). A traveler must also leave some members of his family behind as hostages, with the result that many families have become tragically divided across continents—husbands from wives, and children from siblings.

Jews as a group are the only Syrians forbidden to emigrate freely.

If caught trying to escape the country, Jews are imprisoned and tortured.

Relatives of Jews who have attempted to escape, or have succeeded in escaping, are subject to harassment and intimidation by the Mukhabarat, the secret police.

The internal passports of Jews bear the designation "Musawi" (meaning of the "Mosaic" faith). No other Syrians are identified by religion on their passports.

The Mukhabarat keeps tight watch over the lives of Syrian Jews. It patrols the Jewish Quarter, where most Damascus Jews live, around the clock. No non-resident is allowed to enter without permission.

No foreigner can meet with a Syrian Jew without permission of the Mukhabarat. Such permission is not usually granted.

All letters, phone calls and other forms of communication with correspondents abroad are monitored and subject to censorship by the government.

Jews must inform the Mukhabarat about any foreign money they receive.

Jews require special permission to sell a car or a house and have difficulty in selling other property. These regulations are selectively and arbitrarily enforced.

Property, employment and travel restrictions against Jews do not, as a rule, apply to other minority groups within Syria.

Jews are subject to frequent verbal harrassment from Palestinian Arabs whose families left Israel in 1948 and were settled in the Jewish neighborhoods of Damascus and Aleppo. (They were given the homes of Jews who had fled Syria because of mob violence against them at that time.)

Jews are forbidden to teach modern Hebrew. Hebrew can only be taught as a language of prayer, Bible and Jewish law. Zionist activities are illegal, and teaching about Israel and many aspects of Jewish history is forbidden. The directors of the Jewish schools are Muslim, and they report regularly to the Mukhabarat.

There are currently more young Jewish women in Syria than young Jewish men, because many of the latter have escaped. Marriage prospects for the women thus remain uncertain.

The Syrian government is one of the world's most oppressive; it routinely jails and tortures thousands of its citizens without formal accusation or trial. Yet Syria's Jews must also suffer the animosity of many of their Syrian Arab neighbors towards them as Jews. This animosity is fueled by the Syrian government's unremitting hostility towards Israel and the barrage of anti-Zionist and anti-Semitic propaganda in the Syrian news media and popular literature.

SMALL BUSINESSES IN THE FOREFRONT

HON. JIM OLIN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. OLIN. Mr. Speaker, I rise today in strong support of the backbone of our Nation's economy, America's small businesses.

When I first came to Congress, I was assigned to the Small Business Committee. I came from a business background, but my experience was in big business. I didn't know a lot about small businesses. In my work on the Small Business Committee, I've seen first hand the incredible contribution made by small businesses.

Not only are small businesses involved in every aspect of the economy, they are in the forefront. Let me give a few examples.

When U.S. troops were deployed to the Persian Gulf, small businesses stood behind them—and with them.

During the build-up, the Pentagon needed additional equipment—rations, desert uniforms, chemical protection gear. Small businesses provided it. They retooled their factories, hired more workers, and worked around the clock to produce the needed equipment. They accomplished this task because they were small, and could quickly adapt to new demands.

When the war began, many reservists, who in civilian life are the owners and employees of small businesses, stood beside active duty personnel. As these reservists come home, it is to small businesses that many return.

Small businesses are in the forefront of new business initiatives. Recently, the Subcommittee on Environment and Employment, which I chair, held a hearing on the problem of solid waste disposal as it relates to small businesses. We found that the experts on innovative methods recycling were small business people. They were in the business of recycling—recycling all kinds of things—and they continue to look for ways to recycle more.

During the hearing, I was amazed to learn that many of the things we throw away can be made into fertilizer by composting. I didn't know that, but a small businessman in Virginia knows a lot about it. He owns and operates a successful organic agriculture supply firm, and he knows how to make this fertilizer and how to market it.

These are just a few examples, but they indicate the importance of Small Businesses to the American economy. They are innovative, they are resourceful, and they are flexible. And as we move forward to solve our Nation's problems—problems with the economy, the environment, international trade, and other problems—I am certain that small businesses will be in the forefront.

BIKEWAYS AND WALKWAYS: THE TIME HAS COME

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. OBERSTAR. Mr. Speaker, I am very pleased to introduce today legislation to increase the number of bicycle paths and trails, and pedestrian walkways, along our streets and highways.

It is time, and past time, to bring the bicycle—and the human foot—into their rightful roles as means of commuting to work.

This bill would require each Federal-aid highway project to include bicycle and pedestrian facilities unless DOT determines that such an addition would not be feasible or safe; that there are alternate, substantially direct and equally safe, routes; or that these facilities would provide no substantial transportation or recreational benefits.

Bike and pedestrian faciities would include pedestrian walkways, and bike lanes, trails, paved shoulders or wide curb lanes on which bikes may be operated safely. Bikeways and pedestrian walkways could be built along the side of the highway project, or on land adjacent to the highway. The definition of pedestrian and bicyclist facilities includes shelters and parking for bicycles where necessary to enhance bicycle usage, and traffic control devices where necessary to protect the safety of pedestrians and bicyclists using the facilities. In Munich, Germany, and other German cities, traffic control provides a second set of lights at cyclists' eye level, to help make street crossings safer for bicyclists and automobiles.

The bill also establishes the office of bicycle and pedestrian coordinator in each State, to promote and facilitate the increased use of bike and walkways, and to develop public education, promotional and safety programs.

The benefits of increased bicycle and pedestrian commuting are considerable to the biker, the walker, and to those who drive to work as well.

My State of Minnesota has a major bicycle program, and has developed an extensive tally of benefits. According to the Minnesota Department of Transportation's Bicycle Plan, bicycling for transportation, as opposed to recreation, saved Minnesota citizens more than $24 million in out-of-pocket costs. The general public reaped an additional $7 to $30 million in reduced oil imports, air pollution, and congestion, and in lower trade deficits, in 1989 alone. Benefits from noise reduction, decreased emissions of greenhouse gasses, and increased health and fitness, may not be quantifiable, but are certainly present as well.

Mr. Speaker, the environmental benefits of bicycling and walking to work as alternatives to automobile transportation are evident to all. Every mile traveled by bike instead of by car keeps .042 pounds of carbon monoxide, .003 pounds of hydrocarbons, .004 pounds of nitrogen oxides, and .94 pounds of carbon dioxide out of the atmosphere. This benefits drivers as well as bicyclists and all those who depend on air to live.

No one needs to be told of the benefits of decreased congestion, which accrue also to those who resolutely remain in their cars.

No one should need to be told that bicycle travel benefits the Nation in reduced use of imported petroleum, and consequently lower balance of payment problems.

An important question is: Will increased expenditures generate increased benefits? Can we really get more people to take the bike or walk to work?

A recent Louis Harris poll of 1,254 adults representing a cross-section of Americans found a resounding yes: 23 million Americans, or 20 percent of all U.S. adults, said they would sometimes commute to work by bicycle if there were safe bike lanes on roads and highways.

Will people really take the bike to work, or are they only telling a poll what the pollster might want to hear?

Worldwatch Institute conducted a landmark study over the past decade, comparing cities around the world which were similar in characteristics.

In Los Angeles, with a less-strong public probike policy, 1 percent of all trips are taken by bike. In Davis, CA, where bikes are encouraged, 23 percent of trips are by bike. Similarly, in Minneapolis, MN, where, despite positive State efforts, the local public policy is not strong, 1 percent of trips are by bike, while in more probike Madison, WS, 9 percent of trips are by bike. Looking at other countries, Beijing, China, has not encouraged bikes, while Tiahjin, China, has, with the result that 48 percent and 77 percent respectively of trips are by bike.

Public policy does make a difference. This bill will clearly direct public policy toward the bike, providing bike lanes and trails, traffic control devices where safety requires, and shelters and parking where warranted.

Some people may object that a bike/pedestrian provision should not be mandatory, that States should have the discretion to decide whether or not to add these facilities to highway projects. But they have had this option for many years under section 217 of the Federal-Aid Highway Program. Bicyclists and pedestrians are still woefully underserved.

People will also say that, by bicycling or walking to work, bikers and pedestrians are not paying their own way, as motorists do through the fuel tax. To this I would respond that most bikers and pedestrians are also motorists at times, and thereby do contribute to the Highway Trust Fund. I would also point out that the motorists stuck in traffic, spewing fumes that the bicyclist breathes on his or her way to work, should be grateful to that bicyclist for removing at least one car from between them and their destinations. Motorists benefit as much from bike trails as do bikers.

Finally, some people may claim that our infrastructure needs are so great that we cannot spare scarce resources for bike and pedestrian walkways.

To this I would respond that the Nation has spent $129 billion on the Interstate alone, now totally closed to bikers and walkers. Highways will be getting an enormous amount of money over the next 5 years: $87.7 billion under the administration's proposal; $119 billion under the Public Works and Transportation Committee's proposal.

Mr. Speaker, I fully appreciate the need for infrastructure repair. I have led the fight to increase funding for infrastructure, going back to 1983 when my colleague, the gentleman from Pennsylvania [Mr. CLINGER] and I introduced, and got enacted, legislation creating the National Council on Public Works Improvement. As chairman of the Subcommittee on Economic Development I held numerous hearings which carefully documented the lamentable state of the Nation's infrastructure. The findings and conclusions of those hearings prompted me to develop a series of legislative proposals to improve the Nation's infrastructure, create jobs, and spur economic development. As chairman of the Investigations and Oversight Subcommittee, I held a series of hearings on the desperate condition of the Nation's bridges. I can assure everyone that I am fully cognizant of the funding needs of our highways, streets, roads, and bridges.

But I also believe there are other needs to be served, other benefits to be reaped, in terms of environmental protection, public health and fitness, dependence on imported oil, and our balance of payments.

This very modest bicycle and pedestrian bill will serve those needs, even as we devote massive new resources to repairing and rehabilitating our highways.

I hope to include it in the surface transportation legislation now being drafted by my colleagues on the Public Works and Transportation Committee.

IN MEMORY OF LOUIS GUZMAN

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. TORRES. Mr. Speaker, it is with deep regret that I rise today in honor of the late city councilman and former mayor of the City of La Puente, Louis Guzman, who passed away on Monday, March 23, 1991.

Mr. Guzman served on the La Puente City Council from 1978 to 1990. He is survived by his wife, Dora Guzman of La Puente; his son Arthur Guzman; daughter Loretta Yorba; two brothers, Ruben and Alex Guzman; two sisters, Sally Estrada and Amparo Chavez; five granddaughters; and one great-grandson.

Louis Guzman was an active force in labor and minority education communities. He organized the Chicano School Board Member Association and was a member of the committee on minority education for the California School Board Association. As a retired sheet metal worker, he served as the president of the Sheet Metal Workers Local No. 222 for 6 years. His other community involvements were with the Optimist Club, the Welfare Council, and the La Puente Democratic Club.

Louis was a respected member of the community who went out of his way to help old and young alike. He will be sorely missed by the citizens of La Puente and his many friends and family members.

Mr. Speaker, it is with a sad, but proud heart that I ask my colleagues to rise and join

me in a moment of silence to pay tribute to the memory of a great American, and my good friend, Louis Guzman.

SALUTE TO CAPT. ROBERT GUSTAVE HEURICH

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Robert Gustave "Gus" Heurich, a man whose life was a celebration of the goodness of the human heart. His was the type of example we in public service point to when we encourage our young people to aspire to greatness.

Gus' passing has left a large void in this small universe we call home; in the hearts of his lovely wife Myra and their six children; among those of us lucky enough to call him friend; but also in the lives of the thousands of people Gus touched directly and indirectly with the long reach of his infinite kindness, tremendous energy, and indomitable optimism.

Gus served his country with honor and distinction for 35 years as a naval officer, retiring as a captain in 1979. Fortunately, he and Myra chose beautiful west Florida to make their home.

Gus' service to his country in Korea and Vietnam surely earned him the right to spend his retirement years at the beach and on the golf course. But that wasn't Gus' way. For him, retirement was just the beginning of another kind of service—to his community.

Scanning the list of organizations and projects Gus immersed himself in, you begin to suspect he somehow managed to squeeze more than 24 hours into 1 day.

He understood that the health of a community depends on a thriving business sector, so he served on the board of directors of the Greater Palm Harbor Chamber of Commerce.

Gus was the only two-time president of the Mid-Florida Gulf Coast Retired Officers Association and launched a scholarship program for dependents of military families.

Because Gus cared deeply about the caliber of young men entering our military service academies, he agreed to serve on the 9th Congressional District Interviews Committee for the Naval Academy.

Gus was a great judge of talent and character and I'm certain those young men he recommended to me will go on to achieve greatness and be part of Gus Heurich's enduring legacy. Maybe more than his business sense or his keen insight, Gus enjoyed a special relationship with God and looked for opportunities to honor his spirit.

Gus volunteered his time generously at his church, Our Lady of Lourdes in Dunedin, as well as at the Samaritan Center and the Episcopal Counseling Service. Gus collected food for the hungry and helped people shed the frustration of homelessness.

Yes, Gus did all of these things while being a good husband and father.

On Wednesday, we will lay Capt. Robert Gustave Heurich to rest in Arlington National Cemetery. He deserves the highest honor a grateful country can bestow. But while he rests among his fellow service men and women, we will continue to celebrate his spirit, his compassion, and his humor, and pushing ourselves to emulate his commitment, we will thank him many times in the future for being the example of a lifetime.

WHY THE BRADY BILL IS THE ONLY CHOICE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. ANDERSON. Mr. Speaker, we meet today to consider the question of gun control, surely one of the most contentious issues we will face this session. I rise today to explain why I will be supporting H.R. 7, the Brady bill, and opposing H.R. 1412.

These two bills aim to accomplish the same goal: to get handguns out of the hands of the criminals and the mentally unstable. H.R. 7, the Brady Handgun Protection Act, introduced by Congressman FEIGHAN would require a 7-day waiting period before a handgun is transferred from the gun dealer to the buyer. H.R. 1412, the Felon Handgun Purchase Prevention Act, introduced by Congressman STAGGERS requires an instant background check into a prospective buyer's criminal records to verify the legality of the purchase.

The difference between these two bills is simple. The Brady bill is practical, while H.R. 1412 is merely wishful thinking. Waiting periods have proven to be effective in preventing illegal handgun sales and, therefore, effective in combating the gun violence plaguing our Nation. H.R. 1412 is simply a ploy designed to defeat the Brady bill. I will cast my vote for the bill that will make a difference, the Brady bill.

H.R. 1412 mandates the Attorney General to establish, within 6 months, a national instant check into a handgun buyers criminal records. Theoretically, gun dealers would conduct a background check on every handgun sale by calling a toll free 800 number. The overriding problem with this system is that it can not be implemented on a national level within 6 months. According to the Attorney General, criminal records would have to be improved, automated, and accessible nationwide before Congressman STAGGERS' bill would be operational. How long would this take? The Office of Technology Assessment has estimated that it will take 5 to 10 years to computerize criminal records to conduct an instant check on handgun purchasers to prevent illegal handgun transfers. It would take the FBI 5 years to automate their 8.8 million records from manual to computerized form. The FBI further estimates that 40 percent to 60 percent of all felony convictions are currently unavailable in automated form.

Few States have the adequate resources or records to comply with H.R. 1412. 40 States have not fully automated their criminal records. Of the 10 States that have automated criminal records, only six can utilize these records to stop unlawful purchases. Some States, including Congressman Staggers' home State of West Virginia, have no computerized records at all!

Although I would like to see an instant check system, I know that it is not possible today. Furthermore, the Anti-Drug Abuse Act of 1988 already mandates the computerized system H.R. 1412 proposes. The McCollum amendment, part of the Anti-Drug Abuse Act of 1988, a bill that I supported, directed the FBI and the Department of Justice to update and computerize criminal records in order to develop and implement an instant check system. The Department of Justice has already spent $40 million to computerize criminal records. When an instant check becomes operational, waiting periods for handguns would be automatically phased out. The Brady bill will limit illegal handgun purchases only until a national instantaneous check is possible. The Staggers bill, on the other hand, is not feasible now, and will be unnecessary later.

The purpose of the Brady bill's seven-day waiting period is twofold. First, it would provide a cooling off period for people who buy guns in a moment of passion. Second, it would give the police the option to conduct a background check on a prospective handgun buyer. The Brady bill could be implemented immediately and inexpensively. The Congressional Budget Office [CBO] estimates that the Brady bill would cost only $5 to $10 million a year to operate.

More importantly, statistics indicate that waiting periods limit illegal gun transactions. In California, a 15-day waiting period prohibited 1,793 illegal handgun sales in 1989, and 2,182 in 1990. Indiana's 7-day wait stopped 939 illegal sales in 1990, and 11,150 from 1980–88. Considering that every illegal sale prevented might have deterred a crime or saved a life, these numbers assume an added significance.

The National Rifle Association [NRA] claims that the Brady bill will not stop criminals, because they will not attempt to buy handguns when a check is in effect. They are right. Criminals now purchase their handguns in States that do not require instant checks or waiting periods. Of the handguns used in violent crime in Detroit, only 8 percent were bought in Michigan. In New York, only 4 percent of handguns used in crimes were purchased in the State. Dallas, whose State has no waiting period, found that 87 percent of crime-related handguns were bought in Texas. A national waiting period will prevent this importation of handguns, as criminals find that every state makes you wait.

Where will these people turn for handguns? Even today, only one in six criminals buy a gun over the counter, and this percentage is sure to decline if the Brady bill is passed. The black market will undoubtedly supply guns to those who want them, just as it supplies drugs to those who use them. The availability of drugs on the black market, though, is not a justification for legalizing drugs. In the same respect, the black market supply of guns should not diminish our efforts to stop illegal, over-the-counter handgun sales. If only these transactions are limited, the Brady bill will be successful. Preventing one in six deaths by handgun is better than preventing none.

Why is the NRA supporting Congressman Staggers' bill? Because they know that it cannot work. The arguments have changed, but the goal remains the same, to prevent the Brady bill from becoming law. This is despite the fact that the Brady bill enjoys the support of virtually every law enforcement organization in the country. 95 percent of Americans support this legislation. A waiting period was overwhelmingly approved by California voters, and it deserves to be extended to the entire Nation. The time has come for Congress to see through the NRA's transparent positions to the facts of the matter. The Brady bill will help keep handguns out of the hands of felons. H.R. 1412 will not accomplish this goal. I have thus decided to support the Brady bill because it is not only the best choice, it is the only choice.

NORTHEAST MIAMI TASK FORCE COMMON VISION REPORT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Northeast Task Force has released its recommendations for revitalizing Miami's upper eastside. The task force's Common Vision Report is based on 18 months of work by the representatives of 15 civic and business groups in the area. The Northeast Task Force is a good example of the many grassroots citizen groups around the Nation that are working to revitalize our Nation's urban neighborhoods.

The upper eastside section of the city of Miami extends 5 miles along Biscayne Bay, and still has many of the city's most beautiful residential areas. Within the area neighborhoods are found numerous historic homes, including Miami's first historic district. Like many older neighborhoods, this area has become under-utilized in terms of its full potential in recent years.

As the first step in implementing this report, the task force will be presenting its report to the Miami City Commission on May 9. Among the recommendations proposed by the Common Vision Report include increasing the police presence in the area, enacting a nuisance abatement ordinance to eliminate drug sales and prostitution, stricter enforcement of zoning regulations, joint public-private efforts to promote economic development and upgrading the appearance of Biscayne Boulevard, the area's main right of way.

Among the northeast neighborhoods and community groups who participated in this effort were the Shorecrest, Belle Meade Island, Belle Meade, Bayside, Lemon City, Morningside, Brentwood, Buena Vista East, Bay Point, Magnolia Park, and Edgewater neighborhoods, the Greater Biscayne Boulevard Chamber of Commerce, the Northeast Subcouncil for Crime Prevention, the Northeast Improvement Association, the Northeast Umbrella Group and the Miami Design District. Among the individuals serving on the task force were Douglas Broeker, Judy Clark, Liz Kristin, Juan Crespi, Janet Grigsby, Bob Grill, Elena Dapena, Neil Robertson, Armando Rodriguez, Steward Merkin, Vi Jacobsen, Dr. Macy Sezzin, David D'Anthony, Maureen Joseph, and Mary Wade.

I wish to thank the many good citizens and organizations who through their hard work have contributed to this important grassroots effort.

ANOTHER GREAT ACCOMPLISHMENT BY DR. JACK E. HOLMES

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. VANDER JAGT. Mr. Speaker, Jack E. Holmes, professor and chairperson of the Political Science Department at Hope College, my alma mater, was recently honored as an initial inductee in the Michigan Model United Nations Hall of Fame. It is an honor richly deserved and I am delighted to have an opportunity to bring Jack Holmes and his achievements to the attention of my colleagues.

As early as his undergraduate years Jack Holmes was recognized for his interest in, and excellence pursing, the field of political science by the award of membership in Pi Sigma Alpha Honorary Fraternity. He received Ford and Carnegie Foundation grants for graduate studies and scholarship and fellowships as he pursued his graduate degree at the University of Colorado. His academic success led to an appointment, for a period of military service, as a research assistant in the Politico-Military Division of the International and Civil Affairs Directorate of the office of the Deputy Chief of Staff of the Army at the Pentagon from 1967 to 1969.

In 1969 he accepted a teaching appointment at Hope College, and has risen to the leadership of the department in the years since. From 1973 to 1975 he interrupted his academic career for some practical experience "in the field" as the district assistant in Denver to my good friend and our former colleague, Don Brotzman.

Jack's years at Hope have been marked by professional recognition among his colleagues in the Michigan Conference of Political Scientists, and by the acceptance and publication of numerous professional writings, including an article entitled "Our Best and Worst Presidents" co-authored with his Hope College colleague, Professor Robert Elder, and published in the summer 1989 issue of Presidential Studies Quarterly. Professor Holmes is currently working on a study entitled "Ambivalent America: Cyclical Responses to World Trends" scheduled for publication by the University of South Carolina Press in 1993.

But the work for which Jack Holmes may be most remembered, and for which he was recently recognized, is his involvement in the Hope College Model U.N. Program which was founded in 1971 and which annually involves more than one thousand high school students from 30 to 40 Michigan high schools. As we know, the Model U.N. Program gives high school students the opportunity to assume the roles of professional diplomats and fosters an understanding of international governments, societies, and the problems they face. As his students assist in the operation of the program at the collegiate level, they are provided with an opportunity to not only share in this exposure to international issues, but to develop administrative and management skills in coordinating so significant an event.

As an initial inductee in the Michigan Model U.N. Hall of Fame, Jack Holmes' contributions to student growth and international understanding stand as an example to those who will follow. His continued contributions to the academic life and growth of students at all levels in our State are deeply appreciated and, as an alumnus of Hope College, I applaud his work and the academic community's support.

VIRGIN ISLANDERS AND JOB CORPS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. DE LUGO. Mr. Speaker, I rise to express my appreciation on behalf of the people of the Virgin Islands for the Job Corps Program and for the efforts that are being made at the South Bronx Job Corps Center.

We do not have a Job Corps Center in the Virgin Islands, and so applicants from the territory travel to several centers throughout the Eastern United States.

Job Corps has been particularly important to the Virgin Islands. We have no vocational education and training programs targeted at the unemployed and the undereducated. Job Corps has filled an important need. And, as relatively isolated island communities, the program has allowed young men and women to gain a broader experience by traveling to the U.S. mainland for Job Corps training.

At the South Bronx Center, former Director Lee Mathews is enthusiastic about the development he has seen by young Virgin Islanders. He recently cited three individuals who are representative of what Virgin Islanders can achieve through Job Corps.

Jackie Freeman of St. Thomas, once a client of the Job Corps South Bronx Center, is now the Work Experience Coordinator there. She is also in her third year at Bronx Community College. She has progressed so well that next month she will join Mathews on a trip to the Virgin Islands to help train local Department of Labor staff on job service recruitment.

Glenn Slater from St. Croix is also studying at Bronx Community College and is now in charge of property at the South Bronx Job Corps Center. He held his first job in maintenance at the center, and moved up rapidly once given the direction and the opportunity to excel.

Jeff Registe came to the South Bronx Center unable to read and had to obtain a special waiver to come to the center because he had such little schooling. But faith in him paid off. He now has been employed by the center's maintenance staff for 4 years. He is reading at the sixth-grade level.

These young Virgin Islanders are making the most of a great opportunity in the Job Corps. They are inspired to achieve, to learn, and to grow. Once jewels in the rough, they

are honing their knowledge and skills and fulfilling their potential. All they needed was the opportunity the Job Corps South Bronx Center gave them.

These success stories are not unique. There are many. But there could be many more. As the need for education constantly increases in our ever more technological world, as opportunities for failure appear to grow more plentiful, it is crucial that we support programs with track records such as that shown by Job Corps. The 50–50 plan, which targets providing service to 50 percent more youths in years to come, is an excellent next step toward meeting the needs of so many in the Virgin Islands and across our Nation.

Mr. Speaker, I strongly endorse Job Corps, for the job it has done and will continue to do for my constituents and for thousands of others throughout the country. I commend the young people who realize the opportunity Job Corps has given them and have taken advantage of it to better themselves and to better their community. I thank Lee Mathews and the many like him who have made the program what it is today.

RESTORE AMERICANS' RIGHT TO WORK

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. CRANE. Mr. Speaker, today I am introducing legislation along with my colleague from Florida, Mr. McCOLLUM, which is designed to protect the rights and freedoms of all American workers. Specifically, the goal of this bill is to preserve the right of the American worker to freely decide whether to join a labor organization.

The original intent of Federal labor law as embodied in the National Labor Relations Act [NLRA] was to guarantee employees the right to form or join labor organizations. It would seem to be intuitive that the granting of such a guarantee would assume the converse—the right not to join. Although the Taft-Hartley amendments to the National Labor Relations Act specifically prohibited the closed shop union agreement whereby only union members may be hired by an employer, current law allows a number of similar agreements which have the same effect—if you take the job you must join the union. Such situations are patently unfair and these agreements should not be sanctioned by Federal law.

In short, forced union membership is violative of basic individual rights. The legislation we introduce today would address this issue by prohibiting all agreements between unions and employers that essentially force those employees who do not want to join a union from having to pay union dues. This legislation would prohibit union shop agreements between unions and employers which state that employees must join the union within a specified number of days after they are hired. This legislation would also prohibit agency shops whereby the employee may not be required to join a union; however, if they choose not to join, they may be required to pay the equivalent of union dues and fees to the union—the so called agency fee. Such arrangements have no role in a society that prides itself on the freedom to choose.

Samuel Gompers, who founded the American Federation of Labor declared "There may be here and there a worker who for certain reasons * * * does not join a union of labor. That is his right." Mr. Speaker, in this year of the celebration of the bicentennial of the Bill of Rights and the celebration of all the rights and liberties we enjoy as citizens of these United States, I urge my colleagues to cosponsor and support this legislation, and I look forward to working with my colleagues toward its passage.

PROTECT THE TOWERING REDWOODS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. STARK. Mr. Speaker, I am joined today by 15 of my colleagues from across the Nation and throughout California to protect some of the most spectacular trees in America, the old growth coastal redwood. Less than 5 percent of these towering giants remain. A significant portion of the surviving old growth redwood faces chain-sawing to make interest payments on junk bond debt. This must not be allowed to continue.

The legislation being introduced does two important things. The bill designates approximately 200,000 acres of land in Humboldt County as Six Rivers National Forest and directs the Secretary of Agriculture to submit an aquisition plan. Second, within the new Six Rivers Forest boundary, it extends national forest wilderness designation to an area known as the Headwaters Forest.

The Headwaters Forest is approximately 3,000 acres of pristine, virgin, old growth redwood. Trees often soar, straight up, over 300 feet with an average height in the neighborhood of 250 feet. Streams run 15 feet under the forest floor, hidden by huge, slow-decaying redwoods that have fallen over the centuries. The rare seabird, the marbled murrelet, nests in Headwaters Forest. Headwaters Grove is home to a wide variety of species found only in old growth forests, species threatened by the disappearance of ancient forests.

This tranquility ended when Pacific Lumber was taken over by Maxxam Corp. Maxxam bought Pacific Lumber in a highly leveraged transaction with junk bonds. Even in the go-go 1980's of financial gimmicks, Maxxam was one of the most highly leveraged companies in the country. Maxxam immediately significantly increased the redwood timber cut to pay off its massive debt. Maxxam has repeatedly filed timber harvest proposals to log the Headwaters Forest area.

The bill puts 200,000 acres of Maxxam-Pacific Lumber land under Federal designation for inclusion in the Six Rivers National Forest. Currently, the only protection offered significant areas of old growth is the State of California's Board of Forestry. The mandate of the Board of Forestry is generally to facilitate the cutting of trees. Multiple-use activities are not considered. The value of leaving the trees or some stands standing is not considered. By having the Forest Service in control of land, values other than timbering can be considered. However, logging is not excluded by the legislation.

There is a myth that Pacific Lumber is concerned about jobs, its employees and pensioners. While this may have been true in the old Pacific Lumber, since the takeover by Maxxam, actions have clearly demonstrated otherwise. First, Maxxam sold the annuity which protects the savings of a lifetime of work for several thousand employees, to a high flying life insurance company named First Executive which is now under conservatorship by the State of California. What will happen to the pensions of people who worked their whole life for Pacific Lumber is very uncertain. Interestingly, part of First Executive's portfolio to protect the pensions are Pacific Lumber junk bonds.

The next uncaring action of Pacific Lumber was to greatly accelerate the cutting of old growth redwood. Estimates range from a doubling to tripling of the amount of trees cut. In doing so, a timber supply that could have provided a steady flow of jobs for up to two decades was razed in a few years. No thought is given to sustainable yield cuts which would provide a constant supply of jobs but rather Pacific Lumber has become a mining operation working people out of their jobs.

I believe it is time we stopped cutting down 1,000-year old trees to make monthly interest payments on junk bonds. It is time we stopped the mining of old growth redwoods which are both an important symbol to the State of California and to the United States. Everyday we wait, ancient redwood trees that have been growing since the Vikings were fearsome raiders, are being buzz-sawed for interest payments for a corporate raider. I urge my colleagues to join me in supporting this legislation.

SALUTE TO MANAGEMENT WEEK IN AMERICA

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to help recognize the men and women who keep America in business—the Nation's managers.

This year marks the 13th observance of Management Week in America. Sponsored by the National Management Association, the week of June 3–9 is being set aside to develop and recognize management as a profession and to promote our American competitive enterprise system.

Since its inception in 1978 by the National Management Association, Management Week in America has grown in recognition and activities each succeeding year, and deservedly so. For just as we need people with vision to develop the ideas that keep America moving forward and people with the skills to produce the goods and services that result from those

ideas, so too do we need the people to ensure that those ideas are carried out.

The National Management Association, with more than 75,000 members covering the spectrum of American business, industry and the public sector, helps those managers improve their skills and abiilities, and contributes to improving our productivity and our economy.

I would like to pay special recognition to the Rockwell Valley Chapter, which has more than 1,100 members located at Rockwell facilities in Canoga Park, Chatsworth, Santa Susana, Westlake Village, and Thousand Oaks.

Mr. Speaker, I ask my colleagues to join me in commemorating Management Week in America, and in supporting policies to make our free enterprise system stronger and even better able to meet the economic challenges of the years ahead.

AUTOMOTIVE ARMATURE EMPLOYEES EXPRESS THANKS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. BURTON of Indiana. Mr. Speaker, I call your attention to a petition which was sent to me by Tim McGuire of the Automotive Armature Company, Inc., of Mooresville, IN. The petition reads:

Today the heroes of the hour are all those pilots from the participating multinational forces who launched the first successful air strikes against Iraq.

The following people employed at Automotive Armature in Mooresville, IN, want to express thanks to these brave men who have paved the way to achieving military success in the shortest possible time.

Our hearts and minds are with all our service men and women serving in the Middle East and we want them to know that we wholeheartedly support them and the U.S. Government in their valiant efforts.

Again, we say thanks and we want to see all of them home soon.

This petition contains more than one hundred and fifty signatures.

Mr. Speaker, I would like to thank all the employees of the Automotive Armature Company for their time and effort in gathering the signatures for this petition. At a time when support and patriotism really needed to be shown, this company, as always, came through with shining colors. Mr. Speaker, it is with great honor that I present this petition to the U.S. House of Representatives.

REV. FATHER GEORGE E. KALPAXIS HONORED UPON HIS RETIREMENT

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mrs. BENTLEY. Mr. Speaker, I rise today to ask my collegues in the U.S. Congress to join me in honoring the Reverend Father George E. Kalpaxis, who will be honored at a retirement dinner this Thursday, May 9, 1991. For the past 20 years Father Kalpaxis has served as the beloved pastor of the St. Nicholas Greek Orthodox Church in Baltimore, MD.

Father Kalpaxis was a member of the first graduating class of the Holy Cross Greek Orthodox Theological School in June 1942. Following his ordination to the priesthood in August of that year he served parishes in New Hampshire, Deleware, Texas and New Jersey before coming to Baltimore.

Upon the 25th anniversary of his graduation from the seminary in 1967, Father Kalpaxis was bestowed the highest honor accorded to a married priest, the title of Protopresbyter.

On November 15, 1971, Father Kalpaxis was assigned to the Community of St. Nicholas in Baltimore. Under his leadership the community has prospered, undertaking numerous avenues of serving the community. During his pastorship, Father Kalpaxis has given faithful and dedicated service to his flock, and has endeared himself to his parish by his devotion, humility, concern and love for his people.

At his side for many of these years was Father Kalpaxis' beloved wife, Presbytera Athena, who fell asleep in the Lord in 1984. In her honor and memory Father Kalpaxis established a scholarship fund to help the young people of the parish succeed in their education.

Although Father Kalpaxis is retiring as pastor of St. Nicholas Church, ordination is an indelible stamp which forever marks a man as God's priest. Father Kalpaxis will remain in Baltimore and assist the surrounding parish priests and especially his beloved Community of Saint Nicholas.

Mr. Speaker, it is an honor and a pleasure for me to join in honoring Father Kalpaxis and it is my further pleasure to ask my collegues in the Congress to join me in honoring a devoted man of God. I wish him many years of health and happiness to enjoy his well-deserved retirement.

A TRIBUTE TO JIM HANNIBAL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the outstanding community service of Jim Hannibal of Sunnymead, CA. Jim will be honored for his work next week as he is recognized as Chino Police Officer of the Year for 1991.

Jim joined the Chino Police Department in 1977 as a reserve police officer and later that year worked as a police service aide. He was promoted to police officer in 1978 and was given the rank of corporal in 1984. During the past year, Jim has served the department as its permanent member of SMASH—San Bernardino County's Movement Against Street Hoodlums—and as one of the department's two robbery and homicide investigators.

Jim has taken an active interest in developing programs and collecting street information that has proven invaluable in conducting gang and homicide investigations. He introduced the concept of stripping gang members of their gang paraphernalia under the Street Crime Act. He also instituted a computer gang profile and moniker file and has several hundred names of active gang members on file, providing easy access in the event of a gang crime. Jim also willingly works a split shift work week for the sole purpose of staying in contact with active gang members so he can respond intelligently when a gang-related crime occurs.

Jim's investment of time and energy has made, and continues to make, a difference for the department and the communities it serves. During the last year, Jim was successful in arresting multiple suspects in a gang-related, double homicide. People close to that case acknowledge that those arrests would not have likely been made without Jim's expertise in gangs. That experience has been useful in making arrests for other crimes, including attempted homicide cases involving gang members.

Jim has consistently demonstrated a great deal of motivation and willingness to assist officers in the field in any way possible. Not surprisingly, he is regarded highly by all department officials, the district attorney, and allied police agencies.

Mr. Speaker, I ask that you join me and our colleagues as we honor the fine achievements of Jim Hannibal, Chino's 1991 Officer of the Year. He is a fine model of community service and activism. I would like to personally thank Jim for his fine work and wish he and his wife and children continued success in the years to come.

REMEMBERING OUR HOSTAGES

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. SUNDQUIST. Mr. Speaker, I was contacted recently by Melody Brewington of Baxter, TN. Melody is the niece of Terry Anderson, a journalist for Associated Press who is one of six Americans still being held hostage in Lebanon. Although Terry's family is hopeful that he and the others will return home soon, they have learned through the years that there is no guarantee.

At the time of Terry's kidnaping, the demands of his captors, a group known as the Islamic Jihad, were that 17 prisoners held in Kuwait for terrorist activities be released. These prisoners are now free as a result of the conflict with Kuwait. It is hard to know now what actions are necessary to bring about the release of the six Americans.

With our hectic lives, it is hard to keep our minds on other matters. We cannot, however, let this hostage situation be overlooked. The families of these hostages have stood by for almost 6 years as these men have suffered untold indignities and been seemingly forgotten by the very people they were there to serve—fellow Americans.

I know the Bush administration is actively working toward the release of Terry Anderson, Thomas Sutherland, Jesse Turner, Joseph

James Cicippio, Edward Austin Tracy, and Alann Steen. Progress, however, is slow and the results uncertain. It is important that we continue to think about, and pray for the hostages and their families. We must keep our focus on these Americans in hopes of speeding their return home.

A TRIBUTE TO COL. JOHN B. McTASNEY

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. SLATTERY. Mr. Speaker, it is with great pleasure that I pay tribute to Col. John B. McTasney, an outstanding patriot and leader, who is retiring from the U.S. Air Force after 28 years of exemplary service. Colonel McTasney's commitment to the United States of America, the U.S. Air Force, and his local community and family are of the highest caliber and set the standards for others to follow and strive to obtain.

Colonel McTasney graduated from the U.S. Air Force Academy on June 5, 1963 with a degree in military studies. Following his commission he entered undergraduate pilot training [UPT] at Reese AFB, TX, where he received his wings in 1964. He completed a master's degree in communications and technical writing at Rensselaer Polytechnic Institute [RPI] in 1969 and also completed the Armed Forces Staff College, Air War College, and the National Security Management School.

Colonel McTasney served as an HH–3E helicopter rescue crew commander during the Vietnam war where he rescued over a dozen American and allied personnel stranded in hostile territory. He received the Air Force Cross for successfully pulling out a special operations team under heavy enemy fire at night after two other helicopters were shot down. He also was awarded the Silver Star, the Distinguished Flying Cross, and eight Air Medals for subsequent combat rescue missions. The National Aeronautics and Space Administration [NASA] presented him with its Group Achievement Award in 1977 as a leader of the Delta 134/Atlas-Centaur 43 Recovery Team, which also played a key role in the Navy's Trident test program by recovering several first stages after they fell into the ocean. All told he has flown over 3,500 flying hours in various aircraft, including 275 combat hours.

Following a remote tour as a rescue helicopter pilot in Iceland, Colonel McTasney served from 1979–84 in the Secretary of the Air Force's Office of Legislative Liaison answering congressional constituent inquiries, frequently visting offices in both the Senate and House to explain Air Force policy and its impact on our constituents. I can attest personally that this is an enormously challenging and often thankless assignment.

During his last assignment as professor of aerospace studies at Kansas State University, Colonel McTasney oversaw the completion of the KSU Vietnam Veterans' Memorial, increased KSU AFROTC enrollment above viability levels and received an "excellent" detachment rating from his last Unit Effectiveness Inspection.

His high standards and integrity provide inspiration and command the respect of his students, subordinates, peers and superiors. Mr. Speaker, it is my great pleasure to honor Col. John B. McTasney for his devotion to the United States of America with the utmost distinction. We are all indebted to him for the personal contributions he has made to keep our Nation strong.

TAX FREEDOM DAY

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. DREIER of California. Mr. Speaker, today marks a bittersweet point in the year: Tax Freedom Day. We have good news and bad news. The good news is that, after today, the average American will have earned enough money to pay his or her 1991 Federal State, and local taxes. The bad news, of course, is that it took 128 days to reach that point, 3 days later than last year.

According to the Tax Foundation, much of the increase in the tax burden is due to the $164 billion tax increase Congress imposed on working Americans last October. Worse, for every $1 in new taxes, Government spending will increase $1.78, virtually insuring that, in the next few years, Tax Freedom Day will come later and later.

Taxes are rising almost 3 percent faster than incomes, yet Government waste runs rampant in the Federal budget. It's time to end the legal pickpocketing of America by Congress. That's why I have joined as a cosponsor of the Balanced Budget/Tax Limitation Constitutional Amendment. In addition to mandating a balanced budget, it limits the growth in Federal spending to no more than the growth in the economy.

A balanced budget amendment provides a tremendous opportunity to strengthen our Nation's economic future. Economists have said all along that the budget deficit is the cause of many of our economic problems. Adoption of the balanced budget amendment would lead to increased domestic savings, lower interest rates, increased investment, less reliance on foreign capital, and an improvement in the balance of trade. More important, it would return to individual Americans control over their hard-earned incomes.

Previous statutory attempts requiring a balanced budget have failed to stem the tide of red ink. Mandatory balanced budget statutes were enacted by Congress in 1974, 1979, 1985, and 1987. Since 1974, the Government ran up deficits totaling $2.15 trillion. In contrast, Federal deficits between 1946 and 1974 totaled $137.8 billion. It's obvious that a constitutional requirement is necessary. It would work because every Member of Congress has sworn to uphold the Constitution.

I salute the Tax Foundation for its hard work in developing this innovative way of illustrating the massive tax burden imposed on working Americans by governments at all levels. Tax Freedom Day is coming later and later each year, and I plan to do my part to reverse this unfortunate trend.

FUSTER URGES SUPPORT TO OPPOSE MILK TAX IN PUERTO RICO, HAWAII

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. FUSTER. Mr. Speaker, I rise today to urge support from the colleagues for legislation which has been introduced in the House and the Senate, and for other initiatives, designed to limit the proposed reduction in producer prices for milk to the 48 contiguous States. Several months ago, early in this 102d Congress, I initiated action to oppose the extension to Puerto Rico, Hawaii, and other noncontiguous areas of such milk tax legislation.

This reduction in the price received by producers of commercially marketed milk, imposed by the Omnibus Budget Reconciliation Act for Fiscal Year 1991, amounts to a thinly disguised tax on milk, the revenue from which will be remitted to the Commodity Credit Corporation, or CCC. Last year's farm bill also provides for an additional—and potentially more substantial—tax on milk producers beginning in 1992, to offset costs associated with the U.S. Department of Agriculture's milk price support program through the CCC.

But, traditionally, Mr. Speaker, Puerto Rico has had no relationship with the CCC and does not participate in agriculture support programs. Price reductions to milk producers in effect for the years 1983–1990 were applicable only to the 48 continguous States, in recognition of the fact that other States and insular areas, because of their distance from the United States, have domestic milk industries but do not sell surplus milk to the CCC nor otherwise benefit from the CCC program.

In the case of milk, Mr. Speaker, Puerto Rico has its own agency, known as Indulac, which purchases what little surplus milk is produced in Puerto Rico, and therefore has no need for the CCC. Puerto Rico was initially included in this program when it was begun in 1982 and was later excluded on this basis. Puerto Rico's supply-management system relies on quotas, with excess milk purchased by Indulac, a corporation set up under the laws of the Commonwealth of Puerto Rico and administered by a board representing the Commonwealth government, dairy farmers, and milk producers.

Mr. Speaker, the price of milk in Puerto Rico, like that for other insular jurisdictions, is already considerably higher than that on the U.S. mainland because of the transportation costs on imported grains. It is not economically feasible for Puerto Rican milk producers to sell surplus milk to the CCC because the milk would be sold at an enormous loss due to the higher costs of production.

Moreover, Mr. Speaker, the CCC program could be detrimental to Puerto Rico because it attempts to discourage increased milk production without taking into account the particular needs of an island with an insular milk industry and a growing demand for milk. We feel

that we should not be obligated to pay for services we do not receive and that taxing milk in the poorest region of the United States is a counterproductive measure. The Commonwealth of Puerto Rico will be the most severely affected by the taxes, given that it is the most populous of the offshore areas and has the highest milk consumption and production levels.

Thus, Mr. Speaker, I have outlined in some detail the particulars of our case against prescribing a milk tax in Puerto Rico, Alaska, Hawaii, and in the other noncontinguous areas. I conveyed this position in a February 28, 1991, letter to Chairman DE LA GARZA of the Agriculture Committee and in a March 26, 1991, letter to Senator INOUYE, in which I supported the Senator's bill which would achieve our mutual aims.

During that time, I have worked closely and in a coordinated manner with congressional offices involved in this issue. A consensus emerged from our working group that we would explore remedies within the Committee on Agriculture, and several meetings to that end have been held among my staff and those of the Committee on Agriculture. A bill, similar to the one introduced by Senators INOUYE and AKAKA, was among our options; we are, in fact, still considering the best route to take.

I now understand that the gentlewoman from Hawaii [Mrs. MINK] yesterday introduced her bill on this issue which would achieve ends similar to those contained in the bill introduced by Senators INOUYE and AKAKA. Because her intentions are good, I will support her bill while our larger working group on this issue continues to consider other strategies. My own bill, had I decided to introduce it at this time, would have amended the Agricultural Act of 1949 to provide that the milk price support and milk inventory management program applies only to milk produced in the 48 contiguous States.

Thus, I urge my colleagues to support initiatives in the House that would take in to account the special circumstances of Puerto Rico, Hawaii, Alaska, and the other noncontiguous areas when the matter of the proposed reduction of producer prices for milk it taken up.

THE BUDGET

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. HAYES of Illinois. Mr. Speaker, Federal employees must be pleased that the budget we are considering includes a much-deserved pay raise. It is the first time in recent memory that they have not had to plead with Congress to grant them what they have earned. It is also gratifying to see that postal and Federal retirees receive a full COLA, which is assured them by last year's budget agreement.

However, I am disappointed that revenue forgone is almost entirely eliminated. Revenue forgone reimburses the Postal Service for subsidizing low rates for nonprofit organizations. It represents a commitment by this Government to groups such as the Boy Scouts, American Cancer Society, rural newspapers, and American Red Cross.

These organizations do not profit from inexpensive rates—but America profits from the work these organizations do. Revenue forgone is a commitment toward a better America. These groups will have to divert vital funds from areas such as research and education into postage. How can we espouse the virtue of 1,000 points of light when we extinguish their life-line?

The President can prevent that from happening by restoring sufficient funding—and cutting back on Mr. Sununu's pleasure trips. The Congress can make a commitment toward a better America by restoring funding. I urge my colleagues to add their prestige to the case for revenue forgone.

VIOLENCE AGAINST ARMENIANS IN THE SOVIET UNION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. LANTOS. Mr. Speaker, The mountainous border between the Soviet Republics of Armenia and Azerbaijan is the scene of new violence against ethnic Armenians. Reports in recent days from the region strongly suggest that Soviet officials and the Soviet military have instigated the escalation of violence.

Soviet troops and bands of armed Azerbaijanis are fighting an undeclared war against Armenians living in the neighboring Republic of Azerbaijan. Using helicopters, tanks, and heavy artillery, Soviet soldiers and Interior Ministry troops seized the villages of Voskepar, Tekh, Shurnukh, and Kornidzor on Monday. The attacks were carried out by order of the Kremlin to disarm Armenian citizens defending themselves against Azerbaijani vigilantes.

The Armenpress news agency reported that all homes in the village of Voskepar were destroyed. President Levon Ter-Petrosian of Armenia said 23 villagers died as a result of the attack.

The victims of the ethnic violence, many of whom are Armenian policemen, have been subjected to unimaginable brutality; there are reports of summary executions and scalping of Armenians.

Mr. Speaker, it is disturbingly clear through its recent actions that the Kremlin is attempting to place obstacles in Armenia's path toward greater autonomy. The Soviet Union's exploitation of the historical ethnic animosity of Azerbaijanis toward Armenians in order to thwart Armenia's independence movement is deplorable. I urge my colleagues to join me in denouncing the violence against the Armenian people and to urge the Kremlin to exercise restraint in this troubled region.

MARGARET E. SCHUTZIUS HONORED

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. WALSH. Mr. Speaker, On September 20, 1989, Peace Corps Volunteer Margaret E. Schutzius, 23, of Dallas, TX, was aboard a French airliner that was blown up over Niger shortly after takeoff from Chad. Ms. Schutzius was returning to the United States after 2 years service overseas as a secondary education English teacher.

Along with my colleagues Congressmen HENRY and MOODY, I plan to reintroduce legislation that would instruct the Director of the Peace Corps to provide an American flag to the families of any Peace Corp volunteer, who dies during the period of his or her service. The bill would also provide a flag to the families of those volunteers who died in service since the Corps was formed in 1962.

Peace Corps volunteers make things happen. They leave behind far more than the wells they dug, the gardens they nurtured, or the clinics they built. They leave the local people with a better sense of how to make the most of their resources—how to make things happen on their own. These volunteers who die in service to others have in a sense given their life for the greatest American ideals.

I hope you agree that the survivors of these wonderful volunteers deserve this small token of our country's appreciation for their dedication and service to others.

I ask that you join me in cosponsoring this important measure.

INTERNATIONAL JAZZ DAY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. GALLO. Mr. Speaker, I rise today to call to the attention of my colleagues the planned celebration for International Jazz Day to be held on June 23, 1991.

In 1990, the New Jersey Jazz Society [NJJS] conceived of, promoted, and celebrated the Centennial of Jazz. Ultimately, jazz clubs in 40 U.S. States and 7 nations worldwide celebrated the centennial. Jazz festivals were held in Australia, New Zealand, Japan, South America, Canada, and Europe. In New Jersey, the general assembly passed a resolution honoring the centennial and the Governor issued a proclamation.

This year, in a continuing effort to raise the awareness of jazz the NJJS—along with the American Federation of Jazz Societies [AFJS] and the United Nations Jazz Club—have established an annual International Jazz Day, which will be celebrated each year henceforth on the fourth Sunday in June. This year it will be celebrated on June 23. Jazz Day is designed to honor both the music, which is a vital part of our cultural history, and the musicians who created it and sustain it.

To date, jazz clubs throughout the United States—as well as clubs in England, Ger-

many, Russia, Canada, Australia, and Argentina—have signed on to honor this first annual International Jazz Day with jazz festivals everywhere. There is even a Jazz Day concert scheduled to be held in the auditorium of the United Nations. In New Jersey, our own Jazz Day Festival will be held in Waterloo Village.

So I encourage my colleagues to promote this celebration in their districts, and I commend the New Jersey Jazz Society for their pioneering efforts in this worldwide celebration in honor of the contributions of jazz to our cultural history and to our lasting enjoyment.

NEW KENSINGTON, PA., MARKS 100TH ANNIVERSARY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. GAYDOS. Mr. Speaker, on behalf of my colleagues in the Congress of the United States, I take this opportunity to extend official congratulations to the citizens of the City of New Kensington, PA, on the forthcoming observance of their community's 100th anniversary.

History, it is said, is to a community what memory is to man and New Kensington's past is one rich in remembrances and milestones.

Its historical tapestry is interwoven with events that predate the American Revolution, beginning with the deeding of land tracts to early settlers in the 1700's which led to the formation of Parnassus Borough on April 9, 1872; the incorporation of the Borough of New Kensington on November 28, 1892; the consolidation of the two boroughs on January 5, 1931; and ultimately the chartering of New Kensington as a third class city effective January 1, 1932.

New Kensington first put down roots as a settlement, carved from the wilderness with the Allegheny River serving as the boundary between the settlers and Indian territory. The Allegheny soon proved to be the lifeline to the fledgling community's future.

Transportation by foot and horseback gave way to Conestoga wagons and stagecoaches. Then the river came into its own with the building of the Pennsylvania Canal System in the early 1800's, linking the settlement with Pittsburgh to the west and Philadelphia to the east. Industrial development of the region was spurred by the great quantities of oil, coal, iron ore, limestone, and lumber shipped to these ports.

The coming of the railroads in the mid-1800's triggered an economic boom that eventually led to New Kensington becoming an industrial and commercial center in southwestern Pennsylvania. Mills, plants, and factories sprung up, bringing with them more people to fill the demand for jobs. Schools, churches, and stores followed.

The heights of prosperity have been tempered, however, with valleys of depression. New Kensington, like other industrial hubs, has seen economic downturns: The depression of the 1930's and more recently the recession of the 1980's. But, like their Forefathers, the citizens of today's New Kensington have proven their resiliency. They have weathered the storm of the past decade.

With faith and courage they face the present and with confidence and expectancy they challenge the future. As their elected representative in Congress, I have the strongest of convictions they will succeed.

ENRIQUE LOW MURTRA, ONE OF COLOMBIA'S MOST COURAGEOUS WARRIORS IN THE WAR ON DRUGS, WILL BE MISSED

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. COUGHLIN. Mr. Speaker, unfortunately, the drug cartels have scored a victory once again. This time it is in the assassination of former Colombian Minister of Justice, Enrique Low Murtra. Low served as Minister of Justice under President Barco from 1987–89 when he was forced to resign for his own safety. While serving as Minister of Justice, Low took the lead in advocating the extradition of drug traffickers to the United States. As we all know, this was a brave act in Colombia where retaliation from drug traffickers is a daily event. In spite of threats to his life, Low continued in his fight against drugs to become a powerful player in President Barco's successful antidrug crackdown against drug traffickers.

Unfortunately, Low is not the first Colombian Minister of Justice to fall victim to the drug traffickers' violence. Drug traffickers' vengeance runs deep. Seven years ago, then Minister of Justice, Rodrigo Lara Bonilla was also assassinated. Lara's successor was seriously wounded while serving in the post of Colombia's ambassador to Hungary. Authorities blame that attack on drug traffickers.

I hope that Colombia can remain united against drug traffickers. The assassination of Low is clear evidence that Colombia's judicial system must be strengthened in order to punish drug traffickers. Our sympathies go out to the people of Colombia for they have lost a pioneer in the war on drugs. Enrique Low Murtra's bravery should not be forgotten in the United States. His deeds and his attacks on the drug cartels represented a turning point in the war on drugs. The American and Colombian people will continue the fight.

TRIBUTE TO ANDREW HICKEY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, after many years of service to the real estate industry, and to the community at large, Andrew Mickey is retiring as the executive officer of the Greater Boston Real Estate Board. Mr. Speaker, this is a particularly poignant moment for me personally, because Mr. Hickey's service in that position spans my own career dealing with public issues. When I first went to work in the public sector in 1968, Andy Hickey was there, and in my work in the city of Boston I learned a great deal from him about the importance of sensible policies with regard to real estate. Throughout my time in the State legislature and in Congress, he has continued to be a source of wisdom and counsel for myself and others. I note also in this personal context that he is a particular friend of Joanne Moore, who heads my Attleboro office, and her husband Gene.

The Greater Boston Real Estate Board has made important contributions to the quality of life in Massachusetts, and Andy Hickey's role has been one of the most significant reasons that it has done so. I wish to use this occasion Mr. Speaker to celebrate the career of an extremely useful citizen who has worked long and hard to make life better for all of us.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 9, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 10

9:00 a.m.

Armed Services

Conventional Forces and Alliance Defense Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for national defense programs, focusing on modernization requirements and acquisition plans for the Army.

SR–222

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on proposed legislation to insure the safety and soundness of government sponsored enterprises.

SD–538

Environment and Public Works

Environmental Protection Subcommittee

Superfund, Ocean and Water Protection Subcommittee

To hold joint hearings to examine and evaluate the Department of the Interior's report and recommendation to the Congress and final legislative environmental impact statement concerning

the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-406

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To hold closed hearings to review Moscow Embassy construction plans.
S-116, Capitol

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To continue hearings on the current situation in the Middle East, focusing on the role of the United Nations.
SH-216

MAY 13

9:00 a.m.
Environment and Public Works
To hold hearings to examine various truck issues, including S. 823, to authorize funds for the improvement of highways to further international competiveness of the U.S., and S. 965, to improve the efficiency of the existing surface transportation system.
SD-406

10:00 a.m.
Energy and Natural Resources
To hold hearings on S. 570, to implement a national energy strategy, focusing on subtitle B of Title V, provisions relating to nuclear waste management.
SD-366

2:00 p.m.
Budget
To hold hearings to examine waste and abuse in Medicare payments for medical equipment and supplies.
SD-608

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine Arctic and Antarctic monitoring.
SR-253

MAY 14

9:00 a.m.
Environment and Public Works
To resume hearings to examine various truck issues, including S. 823, to authorize funds for the improvement of highways to further international competiveness of the U.S., and S. 965, to improve the efficiency of the existing surface transportation system.
SD-406

9:15 a.m.
Finance
Business meeting, to mark up S. Res. 78, regarding extension of fast-track legislative procedures for consideration of international trade agreements.
SD-215

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for fossil energy and clean coal technology programs.
S-128, Capitol

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings to examine issues relating to fast-track intellectual property.
SD-226

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs, focusing on the Tennessee Valley Authority.
SD-192

Armed Services
To hold hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for national defense programs, focusing on the Strategic Environmental Research and Development Program.
SR-222

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. trade.
SD-138

MAY 15

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on issues relating to run-away executive pay, focusing on the Securities Exchange Commission.
SD-342

Select on Indian Affairs
To hold hearings on proposed legislation authorizing funds for programs of the Native American Programs Act.
SR-485

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Smithsonian Institution and the National Gallery of Art.
SD-116

Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for national defense programs, focusing on the progress being made by the Department of Defense in supporting science, mathematics and technical education at all levels.
SR-222

Judiciary
To resume hearings on legislative proposals to strengthen crime control, focusing on the views of officials in the law enforcement field.
SD-226

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Commission on National Service, and the Points of Light Foundation.
SD-138

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on pipeline safety.
SR-253

Governmental Affairs
Government Information and Regulation Subcommittee
To hold hearings to examine the President's initiative for improving economic statistics.
SD-342

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 586 and S. 711, bills to provide authority to the Secretary of the Interior to undertake certain activities to reduce the impacts of drought conditions, H.R. 355, to revise the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and S. 404, to authorize the Secretary of the Interior to enter into contracts pursuant to the Warren Act for domestic, municipal, fish and wildlife, and other beneficial purposes.
SD-366

MAY 16

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 668, to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations.
SR-485

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Small Business
To hold hearings to examine the effect current wetlands regulations are having on small business.
SR-428A

Veterans' Affairs
To hold hearings on proposals to improve educational assistance benefits for members of the Selected Reserve of the Armed Forces who served on active duty during the Persian Gulf War, including S. 868, and on H.R. 153, to repeal certain provisions of the Veterans' Judicial Review Act relating to veterans' benefits.
SR-418

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Minerals Management Service, Department of the Interior, and the Indian Health Service, Department of Health and Human Services.
SD-116

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the U.S. Coast Guard, Department of Transportation.
SD-138

Finance
To hold hearings to examine restoration of traditional individual retirement accounts (IRAs) in an effort to stimulate economic growth for Americans and the nation, focusing on S. 612, to en-

courage savings and investment through individual retirement accounts.

SD-215

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To resume hearings to examine issues relating to fast-track intellectual property.

SD-226

Rules and Administration
Business meeting, to receive a report from the Architect of the Capitol on current projects, and to consider other pending administrative business.

SR-301

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs, focusing on environmental restoration and waste management (defense and non-defense) and the Civilian Nuclear Waste Fund of the Department of Energy.

SD-192

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on the licensing of nuclear reactors and nuclear power plants, focusing on title XIII of S. 341, to reduce the nation's dependence on imported oil and to provide for the energy security of the nation, and title V, subtitle A of S. 570, to implement a national energy strategy.

SD-406

Select on Intelligence
To hold closed hearings on intelligence matters.

SH-219

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of John A. Hammerschmidt, of Arkansas, to be a Member of the National Transportation Safety Board.

SR-253

MAY 17

9:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.

SD-138

1:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Veterans Affairs, Department of Housing and Urban Development, and independent agencies.

SD-138

MAY 21

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for activities of the Secretary of Energy.

S-128, Capitol

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs, focusing on the Office of Energy Research, solar and renewables research and development, and nuclear energy research and development of the Department of Energy.

SD-192

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S.52 and H.R.1143, to direct the Secretary of the Interior to prepare a national historic landmark theme study on American labor history, S.550, to designate the Nez Perce National Historical Park in the State of Idaho, S.638 and H.R.749, to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocumulgee National Monument in the State of Georgia, S.639 and H.R.904, to direct the Secretary of the Interior to prepare a national historic landmark theme study on African American history, S.663, to allow the city of Pocatello, Idaho to use certain lands for a correctional facility for women, S.749, to rename and expand the boundaries of the Mound City Group National monument in Ohio, and other pending legislation.

SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on security assistance in the post-Cold War era.

SD-138

MAY 22

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for national defense programs, focusing on Department of Energy environmental restoration and waste management programs.

SR-222

MAY 23

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 290, to authorize funds for certain programs of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.

SR-485

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the General Accounting Office.

SD-138

Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine the consolidation of U.S. export promotion functions.

SR-253

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs, focusing on the Department of Energy.

SD-192

Select on Indian Affairs
To hold oversight hearings on Indian libraries, archives and information services.

SR-485

JUNE 4

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on Africa.

SD-138

JUNE 5

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for activities of the Secretary of the Interior, and Members of Congress.

S-128, Capitol

Select on Indian Affairs
To hold hearings on S. 667, to provide support for and assist the development of tribal judicial systems.

SR-485

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Housing and Urban Development.

SD-138

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 106, to revise the Federal Power Act to prohibit the granting of a Federal license for a hydroelectric project unless the applicant complies with all substantive and procedural requirements of the affected State in which the project is located with respect to water acquisition and use.

SD-366

JUNE 6

9:00 a.m.
Veterans' Affairs
Business meeting, to mark up pending legislation.

SR-418

JUNE 12

9:30 a.m.
Veterans' Affairs
To hold hearings on S. 775, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain disabled veterans, and sections 111 through 113 of S. 127, and related proposals with regard to radiation compensation.

SR-418

JUNE 18

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

JUNE 26

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR-418

JULY 16

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for rail safety programs.
SR-253

POSTPONEMENTS

MAY 21

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on enforcement of antidumping and countervailing duties.
SD-342