

SENATE—Tuesday, June 29, 1993

(Legislative day of Tuesday, June 22, 1993)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable CAROL MOSELEY-BRAUN, a Senator from the State of Illinois.

PRAYER

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

Let us pray:
For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.—Jeremiah 2:13.

Almighty God, the prophet Jeremiah reminds us that we are incurably religious. If we will not worship the true God, we seek a substitute, such as pleasure or power or wealth or no-God. And we become like the god we worship. "Hollow gods make hollow souls."

As we observe cultural decline in our Nation, grant us insight as to its cause. Our Founding Fathers believed in separation of church and state on religious grounds. Because of their deep religious conviction from which sprang their political ideology, they opposed a "state church"—an "official" religion. We have reduced freedom of religion to freedom from religion, and equated separation of church and state with outlawing religion in public life. We have insisted on value-free education and have inherited a value-free society.

In 1968, in their book, "Lessons of History," Will and Ariel Durant wrote: "We frolic in our emancipation from theology, but have we developed a natural ethic, a moral code, independent of religion, strong enough to keep our instincts of acquisition, pugnacity and sex from debasing our civilization into a mire of greed, crime and promiscuity?"

Ruler of the nations, help us see that it was religious conviction which fueled the ideas of our Founding Fathers. And it is religious conviction which fuels moral consensus. Restore in us the faith of our fathers.

In His name who was Righteousness incarnate. 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, June 29, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CAROL MOSELEY-BRAUN, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. MOSELEY-BRAUN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader, the Senator from Maine.

THE JOURNAL—RESERVATION OF LEADER TIME

Mr. MITCHELL. Madam President, Members of the Senate, the Journal of proceedings has been approved to date and the time for the two leaders reserved for their use later in the day.

SCHEDULE

Mr. MITCHELL. There will now be a period for morning business until 11 this morning. During that period of morning business Senators will be free to speak, with certain Senators recognized for time specified under a prior order.

At 11, it is my intention to proceed to several nominations on which we have been unable to gain consent for approval to date. That means we will just have to proceed. It is my hope that our Republican colleagues will agree to give us limitations of time on debate so we can take up and vote on these nominations during the day today.

I will, then, have an announcement later today with respect to the legislative schedule following consideration and disposition of the several nominees. Among those nominations to which I intend to turn during the day today, if possible, are those listed on the Executive Calendar, No. 228, Ashton B. Carter to be an Assistant Secretary of Defense; No. 229, George T. Frampton, Jr., to be Assistant Secretary for Fish and Wildlife; and No. 235, Philip R. Lee, to be an Assistant Secretary of Health and Human Services.

Madam President, I yield the floor.

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 11 o'clock, with Senators permitted to speak therein for not to exceed 5 minutes each.

The first hour shall be under the control of the Senator from West Virginia. The Senator from West Virginia is recognized.

LINE-ITEM VETO—VIII

Mr. BYRD. Madam President, I thank the Chair.

Madam President, this is the eighth in my series of speeches on the line-item veto. Last week, I spoke of the devastation wreaked by Hannibal's Army upon Italy during the Second Punic War. For 16 years, Hannibal maintained the war in Italy without once releasing his army from service in the field. But he kept control of his thousands of men without any sign of disaffection toward himself or toward each other, even though he had troops in his Army of many nationalities.

He had Libyans, Iberians, Gauls, Carthaginians, Ligurians, Bruttians, Greeks, and Numidians, who had nothing in common with each other, neither laws nor customs, nor language. And yet the skill of this commander was such that in spite of these differences, so manifold and so wide, there was never one word of disobedience to his command or to his single iron will.

Unlike Caesar, Alexander, and Pyrrhus, Hannibal was never the subject of an assassination plot or even a hint of conspiracy on the part of his troops. Also unlike Alexander, Hannibal was virtually forsaken by his native country of Carthage, receiving no reinforcements, or very few at best, and no money from his homeland. Yet, Hannibal's polyglot army had to be paid, and so he plundered the countryside and the ancient shrines, where offerings of gold and silver dating from immemorial times were used to pay his mercenaries.

The losses of the Romans, as we have witnessed, had been frightful. Many of Rome's elite had been wiped out, and much of the wealth of Italy—its livestock, its crops, its cultivated land, its houses and equipment—was destroyed over vast areas, especially in southern Italy. Yet, the unyielding determination of the Senate and the iron discipline of the Roman people persevered.

Any city that cooperated with Hannibal could expect no mercy but only the most severe punishment for its infidelity to Rome.

I will cite one example. Capua, in Campania, was the largest city in Italy except Rome, and it was the richest city on the peninsula, second only to Rome itself.

In 216 B.C., following Hannibal's devastating defeat of the Romans at Cannae, Capua revolted against Rome and went over to Hannibal's side. But Hannibal had no spare troops with which to garrison cities that yielded to him, and this revealed a severe weakness in Hannibal's overall situation. His was an army of conquest, not an army of occupation.

The Romans besieged the city and, in 211 B.C., after 5 years of infidelity toward Rome, Capua was doomed to fall, and its inhabitants recognized their fate.

Vibius Virrius, a Capuan, who had been one of the main instigators of collusion with Hannibal, said to the governing body of Capua that he would never be chained and dragged through the streets of Rome, only to be bound to a stake, to be scourged and beheaded. He said all those who wished to yield to fate and avoid witnessing the destruction of the city should attend a banquet which he had prepared at his house.

After they had eaten and drunk to their satisfaction, the same cup would be passed to them that had been given to him. A toast containing poison would spare their bodies of torture, their minds of insult, their eyes the sight and their ears the sound of the wretched indignities that were sure to befall the conquered. There would be persons, he said, prepared to place their lifeless bodies on a huge funeral pyre in the courtyard of his house. This, he said, was the honorable way to death.

Livy, the Roman historian, tells us that 27 Senators accompanied Vibius to his house and dined with him. So far as they were able, they drowned all thought of impending doom in wine, and then drank the poison.

With the banquet finished, they grasped each other's hands and, with one final embrace, breathed their last before the gates of the city were opened to the Romans.

Vibius was right in his estimation of the Roman desire for vengeance. Seventy collaborators who had been compromised in the decision to revolt against Rome were executed, along with other leaders. Three hundred nobles were condemned to chains.

After the executions had ended by the decree of the Roman Senate, one of the Capuans, Jubellius Taurea—spelled with a J—I am advised that in that language and in those ancient times, there was no letter with a J sound in the alphabet. So while it is spelled J-u-b-e-l-

i-u-s, it was pronounced as a Y. Jubellius Taurea approached the Roman consul, Fulvius, and cried out to him:

Since thou art so thirsty for our blood, why not strike me thyself that thou mayest boast of having killed a braver man than thou?

Fulvius answered:

I should like well to do it but a decree of the Senate forbids.

Jubellius rejoined, "Well, then, I will show thee something that thou wouldst not have the courage to do," whereupon, he killed his wife, his children, and then himself. The people were sold into slavery, and Capua and its territory became part of the Roman domain.

Madam President, we have followed the expansion of Roman territory between 264 B.C. and 133 B.C., and noted that it left Rome in control of the Mediterranean. Rome organized new provinces in Africa, in Asia, in Hither Spain and Farther Spain; she extended her dominion over Macedonia and Greece, and restored her control over Cisalpine Gaul, which had been disturbed during the Hannibalic invasion. She also extended her dominion over Sicily, Sardinia, Corsica, the Balearic Islands and other islands in the western Mediterranean Sea. The growth in Roman territory had been phenomenal.

Also during this period, the Senate had increased its power and influence. Several facts account for the growth in the Senate's power. First of all, during the Punic War, the Senate had taken over the control of the government entirely. It took over the war and emerged from the second Punic War more powerful than ever.

Second, unlike the consuls, who at the end of their 1-year term were subject to having to answer to the Roman people for any mistakes they had made during their term of office, the Senate was a permanent organ of government.

The source of the Senate's power was its *auctoritas*, a concept which carried both religious and constitutional connotations. In practice, the term meant the prestige and esteem that the Senate possessed, based on custom and precedent and the outstanding qualities of the Members. Only to the Senate belonged the dignity of an antique tradition, unbroken from the earliest beginnings of the Roman State. The Roman Senate had existed from the time of the kings, having been created by the legendary first king, Romulus. It had survived the monarchy and had now continued through almost 400 years of the Republic.

Constitutionally, *auctoritas* was the power to ratify the laws of the popular assembly, approve the elections of magistrates, issue *senatus consulta* advising those magistrates, and control the public finances.

We have noted, time and time again, that before a bill or resolution could

become law, it had to be approved by the Roman Senate. Therefore, there existed a check and balance between the popular assembly and the Senate. As in our own legislative process, a bill, before it can become law, must pass both Houses and be exactly similar in every jot and tittle—every period, semicolon, colon, parenthesis, and number.

Now, underlying the system requiring legislation to be approved by both bodies during the Roman Republic, was the religious idea that a bill or resolution, to become law, had to be pleasing to the gods.

The Roman Senate had complete control of the finances. No moneys could be earmarked for war, no moneys could be earmarked for public works except by the Senate. A soldier could not receive his pay nor a victorious general his triumph unless money for the purpose had been provided by the Senate. The Senate's control over the finances and over military and foreign policy, even over the courts, remained unchallenged until the time of Tiberius Gracchus in 133 B.C.

The Roman Senate often reduced the consuls and other magistrates to obedient executors of the Senate's will.

Even the tribunes, formerly the champions and protectors of the people, had become the willing tools and accomplices of the Senate. Not even the powerful censors, except for the irascible and aggressive Cato, ventured to challenge its authority.

The handicaps that a new man, *novus homo*, had to overcome to gain one of the higher offices or a seat in the Senate were numerous and difficult. Only a rich man could stand the expenses of an election campaign and hold an office for which he was paid no salary. His chances of election were slim if he was opposed by a member of an old and illustrious family supported by numerous clients, powerful friends, and influential connections. Only men with exceptional ability and personality, like Cato, Marius, or Cicero, could burst the bars of exclusion. Such was the closed caste that ruled the Senate.

Cicero was convinced that the preservation of republican government depended upon maintaining the supremacy of the Senate. We will see more of Cicero in future days. His concept of the ideal state was one that was governed according to law. To the magistrates would be allotted executive power; to the Senate, authority; and to the people, liberty.

Madam President, as we turn now to the final century of the Republic, let us remember that the old Roman virtues—so much like the family values and other virtues in American life that we have known since the beginning, and prior thereto, of our own Republic—had guided the Roman people through 600 years of wars and trials and triumphs, from the time when Rome was but a struggling, fledgling

city on the Tiber to her present position as a world power. The Roman virtues of honesty, frugality, adaptability to changing circumstances, abhorrence of bribery and corruption, respect for law, and the admirable balance of their government—I emphasize this—the admirable balance of their government between the powers of the consuls, the Senate, and the popular Assembly, still drew the admiration of Polybius as late as about 150 B.C.

During this period, beginning with the expansion of Roman territory, and more particularly during the second century B.C., economic and social life throughout the peninsula underwent profound changes. Despite Rome's immense conquest of land, all too many people in Rome and throughout Italy suffered from poverty, want, privation, and famine.

Large plantation-type farms, cultivated by slave labor, began to replace the small family farms. Only the wealthy had the capital to introduce new kinds of crops and new breeds of livestock. The spread of the latifundia, huge land estates—caused numbers of peasants to lose their homesteads and drove increasing numbers of small farmers from the countryside to unemployment in the towns. There was a pressing need to re-establish a small peasantry on the land and to rid the cities of idle hands.

As we view these kaleidoscopic changes and events, we see emerging two opposing political factions—the Optimates and the Populares. The Optimates included the bulk of the senatorial politicians, who were devoted to the perpetuation of oligarchy. They were bitterly opposed to any change in the existing situation that adversely affected their prestige, their political influence, or their economic interests. Their advantages lay in their wealth and inherited reputations, their numerous and large clientele at home and abroad, and their control of the Senate—and, by their control of the Senate, their control of the administration of government.

The Populares, unlike the Optimates, represented the discontented elements, who demanded varying sorts of reform. The Populares did not lead as homogeneous a group as did the Optimates, but, rather, they represented many different interests and classes, which were not as likely to form a united front in the many crises that were to come during what was to be an extended conflict. Most of the leadership of the Populares was drawn from a minority faction in the Senate.

There suddenly burst upon the stage of human history, Tiberius Sempronius Gracchus, the public spirited son of one of Rome's most eminent aristocrats, who was married to Cornelia, the daughter of Scipio Africanus Major.

Many of us have heard the story of Cornelia, who married Tiberius

Gracchus, the father of the Tiberius Sempronius Gracchus of whom we now speak. Cornelia was the mother of 12 children. She lost all of her children, except three—two sons and one daughter. The daughter was named Sempronia, and the sons were named Tiberius and Gaius. One day, a neighbor came by to visit Cornelia, and the neighbor displayed her jewelry and haughtily turned to Cornelia, this great Roman nation mother of the Gracchi, and said, "Do you have any jewelry?" Cornelia turned to her two remaining sons, Tiberius and Gaius, and proudly said, "These are my jewels."

Tiberius Sempronius Gracchus was elected tribune for the year 133 B.C., and he saw in the movement of small farmers to the cities a menace to the Roman State. So he introduced a law to deal with the problem of overpopulation in Rome and to re-establish the Italian peasantry on the land.

His bill provided that the soldiers and the peasants were to be settled on the large land estates that had been captured by the Republic in its many wars in Italy and leased to wealthy ranchers. Of course, his legislation ran into opposition. He sought to placate the rich landowners. In spite of his efforts, the legislation was vetoed by another tribune—Marcus Octavius.

Tiberius resorted to an unprecedented procedure. He introduced a motion to depose Marcus Octavius from his office of tribune. It was an illegal procedure, but it carried. Octavius was deposed. The land legislation then became law.

Tiberius and his brother Gaius and his father-in-law, Appius Claudius Pulcher, were elected as the three members of the land commission to enforce the land law. The Senate sought to hamper the land commission by refusing to appropriate the moneys for its expenses.

Tiberius then proposed that the money be provided from the Treasury of King Attalus III, about whom we spoke last week, and who had just died after bequeathing his kingdom of Pergamum to Rome. This was an unheard of thing. The Senate, from time immemorial, had had complete control over the treasury and foreign policy. But here, Tiberius was proposing that the money come from a foreign treasury. This was nothing less than a revolutionary challenge, in a constitutional sense, to the Senate's traditional control over the finances and over foreign policy. At the same time, Tiberius announced his intention to run for re-election to the office of tribune, which was very unusual, and contrary to established practice.

Senatorial extremists were determined to prevent his re-election. They organized their clients and slaves, who attacked Tiberius and his followers during a public meeting in the Forum.

Tiberius and 300 of his adherents were massacred and their bodies thrown into the Tiber.

Nine years later, Gaius Gracchus, younger brother of Tiberius, was elected tribune. He supported the agrarian policy of his dead brother Tiberius, but his aims were even more far reaching than the policies of Tiberius and made Gaius even more popular than Tiberius, so much more in fact that, in spite of custom and practice, he was re-elected to the office of tribune for the year 123 B.C.

The changes he brought about favored the business class, as well as the proletariat, and were clearly designed to weaken the Senate.

He instigated an action by a fellow tribune, Acilius, to reorganize the court of claims and to provide that no magistrates in office; no Senator; and no father, brother, or son of a Senator serve on the panel from which the 50 judges hearing each case were selected. Gaius thus brought about the transfer of control over the tribunal from the senatorial order and placed it in the hands of the businessmen, who were thereafter referred to, collectively, as the equestrian order.

Gaius then sought to deal with the problem of impoverished citizens by passing a grain law. The grain law provided that the government should sell a fixed quantity of grain each month to the residents of Rome at a price considerably less than the market rate, thus constituting a regular charge upon the treasury and accepting the doctrine that the State was responsible for the poor.

The recipients of this cheap grain did not receive it gratis but had to pay for it, and Gaius cannot strictly be accused of having instituted a grain dole, but a first step had been taken in that direction and the way pointed out to office seekers to court the goodwill of the people at the expense of the State.

Does that remind us of our own time? Gaius then passed legislation in the interest of the poorer citizens by requiring that the State provide soldiers with clothing free of charge and make no deductions for this from the pay of the soldiers. The law also prohibited the enlistment of troops under 17 years of age.

Additionally, Gaius introduced an agrarian law which reduced the amount of land that anyone could hold in Italy considerably below the maximum set by his brother Tiberius, thus offering further opportunities to relieve overpopulation in Rome.

Another law that was pushed to enactment by Gaius was the law affecting the collection of taxes in the newly organized province of Asia. This law provided that the contract for collecting the tax of 10 percent on the produce of all agricultural land in the province of Asia should be let by the censors in Rome to a single company of publicani.

This opened up new opportunities for Roman businessmen to make huge profits.

By this act, as well as by the Acilian law transferring the control of the courts out of the hands of the senatorial order into the hands of the equestrian order, Gaius had endeared himself to the equestrians and had won their support. He, therefore, announced that he would be a candidate for re-election to a third term as tribune.

But the decline of influence with the Tribal Assembly, which meant the end of Gaius' political power, was brought about largely through the machinations of the Optimates, and Gaius failed to be reelected.

Mr. President, both of the Gracchi brothers were earnest patriots, but, in their efforts to overcome the opposition to their measures, they had followed a course that shook the foundations of the Roman Constitution, and presented a direct challenge to the Senate's control of the government. The Senate, as a result, lost greatly in prestige and authority.

In addition to the loss of some of its prerogatives, the Senate was also weakened by the consolidation of the businessmen into a vigorous political faction that usually opposed it. The great future danger lay in the division of political leadership between these hostile political adversaries, the Optimates and Populares.

The Senate was headed into a slow decline which would be followed, in time, by the decline of the Republic. It would be a slow process, brought about by bloody civil wars, the overextension of the territorial administration of the Roman government, the growing influence of the military and military leaders, the continuing erosion of the Senate's power and authority, and the gradual corrosion of old Roman virtues and the Roman character.

Finally, Mr. President, despite the adherence of many Senators to the ideals of the Roman moral tradition, the corrupting influence of wealth, of a slave economy, and of power politics, had shown itself in the destruction of Carthage, Corinth, and Numantia. So, the cracks in the fabric were beginning to appear.

Having transformed itself into an exclusive and arbitrary oligarchy, the Senate had exposed itself to the attacks of the Gracchi. Their efforts toward reform—and especially the ways they chose to bring about reform—weakened the Senate and set in motion a chain of inexorable events that occurred over the next 100 years and resulted in the final collapse of the republic.

Mr. President, we shall pursue these developments following the observance of America's Independence Day anniversary.

I yield the floor.

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

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes in morning business.

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

PRESIDENT CLINTON AND THE POLLS

Mr. DORGAN. Mr. President, this morning on the morning television news, a television network had done a poll to learn about President Clinton's standing among the American people. What they determined from that poll was, in the aftermath of sending an armed response to Iraq—that is, sending some cruise missiles to Iraq in retaliation for the terrorists acts of Saddam Hussein—the President's standing in the polls has risen.

I do not know about my colleagues or others, but I am flatout sick of polls. I am sick of television networks publishing polls. I am sick of people taking polls to find out whether Monday, Tuesday, or Wednesday, this politician or that President is up or down or around. It does not make much sense and it does not matter very much, in my judgment.

On the subject of the response to Iraq, let me say that I think President Clinton did exactly the right thing. Saddam Hussein is a terrorist. He has murdered people in his own country. He gassed the Kurds in his own country and killed them. He has murdered people abroad and apparently plotted the murder of President Bush.

This country should not sit on its hands and allow a terrorist like that to operate without a response. This President responded on behalf of the American people and, in my judgment, responded appropriately and correctly. The message from this country to Saddam Hussein is that he is to bear the consequences of his actions.

But when I see a poll that says, because we were able to put a smart bomb down a chimney somewhere in Baghdad, the President's popularity has risen, I wonder why the American people judge that as having greater importance than what President Clinton did last week. President Clinton stood up for this country's economic interest last week. He led and proposed on the floor of this Chamber an economic reduction package to deal with these crippling Federal budget deficits.

That is leadership. It is not popular, apparently. When you stand for the economic changes in this country that are necessary to put us back on track,

it requires that we take tough medicine. Then the polls do not shoot up, they shoot down. We ask people to bear spending cuts, we ask them to bear some additional tax burden, we ask them to join us in dealing with these crippling budget deficits that mortgage our country's future.

Those tough choices do not improve anyone's standing in the polls, but they are no less correct a public action than the actions taken this weekend by President Clinton with respect to Saddam Hussein.

It is no less correct when the President stands up for this country's economic interests next week in the meeting of the G-7. It is no less correct when he stands up for this country's interests as he did last week with respect to unfair trade from Canada, and said we are going to take action because, Canada, when you flood this country with unfair grain imports that are deeply subsidized, you must bear the consequences of that action. When he says to our allies, to Japan and to Europe and others, that you must bear the consequences of unfair trade policies, that is no less a standing up for this country's economic interests. Why, then, should the American people not respond positively to those kinds of actions by our President?

We are going to debate in the coming hours of this week something called fast track. Fast track is fundamentally undemocratic. I am going to vote "no" on fast track.

Let me describe what fast track is. It is a trade mechanism wherein we empower some trade negotiators, most of whom no one knows, to go somewhere overseas, lock the door, go behind the door, and in secret, wearing their monogrammed silk shirts, negotiate some sort of trade agreement on behalf of this country.

When they come back, if they are given the authority under fast track to extend that authority that has already been given for years, then it comes to the House and the Senate under a fast-track procedure. And we are told that negotiation that was done in secret, you accept it, swallow the whole thing whole, with no amendment and no changes. Fast track means no one has the opportunity to modify or change it in any way. You cannot dot an "i"; you cannot cross a "t." You must swallow the whole product or none of it.

That is fundamentally undemocratic. I voted against it 2 years ago when they proposed to extend fast track for all trade agreements, and I intend to vote against it this week when they propose to extend fast track for the GATT agreement, the global trade agreement.

I would like to use this opportunity to talk for just a minute about trade and some of my differences with those who negotiate trade on behalf of this country. This country for the last decade has had an abysmal record on

trade. We have never found a negotiation our negotiators could not lose in a week. No matter what we got involved in, we seemed to lose it.

Our beef agreement with Japan was supposed to be a notable exception to our record. Our negotiators were negotiating with Japan to allow more American beef into Japan.

We get 3.5 million Japanese cars and trucks into our country; our shelves are flooded with VCR's and television sets produced in Japan. We say we are a wide open country. We want our consumers to have the broadest possible shopping experience with the broadest possible goods from all over the world. But when we send our goods to Japan, they say: We are not quite as generous; we do not want many of your goods to compete in our country. Beef was an example.

What do you think it costs to buy a T-bone steak in Tokyo today? It costs \$29 a pound. Why? Because they do not have enough beef in Japan, so they drive the price up. We want to get more American beef into Japan. We have had a devil of a time doing that.

Our negotiators under the Bush administration negotiated an agreement. And there were hosannas to the highest. They had a celebration. Lord, you would have thought they won the gold medal in the Olympics, the negotiators. They were jumping up and down, trumpeting on the front pages of the papers this breakthrough in negotiations with Japan: We are going to get more beef into Japan. Even my livestock producers think it is a great deal.

Strip away all the peelings on this agreement and what did these gold-medal winners produce? At the end of it, when it is all phased in and all is said and done, there will remain a 50 percent tariff on American beef going into Japan. That, with Japan, is considered a victory because we have such miserably low expectations of fair trade with Japan.

Let us talk about China just for a minute. China now has an \$18 billion trade surplus with us. Put another way, we have an \$18 billion trade deficit with China.

China is a big country. They ought to buy a lot more products from us. We buy a lot from them. Take wheat once again. Wheat happens to be a product I am familiar with. You would think if China is shipping us massive quantities of Chinese goods and we therefore have an \$18 billion trade deficit with China, that they would be making sure they bought plenty of American wheat. Do you know what? Even as this trade deficit with China that we have is ratcheting way up, growing exponentially, the Chinese are off price shopping to buy wheat from Canada. Canada has displaced us as the largest wheat supplier to China even as our trade deficit has skyrocketed with

China. They are off price shopping. They are trying to figure out how they can use subsidized Canadian grain to displace United States grain in China.

We are going to talk about the Mexican Free-Trade Agreement, which is actually an economic stimulus package for Mexico given and paid for by the United States, a Mexican Free Trade Agreement. Let me take wheat once again, because wheat is what we use to produce bread and it is an important commodity.

You would think, if we are going to do a Mexican Free-Trade Agreement, the Mexicans would be buying American wheat. Do you know, we used to sell three-quarters of the wheat the Mexicans consume? Now they buy three-quarters of their wheat from Canada. There is something wrong with our trade relationships. We do not seem willing to stand up and say to other countries: Part of trade is a responsibility to be fair with each other and take some responsibility for dealing with each other in an equivalent way.

We say to China: We want to buy all your goods, that is fine. So buy our goods. We say to Japan: If you want to ship your cars to America, that is fine. Then open your markets to American goods. We say to Canada: You want a free trade agreement, that is fine. But trade across that border must be fair trade and the absence of it will mean you will bear the consequences of it.

The point about trade policy and my concern about the extension of fast track for GATT has roots in all of these things I have just discussed. We do not yet have a trade philosophy, at least not one that goes beyond what we have seen for a decade of chanting "free trade."

We have a new President and that gives me some hope. The action he took last week, on the unfair flood of grain coming in from Canada, gives me hope. But the only way I will support a GATT agreement is when a GATT agreement comes back to us and we have said we have negotiated on two fundamental points. One is market access to other countries, opening markets to American goods just as American goods have been opened to foreign markets.

The GATT agreement must come back to us with two principal components. One is that we have successfully negotiated market access, demanding of others around the world that their markets be as open to us as ours is to them. No. 2, to ratchet down these insidious trade subsidies, export subsidies, that distort trade across borders. If those two objectives were achieved in a GATT agreement, then I would be the first to rush in and support it.

But that has not been the objective of our trade negotiators. We have been involved for a decade in this notion of

"free trade, free trade." It is as if they are sitting on street corners in robes chanting some mantra, "free trade." It is totally irrelevant. It has become a symbol for unilateral surrender on trade issues.

What they ought to chant is "fair trade." This country will compete with anybody, at any time, on any given level, with any set of products, as long as the competition is fair. We demand the competition be fair.

If you are asking American producers to go out and compete around the world and have tied one arm behind their backs, I say they cannot compete; they will lose. But, if our trade negotiators stand up for the economic interests of this country and demand fair trade, then we have a fair chance to win.

I am just flat sick and tired of reading in the papers about protectionists. Since when has the opportunity to protect America's economic interests become a dirty word? Yes, I am a protectionist, if protectionist means I want to protect the interest of our producers to demand that trade be fair. No, I am not a protectionist in a manner that suggests we should close our markets to foreign goods.

If and when we finally charge our trade negotiators to accomplish those objectives of open markets and ending subsidies, we will achieve something significant, in my judgment.

I yield the floor.

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

Mr. HOLLINGS. Mr. President, I ask consent in the few remaining minutes in the morning hour I be permitted to speak.

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

FAST TRACK ON GATT

Mr. HOLLINGS. Mr. President, let me commend our distinguished colleague from North Dakota. He has really been an intellectual force, first as a Member of Congress in the other body, and now as a Senator and member of my Committee on Commerce, reminding us of our fundamental responsibility that over the years has been eroded and disregarded.

Fast track is all the more outrageous and unacceptable in light of the Constitution, article I, section 8, which says the Congress—not the President, not the Supreme Court, not the State Department, or any of these others, but the Congress of the United States—shall regulate foreign commerce. Yet today Congress is the one entity that has nothing to do with trade agreements. Why? Because of fast track.

Mr. President, I ask unanimous consent to have the article, entitled "The Treaty No One Could Read; How Lobbyists and Business Quietly Forged NAFTA," by Charles Lewis, from the

"Outlook" section of the Washington Post of Sunday, June 27, 1993, printed in the RECORD.

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

THE TREATY NO ONE COULD READ; HOW LOBBYISTS AND BUSINESS QUIETLY FORGED NAFTA

Over Memorial Day weekend former presidential candidate Ross Perot took to the network airwaves to denounce the proposed North American Free Trade Agreement, saying "Once again we have been out-traded and out-negotiated." This is, in a word, unprecedented. For the last half century, U.S. trade policy has been the exclusive affair of corporate and government elites; debate about it has had only the facade of open, democratic discourse.

As the NAFTA debate intensifies over the next few months, advocates on both sides are going to take their case to the airwaves. Whatever you think about NAFTA or Perot, the Texas's "infomercial" marks the beginning of the end of the elite monopoly on trade issues.

The trade game illustrates well what William Greider calls "deep lobbying." The purpose of this sophisticated form of political planning is not so much to effect any specific piece of special interest legislation as to define public argument and debate. By controlling the terms of debate, deep lobbying controls the outcome. The result, Greider argues, is "mock democracy—a system that has all the trappings of free and open political discourse but is shaped and guided as a very deep level by the resources of the most powerful interests."

To be sure, the deep lobbying on behalf of NAFTA hasn't won the hearts and minds of the American people. A recent Time poll found that 63 percent of respondents agreed with Perot's assertion that NAFTA would cost U.S. jobs and only 25 percent agreed with Clinton's assertion that it would create U.S. jobs. But the deep lobbying has been effective where it counts most—in framing the legislation, setting the terms of elite debate and building institutional support.

For years, the logic, assumptions and seeming inevitability of NAFTA have been carefully constructed—by prominent business interests in the United States, Mexico and Canada, their elected, responsive government officials and their legions of paid representatives. Getting presidents and prime ministers to think and talk about NAFTA getting negotiations together to hammer out the logistics, controlling how the actual treaty will be disseminated and described to the public and girding for legislative battle all require substantial sums of money and hired Washington insiders. By the time Congress votes on NAFTA next fall, Mexican government and business interests alone will have spent more than \$30 million to promote the pact—and U.S. corporations will have spent millions more.

The more modestly funded forces opposed to NAFTA (some business sectors, organized labor and some environmental groups) have frequently been ignored or reduced to the reactive role of 11th-hour, yammering naysayers.

The idea of a North American free trade agreement originated in the late 1970s. The underlying rationale was laid out in 1979 at a hearing on "North American Economic Interdependence," held by the Senate Finance Subcommittee on International Trade. Gerard J. Van Heuven, the executive vice

president of the United States-Mexico Chamber of Commerce, testified that the U.S. business interdependence with Mexico was largely due to the nature of Mexican labor itself.

"We depend upon the abundant, less expensive labor supply in Mexico to remain competitive with foreign imports into the United States . . .," Van Heuven said. "Without benefit of Mexican labor, many U.S. companies might be forced out of business or move offshore, due to high U.S. labor costs. Mexico is dependent upon the creation of jobs and the training provide by U.S. firms for unskilled workers."

Throughout the '80s, U.S. and Mexican business interests coalesced around the idea. The push for some sort of bilateral or regional trade pace came from the Mexico-U.S. Business Committee, the Mexican Business Council for International Affairs, the U.S. Chamber of Commerce, the American Chamber of Commerce of Mexico, the Council of the Americas, to name a few of the leading organizations.

This was not a concept discussed on the Phil Donahue show or Larry King. It was not debated on talk radio, pushed by any popularly based advocacy group or even debated much in Congress.

The treaty itself was negotiated in 1991 and 1992 with little pretense of openness during the negotiations or afterwards. By granting the president "fast track" negotiating authority for the NAFTA agreement, Congress agreed to deny itself the right to amend the historic legislation. When U.S. Trade Representative Carla Hills and President Bush announced in August 1992 amidst great fanfare that the pact had been completed, Washington—the most senior members of Congress, journalists and a myriad of public interest groups of all stripes—waited and waited for a mere glimpse at the agreement. Members of Congress with security clearances had to wait three weeks, and then had to go to a specially designated room to read it. Making copies or taking notes was forbidden. (The Bush administration finally did release a 1,000-page list of tariff reductions.) The complete text of NAFTA was not available to the public until January 1993—at the not-so-populist cost of \$41.

Even for trade agreements, this was extraordinary. Why the nuclear-like secrecy? Who were the trade cognoscenti worried about? The answer, to oversimplify only slightly, is the American public. And that fear is nothing new. In the realm of trade policy, the dominant role of elites has been the norm since the debacle of the Tariff Act of 1930, known to history as Smoot-Hawley, a special interest monstrosity that shrank world trade and undermined the entire international financial and monetary system.

In 1934 in a well-intentioned effort to insulate trade policy from the passions and special interests of the moment, initiative on trade policy was taken away from Congress and passed to the State Department. In 1962 Congress, dissatisfied with the State and Commerce Departments, created the office of the Special Trade Representative in the White House. The office grew during the next dozen years, and in 1974 attained Cabinet status.

In exchange for giving the Executive Branch even more authority over trade issues, Congress established an elaborate system of private sector advisory committees. The advisory committees, however, are not particularly powerful, rarely announce their meetings (which are closed to the public) and are dominated by representatives of U.S. cor-

porations (although labor has its own trade advisory committee). The most important advisory committee is a 45-member panel on trade policy and negotiations. The committee has two representatives of working people, one from an environmental group and none from a non-business-funded consumer organizations.

The reality of corporate domination is evident. At least a fifth of the Trade Policy and Negotiations committee's membership comes from companies with operations in Mexico today. Five companies represented on this committee—American Express, Eastman Kodak, Allied Signal, IBM and General Motors—also happen to be leading advocates in the campaign for NAFTA.

Proponents of NAFTA insist that the negotiation process was sufficiently open to divergent concerns. But Clinton has acknowledged that issues such as the potential loss of jobs or reduced environmental standards were afterthoughts to the negotiating process and the agreement. To insure ratification, NAFTA supporters have had to agree to draft supplemental agreements addressing these concerns. But whatever the final wording of the side letters to NAFTA now being drafted by the United States, Canada and Mexico, they have the disturbing appearance of after-the-fact, cosmetic "trappings" of responsive government.

Lobbying activities by business interests north of the Rio Grande were matched by governmental efforts directed from south of the border. The unprecedented lobbying campaign launched by the Mexican government has achieved maximum access to the highest levels of the U.S. political process. Since 1989, Mexican interests promoting NAFTA have hired 33 former U.S. officials, with experience and contacts throughout the federal government, from congress to the White House to the Treasury Department. Two such former officials—former Senate aide Joseph O'Neill and former State Department official Gabriel Guerra-Mondragon—assisted in the Clinton transition while receiving six-figure retainers from Mexico.

Former U.S. Trade Representative Bill Brock (who claims to be the father of the treaty) has given, according to Justice Department records, "strategic counselling on trade, labor and political policy issues" to Mexico's equivalent of the Commerce Department. Former Deputy Assistant USTR Timothy Bennett has represented a consortium of Mexican companies fighting for NAFTA. Ruth Kurtz, a former trade analyst for the International Trade Commission, Commerce Department and a Senate committee, now earns \$110,000 a year from Mexican business interests. In the past two years, those Mexican business interests have taken 87 Congressional staffers and three members of Congress—including the Rep. Mike Espy (D-Miss.), now Agriculture Secretary—on all-expense-paid, "fact-finding" trips to Mexico. Mexican business interests—mainly through Kurtz—directly contacted members of Congress and their aids no fewer than 270 times to discuss NAFTA.

NAFTA opponents, by any objective assessment, have been spending a mere fraction of what Mexican and U.S. corporate interests have spent. The principal anti-NAFTA umbrella organization, Citizens Trade Campaign, represents more than 70 organizations nationwide. However, its annual budget is \$200,000—one-tenth the budget of USA-NAFTA, the leading business organization propounding the agreement. The AFL-CIO, with its 14 million members, has organized a few trips to Mexico for members of

Congress, and is planning a national anti-NAFTA campaign in the weeks ahead. Groups such as the U.S. Business and Industrial Council and other mostly small to mid-sized companies are critical of NAFTA, and find themselves in the curious position of being aligned with the traditionally anti-business organization founded by Ralph Nader, Public Citizen, and its lobbying arm, Congress Watch.

Environmentalists are split on NAFTA. Greenpeace, Friends of the Earth and the Sierra Club are active participants in the anti-NAFTA lobbying effort. But recently several large environmental organizations—including the National Audubon Society, the Nature Conservancy, the National Wildlife Federation, the World Wildlife Fund and Defenders of Wildlife—announced they would support the treaty, as long as appropriate auxiliary agreements are negotiated. Perhaps coincidentally, all of these organizations have received funding from corporations operating in Mexico, including many multinationals actively fighting for NAFTA.

But now, for the first time, ordinary Americans are beginning to discover that national and international trade decisions have critical relevance to their daily lives. And as they increasingly seek a greater voice, whatever the outcome of the NAFTA debate, the trading game will never again be the same.

Charles Lewis, a former producer for the CBS News program "60 Minutes," is the executive director of the Center for Public Integrity in Washington, which is funded by foundations, corporations, labor unions, individuals and revenues from news organizations.

Mr. HOLLINGS. Mr. President, this article lays bare the elite and secretive interests that have been the driving force behind NAFTA. Mr. Lewis quotes William Greider of Rolling Stone magazine, what Greider calls "deep lobbying." Deep lobbying is not lobbying for a particular vote on a particular bill, but rather deep lobbying seeks to shape the environment, the atmosphere of this Nation. Deep lobbying by the free trade lobby has created a situation today such that you dare not criticize the President's trade policies. The President is headed to the G-7 summit at Tokyo. You have to support the President. You do not talk about trade; you do not talk about the treaty.

They have had fast track for GATT for 7 years and have done nothing with it. It was supposed to have concluded the treaty 2 years ago, at the most 5 years. But negotiations go on and on. They want fast track: Don't read the text too closely, do not see the details. And then, of course, once negotiations are consummated by the executive branch, the votes in the Senate are fixed. They do not dare submit the treaty for approval by the U.S. Senate unless and until they have the majority vote. That is just basic politics. So a genuine, detailed debate never happens. It is total frustration.

I know that none of the oversight committees truly fulfill their responsibility. The Agriculture Committee has responsibility with respect to agriculture trade, yet they can barely examine it. No wonder the leading agri-

culture Senator is voting against fast track. The Finance Committee, as long as they take care of the oil industry, that's all they care about—we just saw that; we had to do away with the Btu tax to get a budget on account of that fix in finance.

In the Commerce Committee, we were originally the Committee on Foreign Commerce, then the Committee on Foreign and Interstate Commerce, and so on. But over the past years, we have relinquished a good bit of that responsibility. Now we are trying with the leadership of the distinguished Senator from North Dakota to reassert that responsibility. Bear in mind that, historically, the second act passed by this Congress in its entire history, on July 4, 1789, was a tariff act to protect American industry.

The British tried to persuade us otherwise. The Brits said, what you should do is trade with us what you produce best, and we in the United Kingdom will trade back with you what we produce best. There will be no tariffs, no barriers, free trade, free trade. That is what they said. Alexander Hamilton responded in his treatise, "Report on Manufactures." There is one copy of this under lock and key in the Library of Congress. To paraphrase Alexander Hamilton in response to the British, he said, Bug off; we are not going to remain your colony.

The second act passed by this National Congress in 1789 was a 50-percent tariff on selected articles beginning with iron, textiles, going on down the list. We built this economic giant, the industrial strength of the United States of America, with selective protectionism. Lincoln insisted we build domestic steel plants to build our railroads rather than import steel from Europe. President Franklin Roosevelt imposed import quotas and price supports for agriculture. Eisenhower imposed oil import quotas.

"I hereby pledge to preserve, protect, and defend," says the President of the United States in his oath, and I remember President Reagan doing just that in the rotunda in his second term. Yet if a Senator comes down here on the floor of the Senate and, if you mentioned the word "protectionism," people erupt in cackles of disapproval like a flock of chickens. The word protectionism is a pejorative term, and this is the direct result of decades of deep lobbying by the free trade elites in this country. Do not worry about the fees for lobbyists, give them the fees, just do not give them the power.

I will have two amendments later this week on fast track. Likely the Senate will still pass the bill, but I will argue for important principles. For starters, I want to provide for the reenactment of Super 301 authority as of December 15 when they are supposed to consummate the General Agreement on Tariffs and Trade, the GATT agree-

ment. This will require the U.S. Trade Representative to initiate appropriate and necessary action against countries that engage in unfair trade practices, countries that consistently impede the entry of American goods to their markets.

TAXES

Mr. HOLLINGS. Mr. President, we have heard much talk recently from the other side of the aisle about the evils of taxes. So I am obliged to report that the first thing we did this morning in Washington was raise taxes 1 billion bucks. This is a Republican tax. It was their administrations, 12 years, and they said, "Don't worry about paying the bill," run up the debt, up, up, and away, quadrupling it. Now the debt is \$4.2 trillion, and we bear the burden of \$310 billion annually in gross interest costs. I call them interest taxes. They are worse than taxes in one important way. You can repeal the luxury tax, as we just voted here last week. You can repeal the catastrophic illness insurance tax. But you cannot repeal interest taxes, you have to pay them. And they go up and up. The Republicans spent 16 days opposing the \$16 billion stimulus bill, and in that same 16 days the Treasury raised taxes \$16 billion in interest taxes. We are going to raise taxes another billion tomorrow morning. We are going to raise taxes another billion the following day, including Saturday, every day but Sunday this year. That is the legacy—the tax—of 12 years of Republican rule.

Now go back to President Reagan and his 8 years. He vetoed a small, little supplemental bill but signed every major appropriations bill. And our good friend President George Bush had 43 vetoes. But never did he veto spending. He vetoed the labor, health, and human resources bill because doctors were allowed to counsel their patients on family planning, but once we took that out he signed the spending.

So the record is clear, the charade is over. They are exposed. They are the ones who are raising taxes so much that the reconciliation bill that we passed here is still going to leave us with a \$320 billion deficit come 1996, almost the same that we inherited from President Bush.

So we Democrats and Republicans, if we want to save the land, we are going to have to go much further than the modest deficit reduction embodied in the reconciliation bill. As Lewis Carroll wrote in "Through the Looking Glass," in order to stay where you are, you have to run as fast as you can. In order to get ahead, we have to run even faster.

So we have done a good job. President Clinton has led the way. He had his economic summit, he cut his staff 25 percent, he eliminated 100,000 Federal jobs, he froze your pay and my

pay, he put Vice President Gore in charge of the departments to eliminate waste, and he put the First Lady in charge of health care reform. And, oh yes, we finally got the Republican's plan for deficit reduction—that was a pure sham the one they put up, and we exposed it. They claimed to tackle the deficit without taxes, but even their plan provided for a \$200 billion annual deficit after 5 years. It was absolutely unacceptable.

So, Mr. President, every day that I can get down here to the floor, to the extent other work permits, I want to remind our Republican friends that we raise taxes \$1 billion again today automatically, due to their policy of the last 12 years. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, is the Senate still in a period for morning business?

The PRESIDING OFFICER. The Senate is continuing in morning business at this point.

Mr. BYRD. I thank the Chair.

A SUCCINCT ANALYSIS OF "IATROGENIC GOVERNMENT"

Mr. BYRD. Mr. President, any future historical examination of the membership of the United States Senate during this current era will certainly focus significantly on the distinguished senior Senator from New York, our friend and colleague, Senator DANIEL PATRICK MOYNIHAN.

Like a Renaissance Man of yore, while serving admirably and effectively as a Senator from New York, Senator MOYNIHAN has continued to pursue scholarly and intellectual pursuits as some of our other colleagues might follow avocations on the golf course or as philatelists.

In the summer 1993 issue of *The American Scholar*, the official publication of Phi Beta Kappa, an article authored by Senator MOYNIHAN has appeared—an article that deserves the attention of all of our colleagues as well as by anyone in responsibility who is concerned about the impact, penalties, origins, and ramifications of the current drug-abuse pandemic afflicting our country and about the need for more creative responses to that pandemic.

Mr. President, to read Senator MOYNIHAN'S writing is to hear Senator MOYNIHAN speaking in one's mind's ear—that clear, irrepressible, dra-

matic, staccato cadence that renders Senator MOYNIHAN'S speeches here on the Senate floor a pleasure to listen to, and a lively communication experience difficult to misunderstand.

Further, as our colleagues will concur, as in his speeches, just so in his writings, Senator MOYNIHAN possesses an enviable ability to boil brilliant abstractions down to intellectually digestible morsels, each tintured with Moynihaesque wit and irony, and delicately flavored with the verbal spiciness of which Senator MOYNIHAN is an undoubted master.

Mr. President, the article by Senator MOYNIHAN appearing in the current issue of *The American Scholar*, entitled "Iatrogenic Government," deserves a wider distribution among our colleagues and a serious discussion by those officials and citizens most responsible for establishing national drug policies and for implementing those policies.

I encourage all of our colleagues to examine Senator MOYNIHAN'S article, and I ask that it be printed in the RECORD.

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

IATROGENIC GOVERNMENT

(By Daniel Patrick Moynihan)

(Daniel Patrick Moynihan is the senior United States Senator from New York. He is the author of numerous books, most recently, "Pandaemonium: Ethnicity in International Politics.")

Writing in the *New England Journal of Medicine* in 1983, Armand M. Nicholl of the department of psychiatry at Massachusetts General Hospital and the Harvard Medical School commented.

"When future historians study American culture, they may be most perplexed by the explosive increase in the nonmedical use of drugs that occurred during the seventh and eighth decades of this century. This widespread increase in the illicit use of psychoactive drugs began in the early 1960s, primarily in colleges and universities, during an era of unprecedented campus disorder and social upheaval. For the next 10 years studies were focused on patterns of drug use among college students—the late-adolescent and young-adult age groups. Perhaps because of the strong influence youth exerts in establishing the tone of our culture with respect to music, dress, and lifestyle, the nonmedical use of drugs spread rapidly to other age groups, and during the 1970s it reached epidemic proportions."

When these future historians set to work, one matter need not perplex them. If they should ask—and let us hope they do—did anyone in the medical profession, observing the onset of this epidemic, set out in a scientific manner to try to understand what was happening and to develop an appropriate medical response, the answer will be that there was one such person, Norman Zinberg, professor of psychiatry at the Harvard Medical School. He was, in the most profound sense, a healer, a life-enhancing man.

Although Zinberg's major work, "Drug, Set, and Setting," was not published until 1984, his papers and lectures were well and widely known by the mid-1960s. At that time

I was director of the Joint Center for Urban Studies of M.I.T. and Harvard. We were neighbors and became friends, and I, in a legitimate sense, became his pupil. In 1969, I went to Washington as an adviser on urban affairs to President Nixon. The urban crisis, as it was known at that time, was very much a drug crisis, chiefly entailing heroin. Early on it fell to me to try to fashion a response by the federal government. This was perhaps the first time the federal government had attempted a deliberate relationship between social policy and drug research. This is also the subject of the final chapter in Norman Zinberg's "Drug, Set, and Setting."

My first foray into the field came in August 1969, after the president had sent to Congress a considerable legislative program that addressed urban matters. In this program, the welfare system was to be replaced by a guaranteed income, known as the Family Assistance Plan. The federal government would share its revenue with state and city governments. Now was the time for drugs. At that time most of the heroin used here was coming in from Marseilles, where it was refined from Turkish opium. I set out for those countries to tell their officials and our own embassies (which seem never to have heard of the subject) that the United States could not accept "the French connection."

After a scattering of heroin-related deaths among French youths, *Le Monde* published an article ascribing drug addiction to broken homes and the National Assembly had a day-long debate on the subject. The French took the matter far more seriously than we had ever done, and before long Marseilles was clean, as the argot has it. Having reached tentative agreements, I found myself in a helicopter flying up to Camp David to report on this seeming success. The only other passenger was George P. Shultz, who was busy with official-looking papers. Even so, I related our triumph. He looked up. "Good," said he, and returned to his tables and charts. "No, really," said I, "this is a big event." My cabinet colleague looked up, restated his perfunctory "Good," and once more returned to his paperwork. Crestfallen, I pondered, then said, "I suppose you think that so long as there is a demand for drugs, there will continue to be a supply." George Schultz, sometime professor of economics at the University of Chicago, looked up with an air of genuine interest. "You know," he said, "there's hope for you yet!"

As indeed there was: both for me individually and for the federal government as it once again engaged itself with the matter of drugs. Early in December 1969, a governors' conference was convened to address the issue. At a luncheon at the Department of State I was the principal speaker. I do not suggest that my views were held uniformly throughout the administration, but there I was, Counselor to the President, telling the governors what I thought—a point of view that they had reason to believe was close to what others like me thought. The truth in either event is that we were mostly asserting what we did not know and would need to learn.

I called my paper "The Whiskey Culture and the Drug Culture." I had a simple theme.

"Let me offer one general idea. Drug use—and abuse—represents simply one more instance of the impact of technology on society. This is the central experience of modern society. At one or two removes, most of the ills we suffer are the consequences of technology. That is to say, the bad results that accompany the good ones—goods results which led to the adoption of the technology

in the first place. A commonplace observation, but truly an important one, and one which will I think be recognized by Governors who struggle daily with waters polluted by technology, underprivileged populations displaced by technology, drivers and pedestrians maimed by technology, cities choked with technology, and air fouled by it. Not to mention urban populations near to terrorized by crime brought about by the need to obtain money to purchase certain drugs which are yet another product of technology. From nuclear weapons to cyclamates, this is what is so unsettling about modern life. The effort to master and somehow transcend technology is central to the concerns of the great philosophical historians and sociologists of the age, men such as Jacques Ellul, Lewis Mumford, David Riesman, Michael Young. But for the moment one the tasks of government is to keep technology from rending the fabric of society. That is what this conference is about, the specifics of which I would like now to consider."

I discussed in some detail the extraordinary destructiveness of distilled alcohol when it first became available in the eighteenth century as a combined result of the renaissance invention of distillation and the later agricultural revolution that produced an abundance of grain. The species had no experience with an intoxicant of this power. In his fine study, "Town Planning in London: The Eighteenth and Nineteenth Centuries," Donald J. Olsen identified the onset of distilled spirits as a form of social pathology: "Cheap gin helped to keep the population of London stable from 1700 to 1750."

In truth, the numbers are astonishing. M.C. Bauer estimated the population in 1700 to have been 674,000 and fifty years later to be no more than 676,000. By contrast the population of London tripled in the first half of the following century, going from 864,845 in the census of 1801 to 2,363,236 in 1851. Ought we not to think that a form of social learning was taking place—at a time of robust laissez-faire government—and the population was coming to terms with this new product of technology.

W.J. Rorabaugh's "The Alcoholic Republic: An American Tradition" would not appear for another decade, but enough of the American experience was available to provide some useful generalizations. The first law enacted by the first Congress established the oath of office required by Article VI of the Constitution. To wit: "I, A.B., do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States." The second law imposed a ten-cents-per-gallon tariff on Jamaican rum—to encourage consumption of American whiskey. This was a general tariff bill, but it is noteworthy that six of the first seven items concern drink.

"On all distilled spirits of Jamaica proof, imported from any kingdom or country whatsoever, per gallon, ten cents.

"On all other distilled spirits, per gallon, eight cents.

"On molasses, per gallon, two and a half cents.

"On Madeira wine, per gallon, eighteen cents.

"On all other wines, per gallon, ten cents.

"On every gallon of beer, ale or porter in casks, five cents.

"On all cider, beer, ale or porter in bottles, per dozen, twenty cents."

Distilled spirits in early America appeared as a font of national unity, easy money, manly strength, and all-round good cheer. It

was at first irresistible. It felt good and was thought to be good for you. The more the better. It became routine to drink whiskey at breakfast and to go on drinking all day. (Laborers digging the Erie Canal were allotted a quart of Monongahela whiskey a day, issued in eight four-ounce portions commencing at six o'clock in the morning.) Only slowly did it sink in that such a regimen was ruinous to health and a risk to society. When it did, society responded.

Apart only from the movement to abolish slavery, the most popular and influential social movement of nineteenth-century America concerned the effort to limit or indeed prohibit the use of alcohol. The former brought about three amendments to the Constitution; the latter, two. In "Thinking About Crime" (1983), James Q. Wilson estimates that by the end of the nineteenth century the temperance movement had reduced per capita alcohol consumption by two-thirds. Alcohol abuse continues to be a major health problem—and a murderous one in combination with that other technological wonder, the automobile. But at least the dangers of alcohol are far better understood than in the past.

The use of what might be termed high-proof drugs appears roughly a century later than the use of high-proof alcoholic drink. Just as beer and wine are naturally fermented products of grain and grapes, narcotics and stimulants appear in nature as attributes of the poppy or coca plant. The crucial technological event here was the development of organic chemistry in German universities in the middle of the nineteenth century.

First, morphine was produced from opium. In combination with the hypodermic needle, morphine was widely used in Civil War medicine, giving rise to a form of addiction that was popularly called Soldier's disease. (The medical use of morphine in childbirth evidently led to similar forms of addiction.) A generation later, heroin, a "distillation" of morphine, was developed by the Bayer Pharmaceutical firm in Germany. (Employees on whom it was tested found that it made them feel *heroisch*—hence, its trade name.) It appears to have been thought useful as a cure for morphine addiction.

In like manner, cocaine, the active ingredient of the coca leaf, was isolated before 1880. Its early use was medical, again in association with the hypodermic needle. Freud used it to treat a friend suffering from morphine addiction. As he increased the doses, he induced an episode of cocaine psychosis and, as reported by Oakley Stern Ray in "Drugs, Society, and Human Behavior" (1978), "thereafter was bitterly against drugs." On the other hand, in 1885, the Parke-Davis Pharmaceutical Company asserted that cocaine "can supply the place of food, make the coward brave, the silent eloquent" and declared it a "wonder drug."

Along with alcohol, these substances came under federal prohibition early in this century. Alcohol prohibition was a convulsive event that, among other things, led to the creation of a criminal underworld of exceptional influence and durability. There was always a certain amount of drug trafficking within this underworld, and this continued at modest levels until the epidemic outbreak of heroin use in the 1960s. It thereupon provided the model on which the large-scale import and distribution of drugs commenced in the 1960s.

Rereading my little-noticed and long-forgotten paper is rewarding—to me, at any rate—in the way it reveals the iron incom-

patibilities that beset anyone who tries, however tentatively, to derive drug policy from drug research, and for that matter social science. Here I would invoke the wonderfully allusive remark of Rudolph Virchow, the eminent nineteenth-century pathologist. "Medicine," he said, "is a social science, and politics is nothing but medicine on a grand scale." As I developed first this argument, then that analogy, I kept running up against the fact that our society had made a political choice between two almost equally undesirable outcomes. As Mark A.R. Kleiman spells out in his fine new study, "Against Excess: Drug Policy for Results," in dealing with drugs, we are required to choose between a crime problem and a public health problem. In choosing to prohibit drugs, we choose to have a more or less localized—but ultimately devastating—crime problem rather than a general health problem. Kleiman writes:

"The case for heroin prohibition is simply that a number, probably a large number, of persons who now lead reasonably satisfying, dignified, and useful lives would, if heroin were legal, find themselves leading, and regretting, lives with a narrowed range of satisfactions, impaired dignity and self-command, and reduced usefulness to their families, friends, neighbors, coworkers, and fellow citizens. To prevent this we pay a price in a form of increased misery for those who become heavy heroin users despite prohibition, and increased external costs: the spread of disease, user crime, black-market crime, neighborhood disruption from open dealing, and the expenditure of law enforcement resources that could instead be used to suppress predatory crime."

Then, as now, I opposed legalization, or decriminalization of drugs. I took the technological ascent seriously. In his "Letters from an American Farmer" published in 1782, J. Hector St. John de Crèvecoeur notes his surprise at a "singular custom" among the good, and presumably Puritan ladies of Nantucket: "They have adopted these many years, the Asiatic custom of taking a dose of opium every morning. . . . This is much more prevalent among the women than the men."

But opium is one thing; heroin another. My 1969 paper concluded:

"There are those who will and do propose a social policy of complete and free availability of almost all chemical substances that are or can be ingested in one form or another. In its most popular form today, this takes the form of advocating the free use of cannabis, and somewhat less frequently, the free, or mildly regulated use of heroin. I believe this to be a very mistaken position. It is a form of hiding behind the principle of individual freedom to avoid the reality of individual danger and individual harm. It is almost a form of indifference to pain; and I say that in full knowledge of the generosity of spirit and the effort to be understanding that often motivates such proposals.

"Our object must be higher. We must learn to use fewer drugs, not more.

"The question of course is how?"

That was pretty clear twenty-three years ago when we were just entering our current federal preoccupation with illicit drugs—or rather, with drugs the federal government has declared illicit. I had put it to the governors:

"We have had drug prohibition for fifty-five years now. And here we are at this conference. Not exactly a record of success. What are we to learn? The first thing, obviously, is that this is not an easy problem.

Men as good as us or better have struggled, and by all outward indices, they have failed."

There was not going to be any cheap way out of this. Technology has unleashed an enormous social agent that threatens us in the most serious way. This problem now involves "the structure of authority and governmental legitimacy in America." Are the laws obeyed? Does the state maintain a monopoly on violence? If not, what kind of state have we?

This is where Norman Zinberg entered what, at least, were my calculations. Here is one last passage from the State Department address.

"Dr. Norman Zinberg has, it seems to me, most helpfully described the drug phenomenon in terms of a triangle of 'Drug, Set, and Setting.' That is to say we need to know so much more about the interaction of a particular chemical, a particular individual, and the social (or anti-social) context in which the two come together. This is very like the epidemiological triad, and deserves the most careful attention and serious research. Until very recently most drug users have been treated in terms of medical or criminal categories. Drug users were treated as deviants. Benignly so in the case of the Civil War opium addicts swilling away at patent medicines to cure what was known as 'Soldier's illness,' or punitively so as in the case of the heroin addict of the slum, supporting his habit by thievery or worse, and in agonizing numbers ending his life by what society prefers to diagnose as an 'overdose' of whatever it is that ailed him."

A near quarter century has passed. Nothing much has happened. There has been precious little research, with as yet precious little by way of result on that epidemiological triad. Thanks to Vincent Dole and Marie Nyswander we have methadone treatment, but that was already in place when the federal government entered its current way on drugs.

At the risk of propounding what I cannot prove, let me suggest that in considerable measure this is the result of a disinclination within the medical profession to engage itself with drug research. In the preface to "Drug, Set, and Setting," Zinberg notes that the train of thought that led him to his subject began in 1962 in Beth Israel Hospital, where, making rounds with non-psychiatric physicians, he "began to puzzle over the extreme reluctance these sensible physicians felt about prescribing doses of opiates to relieve pain." Concern about iatrogenic addiction established the social setting that Zinberg would go on to elaborate. He noted "the strength of Puritan moralism in American culture which frowns on the pleasure and recreation provided by intoxicants." Whatever the causes, and they are surely multiple, it is clear to this observer that the medical profession finds drug research aversive behavior.

As an example of our most recent affliction, take "crack" cocaine. This is typical of an ascent on the technological ladder: beer to whiskey; opium to morphine to heroin; coca to cocaine and now to this most potent possible form of "free-base" cocaine. Crack differs only in being the result of folk science rather than the work of bearded professor-doctors in German laboratories. (Although, come to think of it, Highland single malt was probably a similar, if more welcome, discovery.) Crack first appeared in the Bahamas. By 1985, a Bahamian physician warned that an epidemic was about to strike his offshore islands. This item appeared in the *Atlanta Journal* of December 31, 1985:

"NASSAU, BAHAMAS—A highly addictive practice of smoking cocaine 'rocks' has swept this chain of islands off the coast of Florida.

"In a country of 230,000 people, the number of cocaine users treated at mental health clinics has zoomed from zero in 1982 to 209 in 1984, according to Dr. David Allen, a Harvard-trained psychiatrist who heads the National Drug Council.

"What we have [Dr. Allen said] is the world's first free-basing epidemic [which] could be preceding an epidemic in the industrialized states. Anywhere there is readily available high-quality cocaine, there is this potential."

Here was a psychiatrically trained epidemiologist telling us that an epidemic was coming our way. But such is the low status of drug research that, so far as I have been able to learn, apart from a single sentence of a 1982 issue of the *Centers for Disease Control* publication, "Morbidity and Mortality Weekly Report," there was no official response anywhere in the vast organizational network that was by now carrying out the war on drugs. The first medical report appeared in the British journal the *Lancet* in a 1986 article by Dr. Allen and others entitled "Epidemic Free-Base Cocaine Abuse: Case Study from the Bahamas."

This was the situation when Congress returned to the subject of drugs in 1988. Society had had two bad breaks during that decade: the sudden onset of AIDS and the appearance of crack in settings of lethal proximity. The public demanded action, or at least the appearance of action, or so at least loud political voices declared. On May 17, 1988, Senate Majority Leader Robert S. Byrd established a working group on substance abuse, to be co-chaired by Senator Sam Nunn of Georgia and me. Interdiction and crackdown were then all the rage. (A law providing the death penalty for "kingpins" reached the President's desk months before ours did. It was promptly signed.) My role on the working group was to assert—quietly, so as not to disturb the public peace—that, other than to raise the price of drugs somewhat, interdiction was not going to have the slightest effect on supply. This was the maxim George Shultz taught me. Accordingly, any comprehensive legislation should place at least equal emphasis on demand. The lesson Norman Zinberg taught me, the idea that controlled use was possible, even common, led directly to the proposition that treatment could be developed that could move drug users across the line toward abstinence, or as near to abstinence as possible.

I consulted Zinberg. I asked him to coach me on how to make this case. In the end it worked. After an unusually compressed six months of congressional debate, ending with a 65-29 vote in the Senate, the Anti-Drug Abuse Act of 1988 became law on November 18 of that year. Section 2012 sets out the purposes of the law. These include:

"To increase to the greatest extent possible the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem."

The legislation established an Office of National Drug Control Policy in the executive office of the President. It was headed by the so-called czar and included a deputy director for supply and a deputy director for demand.

And so the attempt to get drug problems under control began again. And once more it failed to thrive. Czars resigned, which czars are not supposed to do. Deputies departed.

Silence fell. Even so, knowledge edged on. Richard Millstein of the National Institute on Drug Abuse notes that scientists have for some time known that by manipulating the opiate molecule it is possible to develop compounds that block or reverse the effects of drugs such as morphine and heroin. For example, naloxone was approved for use in 1971 and is now part of the Emergency Medical Service protocol. A longer-acting narcotic antagonist, naltrexone, was approved for use in 1984. And a time-released "depot" dosage has been found to block the effects of opiate challenges, as doctors say, for up to seven weeks in rhesus monkeys. However, as an internal paper of the National Institute states, while there is an agonist treatment (methadone) and an antagonist treatment (naltrexone) for opiates, no approved medication for the treatment of addiction to cocaine (including the smokable form of cocaine known as crack) currently exists. And crack cocaine is where the problem is centered.

Having said that, a political scientist is honor bound to add that the power of government or science to influence behavior is limited. People do or do not get on with their lives. Most do. Here, as an example, is an excerpt from "Tales Out of School," the autobiography of Joseph A. Fernandez, who until recently was the New York City School chancellor; this excerpt describes his years as a drug-dependent teenager.

"The beginning of my own fateful turn-about came in one night of horror on 135th Street when I was still enrolled at Commerce High. Jimmy Conn (not his name) had become my closest friend during that time, partly because of the experimenting we were doing with heroin. Jimmy was a Scotch-Irish kid from a poor family, with no father at home. Actually, he lived outside the neighborhood, up in the 130's, but we were very close, to the point of swapping clothes to wear.

"This particular night we were at somebody's house and got tied into some really potent heroin. I got sick almost immediately, a scary new kind of sickness. I remember saying to Jimmy, 'Something's wrong. We gotta get outta here.'

"By the time we got downstairs to the street, we were both reeling. I can barely remember my friends walking us up and down the sidewalk, trying to keep us from fading out. They probably saved our lives. I was half in and half out for hours. Jimmy came to first. When I finally did, I was scared enough to realize it was time to make a change.

"I dropped out of Commerce the following week and enrolled at Textile High, down in Hell's Kitchen, where I didn't know anybody. I could tell immediately it wasn't going to work. I was there only a week and dropped out again."

Norman Zinberg would have thought young Fernandez a pretty hard case. But he would not have been the least surprised that the kid got hold of himself, joined the air force, married a strong woman, got an education, and went on to do serious work. His setting changed.

As for our 1988 legislation, it had a brief half-life. William Bennett, the forceful first director of the Office of National Drug Control Policy, was followed by a political appointee with no apparent views on the subject. Dr. Herbert D. Kleber left after two years, and his position has not been filled. Nor has support for treatment been as forthcoming as the legislation indicated it ought to be. Kleber wrote:

"Funding for treatment of substance abuse has been a bipartisan failure. Our Republican President has requested substantially less money than is needed; and the Democratic Congress gave him only one-third of what he asked for. The situation in research is not much better, in spite of the desperate need to develop medications to treat cocaine abuse. The House gave the President \$17 million less for research at NIDA [National Institute on Drug Abuse] than he had requested. In fact, the overall increase for NIDA was slightly over 1 percent, one of the lowest if not the lowest of the NIH [National Institutes of Health] institutes. Both government leaders and the general public need to be made aware of the potential promise that can occur by adequately funding treatment and research, and of the many harms to society that will occur if it does not happen."

The recent presidential campaign was only marginally encouraging. The Republican platform was straight out. Ignoring treatment altogether, the GOP chose to fry the kingpins, as the battle cry goes.

"We oppose legalizing or decriminalizing drugs. That is a morally abhorrent idea, the last vestige of an ill-conceived philosophy that counseled the legitimacy of permissiveness. Today, a similarly dysfunctional morality explains away drug-dealing as an escape, and drive-by shootings as an act of political violence. There is no excuse for the wanton destruction of human life. We therefore support the stiffest penalties, including the death penalty, for major drug traffickers."

The Democratic position called for "treatment on demand," which was mildly disappointing since no one seemed to remember that we have already legislated "treatment on request." ("Request" was my term; I thought "demand" sounded too imperious.) The platform read:

"Drug treatment on demand: Thousands of addicts have volunteered to take themselves off the streets, only to hear the government tell them that they have to wait six months. In a Clinton Administration, federal assistance will help communities dramatically increase their ability to offer drug treatment to everyone who needs help."

The Democrats won, and so we shall see. My hope is that it will be possible for the generation now coming into its own in the normal rhythm of generational change to be able to recall that drug use first became conspicuous, in this cycle, among educated and relatively affluent young persons on college campuses. It is so no longer. Drug use—and in notably destructive forms—is now concentrated in the weakest and least affluent segments of our population. It is inescapably associated with race. Here are some devastating numbers. In 1960 there were 189,733 persons in state prisons; 65 percent were white, 34 percent black. Thirty years go by and, in 1989, there were 610,106 persons in prison, but now 50 percent are black. (In the meantime the racial composition of federal prisons, where there are fewer drug offenders, has changed not at all: in 1960, 71 percent white, 25 percent black; in 1989, 73 percent white, 26 percent black.)

It is essential that we understand that by choosing prohibition we are choosing to have an intense crime problem concentrated among minorities. It is no different from Prohibition in the 1920s. Al Capone and Legs Diamond were recognizable urban slum types of that era. Much of the crime in our day is of the same order, down to formal executions. The St. Valentine's Day Massacre of 1929 has entered American folk memory. It

was all but re-enacted in New York City in 1993. In the Morrisania section of the Bronx, six persons were made to lie down on a tenement floor. Five were shot in the back of the head. A young woman who turned her head was shot in the eye. But that was only six dead, not enough to meet the qualification, as it were, of the look-alike competition. However, the following day, a seventh person, the wife of one of the suspected murderers, was herself murdered in the Bronx County Courthouse.

Clearly federal drug policy is responsible for a degree of social regression for which there does not appear to be any equivalent in our history. Fueled by drug arrests, prison populations hit a record of 883,593 at the end of 1992. Indeed, the number of inmates imprisoned for drug offenses now exceeds those in prison for property crimes. And, as the youth are said to say, we just don't get it. What we don't get is the admittedly complex proposition that the recurrent "failure" of our avowed drug policy represents the success of a strategy designed to avoid a different failure. Those most affected do not at present have a political vocabulary that can "demystify" this conundrum. And, to say once more, the medical profession is mostly mute.

One more once more. We must recognize that our choice of policy—legalization or prohibition—involves a choice of outcomes. An enormous public health problem on the one hand, an enormous crime problem on the other. The latter clearly requires more by way of public policy than the death penalty for people who kill each other in any event. Surely, drug policy should be a central concern for those who deal with issues involving race in our society. Interdiction and "drug busts" are probably necessary symbolic acts, but nothing more. Only the development of a blocking or neutralizing agent would have any real effect, given the setting in which our drug problem now occurs.

That setting—an independent variable, as Norman Zinberg insisted—is the near collapse of family structure in our central cities. Without this, drug abuse would present a real but, even so, manageable problem of behavior by marginal individuals. With it the problem is no longer manageable. To use an epidemiological analogy, we have a famine-weakened population attacked by a fierce new virus.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

THE SOURCE TAX

Mr. REID. Mr. President, I have some constituents, and other people have constituents, who are upset, angry. I really do not blame them. People in Nevada, and all over the country, are being unfairly treated by States in which they no longer reside. They are victims of the so-called "source tax". These are people who are now residing, lock, stock, and barrel, in one State, and they are being taxed by the State,

or States, where they no longer live. They use none of the services of that State; they do not use their highways, parks, recreation facilities, or medical facilities in any way; yet, they are being taxed as if they were. They can't even vote. This is unfair and is taxation without representation.

Mr. President, we as a Congress are engaged in different processes to make this body more responsive and to make the House more responsive. There is a joint committee, for example, that is meeting to determine if there are too many committees in the House and in the Senate, if there are too many subcommittees, if Members of Congress—both House and Senate Members—are serving on too many committees, and too many subcommittees. Should there be more openness in some of the things we do? Should there be coverage of the Senate and the House on laws that we pass for the private sector? Should the same rules that apply to the House apply to the Senate and vice versa? Are our staffs too large? Is there too much franking?

All these problems are important and we need to take a look at them, as we are. But the one thing that we have to always understand is that the institution is only as responsive and as good as the people that make up this body.

We have an example that I want to talk about a little bit this morning that causes this institution to be held in a bad light by our constituents. The source tax is that example. The source tax has passed the Senate on two separate occasions, and on both of those occasions the legislation has been buried in the House of Representatives.

The last time it passed I received a letter from the chairman of the committee of jurisdiction in the House. I was told in that letter that there would be hearings held in the 103d Congress. I have had conversations with the chairman of that committee and have been told that there would be hearings held.

I instructed my staff to contact the staff of the other body, as I thought that perhaps maybe this was just a staff-directed problem and that really the staff was not getting proper information from the committee.

Therefore, I wrote a letter to the chairman of the committee. The chairman of the committee failed to respond to my letter as the staff was evasive in the response to my staff.

This, Mr. President, is what makes this body and the other body held up to ridicule, and really the reason in many instances that legislation does not move forward. It is wrong when a chairman of a committee refuses to hold hearings and move legislation.

This has been going on for years, not a matter of weeks or months; but for years. This legislation, I repeat, was passed twice in the Senate. It was not vetoed by the President. It was vetoed by a chairman of the committee in the

other body, not even allowing hearings to go forward.

A majority of Representatives co-sponsored the legislation in the House in the 102d Congress. This is legislation that is not only important to the State of Nevada, but it is important to States all over this country. People become angry and confused as to why a legislative measure cannot be heard in a House committee when a majority of the Members of that body, and this body, feel that it should.

I think it is time for Congress, and especially the Judiciary Committee in the House of Representatives, to be responsive to an important measure that affects this country. Our constituents want an explanation and I think they deserve an explanation. I think what they really deserve, though, is a hearing.

Maybe now that the Texas Legislature has passed a resolution dealing with the source tax, the chairman of that committee will do something. I have a letter here dated June 22, addressed to Congressman BROOKS that says:

As you may know, Texas recently enacted legislation (S.B. 17) which is designed to prevent other States from levying their "source tax" on retired Texas residents* * *

Hopefully, this will allow this legislation to move out of the House of Representatives.

I am disappointed that I would have to come to the floor on two separate occasions and focus attention on what is, I think, an abuse of power; that is, that the chairman of a committee will not hold a hearing on legislation that is important to people throughout the United States.

I would hope that if Mr. BROOKS is not listening to the Nation, maybe he will be listening to the people from the State of Texas which has now prompted him to hold hearings.

I think this would prove important and beneficial to the people of the State of Nevada and the rest of this country if, in fact, there were hearings held and this legislation would move through the House.

Mr. President, I ask unanimous consent that the letter dated June 22, 1993, from the two Texas representatives, Mr. Carriker and Mr. Kubiak, be printed in the RECORD.

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

TEXAS HOUSE OF REPRESENTATIVES,
Austin, TX, June 22, 1993.

HON. JACK BROOKS,
Congressman, Rayburn Building, Washington,
DC.

DEAR CONGRESSMAN BROOKS: As you may know, Texas recently enacted legislation (S.B. 17) which is designed to prevent other states from levying their "source tax" on retired Texans. While we believe that this legislation will resolve the problems of many retired Texas residents, the absence of a uniform approach will continue to be a problem

for many other states. The fact that S.B. 17 became law in Texas without any opposition indicates that this is a popular issue among the taxpayers.

We understand that you are considering holding congressional hearings on the source tax as a national issue. We would like to offer whatever support and assistance you might need in this regard. We can certainly help line up testimony for your hearings, whether in Washington or in the field.

Please don't hesitate to call on us if we can be of assistance.

Sincerely,

STEVE CARRIKER,

State Senator.

DAN KUBIAK,

State Representative.

IN MEMORY OF HERB O. JOHNSON

Mr. DURENBERGER. Mr. President, I rise today to commemorate the passing of one of my dearest friends, Minnesota Republican Party activist Herb O. Johnson.

For nearly two decades—1956 to 1974—Herb Johnson was executive secretary of the Republican Party in Minnesota. He was a true party leader and benefactor of the community—and that is how he will be remembered by the citizens of our State.

But I will remember Herb as a man whose greatest triumphs came on the level of personal contact. He was a true friend who made things better by praising accomplishment—not criticizing failure.

He was not one who relished the mistakes of others—but one who delighted in helping others achieve their potential.

Mr. President, I am but one of many who owe a great debt of personal gratitude to the late Herb Johnson. In that capacity, I ask my colleagues to join me in sending our warmest condolences to his widow, Dorothy Peterson of Roseville, MN, and his son, Allen Johnson of St. Paul.

I ask unanimous consent that the Minneapolis Star Tribune obituary of this remarkable individual be included in the RECORD at the conclusion of my remarks.

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

[From the Minneapolis Star Tribune, June 15, 1993]

STATE GOP'S FIRST EXECUTIVE SECRETARY,
HERB O. JOHNSON, DIES
(By David Chanen)

It was considered a grand experiment by the Minnesota Republican Party when Herb O. Johnson was appointed its first executive secretary in 1956.

Before Johnson, a party outsider with little political experience, the position was voluntary with no salary. He was chosen for his organizational skills and ability to work with people, and would serve as the party's chief administrator for nearly two decades.

Colleagues said Johnson was a selfless worker who enjoyed his behind-the-scenes role. Several party chairpeople acknowledged that he was a superb developer of lead-

ership skills, subtly grooming dozens of politicians.

Johnson, of Roseville, who retired as executive secretary in 1974, died of cancer Sunday at his summer home near Pequot Lakes, Minn. He was 85.

"He was the most beautiful man I've ever known," said Nancy Brataas, a former state senator and party chairwoman. "He really got his kicks out of seeing others succeed." She said Johnson rarely took credit for a job well done, instead leaving the glory to party leaders.

He stressed the importance of diversity throughout the party, claiming that Republicans should be an inclusive, not exclusive group. Former State Attorney General Doug Head said Johnson had an exceptional interest in politics and advocated the party system as a way to make government more efficient.

During Johnson's tenure, Head said, the Republican Party was changing rapidly due to suburban expansion. Johnson started a movement to raise money for candidates door-to-door in neighborhoods instead of relying on big contributors. His daughter, Judy Miller, of Somerville, N.J., said he encouraged young people to become involved in politics.

Johnson was born in Minneapolis and raised on a farm near Foreston, Minn. He earned a bachelor's degree from Macalester College in St. Paul. He taught mathematics and biology at Aitkin High School.

In 1938 he started his 20-year career as an administrator with the YMCA. He was executive secretary of the YMCA at the University of Minnesota and in St. Paul and Winona until he started working for the Republican Party in 1956. He retired in 1974, but helped work on some Republican campaigns.

He was president or a member of many organizations, including the International Association of Retired Directors, a YMCA group; the Roseville Lutheran Church congregation and the North Suburban Golden K Kiwanis Club.

Johnson was preceded in death by his first wife, Hazel. In addition to his daughter, he is survived by his wife, Dorothy Peterson; two sons, Herbert (Ted), of Atlanta, and Allen, of St. Paul; three stepdaughters, Barbara Einan, of Roseville; Betsy Otteson, of White Bear Lake, and Beverly Ogren, of North Oaks, and a sister, Helen Patterson, of Salem, Ore.

Services will be held at 11 a.m. Wednesday at Roseville Lutheran Church, 1966 Fernwood Av. Visitation will be held from 3 to 8 p.m. today at the Willwersheid & Peters Mortuary, 1167 Grand Av., St. Paul. Memorials are suggested to the Roseville Lutheran Church Foundation, Edward J. Peterson Memorial Scholarship at Macalester College or St. Paul YMCA camps.

A TRIBUTE TO MAYOR TOM BRADLEY

Mrs. FEINSTEIN. Mr. President, I am very honored to pay tribute today to someone who I greatly admire and who has devoted himself to serving the public. That man is Tom Bradley, who will retire as mayor of the city of Los Angeles on July 1 of this year.

Tom Bradley has strongly guided Los Angeles along a course paved with obstacles during his record-setting 20 years as mayor. His stern and sure guidance has been the steady force that

has reassured residents. For 9 years during my tenure as mayor of San Francisco, I had the pleasure of working with Mayor Bradley on State and national issues and together we sounded a loud drumbeat that the cities of our Nation need serious attention. As cities go, so goes the Nation, we often said. Through and through, I saw Tom Bradley as a mayor who earns the respect of his peers, while he demands attention for his city from those who can help.

First elected mayor in 1973, Bradley paved the way for many other leaders on the local and national level. Although he made history as the first black mayor of a major city, Tom Bradley ran and won his campaign, pledging to be a mayor representative of the entire city. It has been his determination to adhere to a standard of fair representation—all that has made him one of this Nation's most respected mayors.

It was a 7-year-old Tom Bradley who headed with his family to California to start a new life. When he arrived in Los Angeles in 1924, Tom Bradley remembers that "reaching California was like reaching the promised land."

A product of the Los Angeles public schools system, his academic abilities enabled him to parlay his high school athletic prowess into a university education. Bradley received a scholarship to attend UCLA where he soon distinguished himself as a track star.

Prompted by a desire to serve the city, Tom Bradley joined the Los Angeles Police Department in 1940. In May 1941, he married Ethel Arnold. They have two daughters, Lorraine and Phyllis.

As an early example of his enormous capacity for hard work, which marked his years as mayor, Tom Bradley worked full time as a police officer and went to law school at night. He graduated from Southwestern University in 1956 and passed the California bar exam.

After 21 years of service, he retired from the LAPD with the rank of lieutenant in 1961 and began to practice law. Urged by community leaders, he decided in 1963 to run for a seat on the Los Angeles City Council. He won and served for 10 years before becoming the city's 37th mayor in 1973.

Mayor Bradley once said, "My guiding philosophy as mayor has been and will continue to be—to paraphrase the Athenian oath—to transmit this city * * * not as a lesser * * * but as a greater, better and more beautiful city than it was transmitted to me. This philosophy continues to be my inspiration."

His progressive years as mayor are marked by a determination to see that Los Angeles realizes its huge potential.

Mayor Bradley opened the doors of city hall; his staff and administration appointees represented the rich cul-

tural fabric of the city. He attracted businesses to the city and established policies that resulted in the dramatic resurgence of the downtown Los Angeles economic center. He turned the city's harbor and airports into top-of-the-line businesses, expanding the number of people employed and the city's ability to compete in a world market.

He focused his attention on creating economic opportunities both for the inner city, with such community revitalization projects as the Baldwin Hills-Crenshaw and Vermont-Slauson shopping centers, and the entire city, where he put forward affordable housing and fair planning policies.

There are three specific accomplishments I would like to highlight today.

First, he led a long and hard battle to bring rail transportation to the city of Los Angeles. There were many times it would have been easy to give up, to say the will simply was no longer there. Yet, he was determined—often coming to Washington, DC, often to appeal for funding—and he never gave up. The result: today, the Metro Blue Line carries passengers from Long Beach to downtown Los Angeles, and the Metro Red Line has become the first underground rail system, carrying passengers from downtown to MacArthur Park. This is just the beginning, as plans as for the rail system to spread out throughout the city, linking the various portions of the city like never before.

Second, Mayor Bradley secured the 1984 summer Olympic games during a time when many predicted economic gloom. Instead, his signature approach of uniting the private and public sectors behind a common goal produced the most successful Olympic games in the modern history of the event. The games boosted economic activity in southern California by \$3.3 billion, created 68,000 jobs, and ended with a \$215 million surplus.

Third, as a means of reinforcing his strong emphasis on education and to shield the next generation of Los Angeles youth from drug peddlers and street gangs, Mayor Bradley initiated an ambitious plan—called L.A.'s BEST [Better Educated Students for Tomorrow]—to provide computer training, tutorial assistance, and other enrichment activities for every student in the Los Angeles Unified School District's more than 400 elementary schools. Under the program, parents are able to voluntarily keep their children at school from 2:30 p.m. to 6 p.m. each school day to learn and play. A pilot program at 19 schools, made possible by both private and public funding, has already proven the enormous success when we offer hope to the young people of our cities.

Throughout Tom Bradley's career, he has sought to focus local, State, and national attention on the conditions of our inner cities. And, the civil unrest

of 1992 that erupted in Los Angeles brought home what Mayor Bradley and our Nation's mayors have been saying for years: The Federal Government must not neglect the inner cities of America. During 12 years of neglect in previous administrations, the Federal Government did not listen. Now is the time to heed the wise words of such national figures as Tom Bradley.

Tom Bradley has helped Los Angeles mature with grace. The city now stands at a crossroads, and the new mayor and the city council must stand firm to produce both social programs and economic hope for its residents. The most enduring legacy Tom Bradley has left for Los Angeles is his ability to voice the concerns of the inner city. The future leaders of Los Angeles would be well-served to follow this and other models Tom Bradley has created for progressive leadership.

In a recent article in the Los Angeles Times, Atlanta Mayor Maynard Jackson said:

I understand (Tom Bradley) will walk out of City Hall and literally go to his law firm that same day to start work. He's a helluva man. That's all I've got to say. He's a helluva man.

Mr. President, Mayor Tom Bradley is, indeed, an amazing man. On behalf of the people of California, I am pleased to have this chance to say a few words about Tom Bradley. The people of Los Angeles and the people of California will continue to count on him to help us chart a new course for America's cities.

TRIBUTE TO REV. J. BAZZEL MULL

Mr. SASSER. Mr. President, I rise today to commemorate a very special day for a very special friend. He has provided spiritual comfort and solace to the weary, the sick, the shut in, old and young alike. His message has shed the light of understanding in the darkness of many a confused soul. He is a missionary, an entrepreneur, and entertainer. And next weekend, the Rev. J. Bazzel Mull of Knoxville, TN, will celebrate 50 years of bringing gospel music and God's message to the people of America.

Blind since the age of 11 months, Preacher Mull grew up playing gospel music with his family, the Valdese Sacred Band. By having the Bible read to him every evening, Reverend Mull memorized its text and, at the age of 25 in 1939, was ordained a minister.

Traveling from his native North Carolina to east Tennessee in the early 1940's, J. Bazzel Mull produced his first gospel radio program in 1942 in Knoxville. And it was just outside of Knoxville, in Lenoir City, that he met his future wife, Elizabeth Brown, while preaching a revival at her home church. After an extended courtship, they were married in 1944, and I am

told that more than 10,000 attended their wedding. With their marriage, his wife, Elizabeth—better known now by the affectionate nickname of "Lady" Mull—has been a full partner in a devoted relationship—they will observe their 49th wedding anniversary later this year.

Mr. President, in addition to this preaching and radio work, Preacher Mull has been a promoter of gospel music concerts all across the country. The careers of countless entertainers and songwriters over the years have been advanced because of the promotion and exposure he has given through his various programs on radio and television, through concerts and the sale of records and song books. In fact, 50 years later, Preacher Mull still produces about 15 concerts a year. His gospel radio shows air twice daily on his four radio stations. Reverend and Mrs. Mull also host weekly television shows in Knoxville and Chattanooga, which have consistently rated as the stations' most popular programs on Sunday mornings. I have often enjoyed appearing with these most gracious hosts on the "Mull's Singing Convention," to hear, to be entertained and to be comforted by God's message as conveyed in yet another of America's unique styles of music. The nurturing that the Mulls have given to gospel music over the years is celebrated at this time by their legion of friends all across this country and particularly in the industry. I'm sure they join with me in sending this tribute to our dear friends, the Reverend and Mrs. J. Bazzel Mull, on the steller achievement of their 50 years in the gospel music industry.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as anyone even remotely familiar with the U.S. Constitution knows, no President can spend a dime of Federal tax money that has not first been approved by Congress, both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at \$4,305,268,550,989.52 as of the close of business on Friday, June 25. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is \$16,761.21.

BUDGET RECONCILIATION: A LANDMARK BILL

Mr. PELL. Mr. President, the budget reconciliation bill which passed the Senate on June 25 takes a huge step in the right direction, and I fully supported it, notwithstanding the fact that many of us might like to see it go further. The bill is the centerpiece of a remarkable watershed in our national political life—a historic time of change as we move to a new set of progressive national priorities.

As I have observed previously, only twice in my lifetime has the Nation faced such a critical turning point—once in 1932 and again in 1960.

The bill provides the largest deficit reduction program in the Nation's history. At long last, it brings to an end an era of reckless borrowing and spending. It demonstrates that when there is reasonable philosophical agreement between the executive branch and Congress, responsible results will ensue. Approval of this bill will be one more signal that the era of gridlock is behind us.

This massive redirection of national priorities and resources is based on one essential element, and that is fairness. At the core is the concept that those who have benefited the most from the workings of the economy over the past 12 years should now pay their fair share of the burden of public debt which should have been retired while the good times were booming.

The general plan of taxation proposed by the President and embodied to a considerable degree by this bill conforms to that essential element of fairness, both in terms of the progressive rates on higher incomes and the broad-based energy tax on transportation fuels.

I will be frank to say that I much prefer the Btu tax because I believe it spreads the burden across a broader base of fuels and probably is the fairest plan in terms of regional interests. And I would note that the Btu tax would have raised \$72 billion, instead of the \$21 billion provided by the tax on transportation fuel.

Had the Btu tax been retained, we would not be faced with the \$8 billion additional cuts in Medicare which I must say detracts from the basic fairness of the bill. I hope that there will be a serious effort in conference to reduce the cuts in the Medicare program.

This is but one area in which the bill before us, as epochal as it is, unfortunately does not live up to the full promise of President Clinton's program. While the bill does indeed change national priorities in terms of fiscal responsibility and deficit reduction, it seems to have lost, along the way, some of the initial promise of creative action to promote economic growth.

Lost in the process of political compromise are incentives for corporate

investment and provisions for public investment in such programs as technology research and worker training. History may well record that we became so stampeded by the deficit cutting frenzy that we lost sight of the proactive part of President Clinton's economic program. Hopefully, this will prove to be a temporary lapse.

In this connection, I would note that the bill fails to make appropriate allowance for a major mechanism for economic growth and that is capital gains. The bill provides for a 10-percent surtax on capital gains for those whose income exceeds \$250,000, effectively increasing the tax rate on capital gains from 28 to 30.8 percent.

To my mind, this is folly because it diminishes the pool of resources which is most likely to stimulate the economy. And I might note in this regard that by far the greatest portion of capital gains comes to those whose income exceeds \$250,000. As our venerable former colleague John O. Pastore was wont to say this provision "kills the goose that lays the golden egg." So it would be my hope that this legislation in its final form would make a more positive recognition of a role of capital gains.

Finally, in my capacity as chairman of the Subcommittee on Education, Arts and Humanities, I would like to note a bright spot in the bill with respect to the student aid provisions. I am very pleased indeed with the compromise proposal agreed to in the full Labor Committee which contributes over \$4 billion in savings to the bill, with an additional \$2 billion or more in direct benefits to students through reduction of origination fees and insurance premiums.

Under the compromise, we will test the concept of direct government loans on an expanded basis. But through the National Commission on Student Loan Reform we have a way of assessing the program without reaching a point of no return. We also provide a series of program safeguards to assure students and families that will have access to the loans they need to help pay for a college education. And we streamline the operation of the student loan program. On the whole, the student aid provisions are sound and deserve the support of the Senate.

In summary, Mr. President, this before us, like all products of compromise, does not have in it everything that it should have. But it is a massive instrument of change notwithstanding its imperfections. I congratulate the President for setting us on this course and the Senator from New York [Mr. MOYNIHAN] for the critical role he played in securing agreement on the core provisions of the bill. I support its passage and hope for a constructive and productive conference with the House.

JUNE IS TURKEY LOVER'S MONTH IN NORTH CAROLINA

Mr. FAIRCLOTH. Mr. President, North Carolina's Governor once again has proclaimed June as "Turkey Lover's Month" in our home State of North Carolina. I would like to take a moment to add my voice of congratulations to the State's turkey industry and to discuss for a moment the importance of the industry to our State.

The dramatic growth in North Carolina's turkey industry mirrors the dramatic growth of the turkey industry nationwide. As American's turkey consumption was almost doubling across the United States during the last 10 years, North Carolina's turkey production was reaching record levels.

According to the Agriculture Department, more than 62 million birds were grown in 1992, making North Carolina the first State to grow more than 60 million turkeys in a year. These figures not only represent a national turkey production record, but they represent 22 percent of the yearly U.S. turkey output.

More important than records, though, is the positive economic impact the turkey industry has on North Carolina. The industry generates nearly \$500 million annually in the State and provides employment and a steady income for tens of thousands of North Carolinians.

North Carolina realizes its leadership in production requires it also to be leaders in the industry. North Carolina's producers and processors recognize the need for our plants to set the national standard in productivity, safety, and quality. That is why Carolinians have been such active leaders in the national turkey industry. The immediate past chairman of the National Turkey Federation, my good friend Bruce Cuddy, makes his home in Marshville, NC, and is president of Cuddy Family Farms, which is headquartered in Marshville.

Bruce is the sixth North Carolinian chairman of the National Turkey Federation. He was preceded by Wyatt Upchurch in 1990, John Hendrick in 1984, Bill Prestige in 1982, Billy Shepard in 1974, and Marvin Johnson in 1968—all of whom I have known for many years.

In addition, two other friends and leaders of the North Carolina industry serve on the NTF executive committee—Sonny Faison of Carolina Turkeys and Nick Weaver of Goldsboro Milling.

Each of these men have helped shape, and are continuing to shape, an industry that has become one of the most exciting in all agriculture. Turkey consumption continues to rise for one simple reason: Turkey is one of the healthiest food products available, and it is an economic bargain. Low in fat and cholesterol, high in protein and other nutrients, turkey now is available in countless products from deli slices to

ground turkey, turkey bacon to tenderloins. The old image of turkey as a Thanksgiving-only whole bird is giving way to the image of an easy-to-prepare, year-round product.

It is that tremendous growth that was recognized when June was proclaimed "Turkey Lover's Month." It is an honor to join today in providing the industry with that well-deserved recognition.

HENRY TECKLENBURG, JR.: IN MEMORIAM

Mr. HOLLINGS. Mr. President, with the passing of Henry Tecklenburg, Jr., earlier this month, the State of South Carolina lost one of its favorite sons and I lost a tremendous friend.

It does not do justice to the quality of this remarkable man simply to recite his many professional associations and accomplishments. Nonetheless, for the record, I would note that he served for years as chairman of the State Ports Authority, on the boards of visitors at Clemson University and the Medical University of South Carolina, on the boards of directors of countless civic organizations, and as board chairman at Bon Secours-St. Francis Hospital in Charleston. Professionally, he worked for three decades in the oil distribution business, since 1977 as chairman of Southern Oil Co. In 1977, the Governor honored him with the Order of the Palmetto, South Carolina's highest official distinction.

But to recite this résumé is to just scratch the surface of what Henry Tecklenburg's life was all about. Teck, as we knew him, was the epitome of the Charleston gentleman and the Christian servant. He loved people—people of all walks of life. He took satisfaction in setting them at ease, sharing his wisdom with them, extending a helping hand, making a difference big or small in their lives.

He also was a fine example of the maxim that you don't have to be on the public payroll in order to be a dedicated public servant. Teck held public office as Charleston County auditor from 1957-63, but from that time on, save for a stint as chairman of the State Ports Authority, his public service was strictly voluntary and behind the scenes. Teck was constantly being tapped by mayors, governors, senators, bishops, you name it, to troubleshoot, resolve conflicts, and carry out especially sensitive projects.

During the civil rights turmoil of the 1960's, Teck worked behind the scenes as a bridgebuilder and peacemaker. He saw to it that the right things were done, and that South Carolina moved forward in a manner that we could all be proud of.

Teck has aptly been described as a one-man kitchen cabinet to me and to other prominent Democrats in the State. This was his true political voca-

tion, as wise man and confidant to practicing politicians. I and others turned to him for his keen eye, his shrewd judgment, his calming influence in the midst of crisis. Teck played a major role in every one of my campaigns for the Senate, and he stepped in at a critical juncture to assist my 1984 run for the Democratic Presidential nomination.

At the State Ports Authority he pursued an activist agenda that will be long remembered, regularly teaming up with Joe Sapp at the State development board to woo new investment to South Carolina from Europe and Asia.

Teck's toughness and fiber were demonstrated in one memorable incident from his tenure at the State Ports Authority. A rival seaport had commissioned a consultant's report that falsely cast Charleston in an unfavorable light. Teck demanded that the rival port withdraw the report and admit its falsehoods. When the rival refused, Teck filed a Federal lawsuit and initiated action before the Federal Maritime Commission. Through his tenacious efforts, Teck ultimately succeeded in forcing the sponsors to withdraw the report and acknowledge its errors.

As a fitting coda to Teck's distinguished career, just days before his death I learned that President Clinton had decided to appoint him Under Secretary of Commerce for Travel and Tourism. Teck looked forward to serving his President and Nation in this important new capacity, and it is a great loss that he was unable to do so.

Mr. President, for all his success in business and public service, no one doubted that Teck's highest priorities in life were his faith and his family. For decades, he was a tireless and devoted servant of St. John the Baptist Cathedral in Charleston, always ready to devote time and resources to his parish and diocese.

And, of course, the heart and soul of Teck's life was his family. Teck was always humble about his own accomplishments, but he would boast to no end about the talents and achievements of his beloved wife Esther, and of his five sons, Henry III, Frederick, John, Paul, and Michael.

His middle son, John, recently said of Teck, "He always said when I was growing up that a good name was better than great riches to pass on. And I really think he accomplished that." He did indeed. Teck leaves behind the best of names.

In tribute to Henry Tecklenburg, I cannot possibly match the eloquence of the Most Reverend David B. Thompson, Bishop of Charleston, who presided at Teck's burial mass. The Bishop remembered Teck as "a man justified by his faith in the Lord and in the Lord's commandments; a man just in his fidelity to his dear Esther, to his boys, to his forebears and sisters, to his 10

grandchildren; a man just and fair in his dealing with others; a man you could believe and trust and rely upon to make everyone win and to prevent anyone from losing. Henry was just to an eminent degree in his patriotism, good citizenship, workings for good government, his involvement in the right way in our country's political process."

Mr. President, Teck weathered crises and celebrated good fortune with the same even-keel temperament and wisdom. To the end, he relished life and lived it with enormous zest. I miss him more than I can say. I cherish his memory.

WORLD CONFERENCE ON HUMAN RIGHTS IN VIENNA—JUNE 1993

Mr. PELL. Mr. President, the World Conference on Human Rights in Vienna concluded on June 25, 1993, with the adoption of the Vienna declaration and action plan. Although the conference was marked by controversy, the final action by over 170 countries represented a constructive consensus by the international community on the universality of human rights and the need to implement an action plan to fulfill international commitments.

The Vienna declaration and action plan expresses the political will and commitment of the nations of the world to the protection and promotion of human rights. Arrived at through a process of consensus, not every country will necessarily agree with every detail of the document. As noted in the statement of United States representative to the conference, John Shattuck, Assistant Secretary of State for Human Rights and Humanitarian Affairs, while strongly supporting the consensus on human rights reached in Vienna, the United States nevertheless registered its concerns with respect to certain issues.

At the outset of the conference there were clear differences regarding the universality of human rights and the extent to which the religious, social, and cultural characteristics of a country could be taken into account to excuse a country's adherence to human rights principles. The U.S. position enunciated by Secretary Christopher was clear:

We respect the religious, social, and cultural characteristics that make each country unique, but we cannot let cultural relativism become the last refuge of repression.

Given the differences expressed at the World Conference, the final Vienna declaration and action plan is a striking reaffirmation of the universality of human rights. The promotion and protection of all human rights and fundamental freedoms was proclaimed to be a priority objective of the United Nations. While the conference unanimously reaffirmed the principles that democracy, development, and respect

for human rights and fundamental freedoms are interdependent and mutually reinforcing, the conference strongly affirmed that the lack of development may not be invoked to justify the abridgement of internationally recognized human rights. It is important to note that the declaration affirms the individual's right to development, not a state's right and there are no requirements put upon developed nations to transfer resources to assist underdeveloped nations.

The commitment of the states to promote universal respect for and observance and protection of all human rights and fundamental freedoms was underscored with these unequivocal statements: "The universal nature of these rights and freedoms is beyond question. Human rights and fundamental freedoms are the birthright of all human beings; their promotion and protection is the first responsibility of government."

The affirmation of the human rights of women as an inalienable, integral, and indivisible part of universal human rights is another cornerstone of the Vienna conference. The declaration and the plan of action unequivocally affirms the rights of women, regardless of cultural, historical or religious traditions, firmly rejecting gender based violence, exploitation, and sexual harassment in all their forms. The conference also called for the establishment of a special rapporteur on violence against women. At the conference Secretary Christopher signalled the Clinton administration's commitment to turn to U.S. ratification of the convention on the elimination of all forms of discrimination against women, as soon as the Senate has given its advice and consent to the pending racial discrimination convention.

The Vienna declaration condemned the massive violations of human rights, especially in the form of genocide, ethnic cleansing; and systematic rape of women in war situations and demanded that perpetrators be punished.

Torture in particular received strong condemnation as one of the most atrocious violations against human dignity. The conference called on all states to "put an immediate end to the practice of torture and eradicate this evil forever."

The "act, methods, and practices of terrorism in all its forms and manifestations" were recognized as "activities aimed at the destruction of human rights, fundamental freedoms, and democracy," and the conference agreed to enhance international cooperation to prevent and combat such terrorism.

States were called upon to defend children against all violations and impose effective measures against such abuses as female infanticide, harmful child labor, child prostitution, eco-

nomically and sexually exploited children, and child victims of diseases including AIDS. The need to protect children in armed conflicts and provide aftercare and rehabilitation for those children traumatized by war was also stressed.

The conference set as a high priority the eventual elimination of widespread extreme poverty which inhibits the full and effective enjoyment of human rights and constitutes a violation of human dignity. "It is essential for states to foster participation by the poorest people in the decisionmaking process by the community in which they live, the promotion of human rights, and efforts to combat extreme poverty".

The Vienna declaration also reflects a strong commitment to combat all forms of racism, racial discrimination, xenophobia, and related intolerance and supported the appointment of a special rapporteur to address these issues.

All states were called to bring ethnic cleansing to an end.

The World conference stresses that all persons who perpetrate or authorize criminal acts associated with ethnic-cleansing, are individually responsible and accountable for such human rights violations, and that the international community should exert every effort to bring those legally responsible for such violations to justice.

The Vienna declaration and action plan exhibits a commitment to improved coordination, efficiency, and effectiveness, reinforced by a well-funded Center for Human Rights at the United Nations. Implementation of the numerous recommendations set forth in the action plan should lead to significant improvements in the effectiveness of U.N. human rights machinery. Key to achieving these many goals is the establishment of a High Commissioner at the United Nations for promotion and protection of human rights.

The World Conference on Human Rights recommends to the General Assembly that when examining the report of the conference at its 48th session, it begin as a matter of priority consideration of the question of the establishment of a High Commissioner for Human Rights for the promotion and protection of all human rights.

These were just a few of the important matters addressed by the World Conference on Human Rights in Vienna. Secretary of State Warren Christopher was the head of the U.S. delegation and addressed the World Conference on June 14, 1993. Timothy Wirth, counselor for global affairs led the U.S. delegation during the initial stages, with Assistant Secretary of State for Human Rights and Humanitarian Affairs, John Shattuck, directing the delegation as U.S. representative to the World Conference through its conclusion. Former Congresswoman Geraldine Ferraro served as alternate U.S. representative.

I commend the accomplishments of the U.S. delegation and ask unanimous

consent that the statement of the United States at the conclusion of this conference be included in the RECORD following the conclusion of my remarks.

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

INTERVENTION ON DISCUSSION OF VIENNA DECLARATION, JOHN SHATTUCK, U.S. REPRESENTATIVE TO WCHR, U.S. DELEGATION, JUNE 25, 1993

Thank you Mr. Chairman: The World Conference on Human Rights has produced a strong forward looking document, one that reaffirms the universality of human rights and the basic principles my country has stood for. The Vienna Declaration marks the acknowledgement by the international community that these values are shared by all people. The attention this conference has paid to the rights of women, minorities, and the indigenous proves that human rights principles are being extended into new areas and that the protection of individuals remains paramount for the human rights community. The Conference has also broken new ground in showing the profound relationship between human rights, democracy and development. The conference has also signalled that gross violations such as torture, enforced disappearances, extra-judicial executions and arbitrary detention must be stopped.

The commitment expressed in the documented to improve implementation and enhanced advisory services and technical cooperation, reinforced by a well-funded Center for Human Rights will lead to major improvements in the effectiveness of UN human rights machinery in the coming years. We are pleased that the conference has recommended that the UN General Assembly take up, as a matter of priority, the establishment of a High Commissioner for the promotion and protection of all Human Rights. These far reaching action goals will only be reached if the international community commits itself to this achievement. The United States is proud to help launch this achievement.

The participation of NGOs has made an enormous contribution to the work of the conference and has enriched the final document. We are confident NGOs will become an ever more important force for justice and freedom worldwide since they represent the voices of a powerful grassroots movement for human rights and democracy.

Mr. Chairman, we continue to have reservations about the language found in some parts of the final document, particularly any implication that on foreign occupation is a human rights violation per se, and the fact that this conference failed to support freedom of the press as powerfully as we had wished. Mr. Chairman, we believe that freedom of the press, along with freedom of opinion, lies at the core of the democratic process. Paragraph 26 calls upon states to guarantee freedom and protection of the press within the framework of national law. While this provision can and must be read as consistent with international standards of a free press, and with the strong reaffirmation of the principle of universality in this declaration.

We think the conference could and should have articulated a more general and far-reaching principle concerning freedom of the press. We also note with dismay, the omission of a reference to anti-semitism, which we believe, along with other forms of racism

and racial discrimination, constitutes a serious violation of human rights.

We congratulate you, Mr. Chairman, as well as Secretary General Fall, Ambassador Saboia, who so skillfully chaired the drafting committee, and Mrs. Warsazi who chaired the main committee, all conference participants, the secretariat, the officers of the conference, and the officials of our host country and city for the splendid work they have all done.

Thank you, Mr. Chairman.

INDIAN GAMING

Mr. INOUE. Mr. President, as many Senators know, the Committee on Indian Affairs has been engaged in an extensive process during the past 2 years to monitor the implementation of the Indian Gaming Regulatory Act and to identify possible revisions to the act. Since April of this year, Vice Chairman MCCAIN and I have met with Governors, State attorneys general, tribal government leaders, Interior Secretary Babbitt, representatives of the Justice Department and the National Indian Gaming Commission. All of these parties have joined us in a constructive effort to develop a consensus in support of necessary amendments to the act.

The issues involved in Indian gaming are complex. The Indian Gaming Regulatory Act was enacted in 1988 after 5 years of hearings, debates, and intense negotiations. The act embodies a carefully balanced compromise between the sovereign prerogatives of the United States, the several States and the Indian tribes. In many parts of our Nation, the act has worked well. There are now over 70 compacts between tribal governments and State governments for the conduct of class III gaming on Indian lands. In other States, the act has led to litigation which has hindered the ability of the States and the tribes to negotiate compacts.

The issues involved in Indian gaming also generate intense feelings and misunderstandings between Indians and non-Indians. In fact, as Senator MCCAIN and I have conducted our review of the act with representatives of the Federal, tribal, and State governments, we have often found that many of the disagreements and differences of opinion can be resolved simply by providing accurate information to all parties.

Mr. MCCAIN. Would the Senator yield for a question?

Mr. INOUE. I would be pleased to yield to the Senator from Arizona.

Mr. MCCAIN. I thank my good friend, the chairman of the Committee on Indian Affairs. I want to say that I agree that much of the misunderstanding that arises around the issue of Indian gaming is based on inaccurate information. Some of it is also probably derived from a concern about economic competition and the uncertainty which surrounds any new economic activity or the entry of a new party into any ex-

isting area of economic endeavor. But it is clear that misinformation and uncertainty undermine the environment of reason and good will that is necessary to resolve issues such as those involved in Indian gaming. In that regard, I wonder if the Senator has read the transcript of a June 18, 1993, interview of Donald Trump by Don Imus on radio station WFAN-FM in New York City?

Mr. INOUE. Yes, I have read the transcript from that interview.

Mr. MCCAIN. Would the Senator agree with me that some of the statements made during the interview reflect the kind of misinformation and misunderstanding which have all too often characterized discussions about Indian gaming?

Mr. INOUE. Yes, I must regretfully agree. It is my sincere hope as we continue our discussions with Federal, State, and tribal officials that we will have an opportunity to provide the American public with accurate information on this issue.

Mr. MCCAIN. Mr. President, I thank the Senator and once again express my appreciation to him for his leadership on this and so many other issues here in the Senate. I ask unanimous consent that the transcript of the June 18, 1993, interview to which we have just made reference be printed in the RECORD at this point.

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

RADIO TV REPORTS

Station: WFAN-AM.
City: New York.
Program: Imus in the Morning.
Date: June 18, 1993, 8:30 a.m.
Subject: Donald Trump.

[Broadcast excerpt]

Don Imus: It's 8:30 exactly here at WFAN in New York, and here with us now, Donald Trump. Good morning, Donald.

Donald Trump: How you doing, Don?

Imus: I'm fine. How are you?

Trump: I'm very good. Thanks.

Imus: So what is this now? A bunch of these drunken Injuns want to open a casino down there in New Jersey?

Trump: Well, it's a battle that we're fighting and I think it's being successfully fought. A lot of the reservations are being, in some people's opinion, at least to a certain extent run by organized crime and organized crime elements, as you can imagine. There's no protection. There's no anything. And it's become a joke. It's become a laughing joke. And the politicians around 1987 passed a law where the Indians can have virtually unsupervised casino gaming. So we're in there fighting it and I think we're making a lot of progress. I think you'll see some very major things happening over the next couple of months.

Imus: In your mind, is there any legitimacy in them being allowed to have casinos in states where there aren't now casinos like say Connecticut?

Trump: I think it's up to the states. I mean, one of the things we did is bring a lawsuit and say it's states' rights. As an example, Governor Cuomo in New York didn't want to have the Indians having casinos. The

churches didn't want it. It knocks out the bingo. It knocks out the charities. It knocks out a lot of other things. So what they did is they filed suits and they filed everything else. Ultimately, the Governor of New York was forced to pass this horrendous situation that's taking place in upstate New York. I think it's going to be changed and I think it's going to be changed fairly quickly. Don.

Imus: So will Indians be allowed to open casinos here in New York?

Trump: I think it's going to be unlikely within the next year.

Imus: Okay. This is just my opinion, but I don't think it makes sense to anybody to have Indians operate casinos in New Jersey.

Trump: General George Custer was against it also and look what happened to him.

Imus: But in New Jersey—obviously you have three casinos—you already have casinos.

Trump: Right, but the difference is I pay taxes. The Indians aren't paying any taxes. The Indians aren't putting anything back into what's happening. The funny thing is Cuomo was forced to put—and now all of a sudden they send him certified letters, "We want bridges."

They call it the sovereign nation. They call it a nation, this great sovereign nation, the Indian tribes. All of a sudden, it's nations.

Before it wasn't a nation, before gambling. Now it's this great sovereign nation. We protect, we do this, we do that, but when it comes to gambling, it's a sovereign nation.

So it's really a double standard and no taxes are paid. No supervision's there, tremendous crime, and most of the Indians don't want it themselves. The leaders—you know, all chiefs and no Indians, and the leaders want it for the obvious reason, but I think it's something that's going to end or is certainly going to be supervised very, very stringently.

Imus: Would there be any reason, if push comes to shove, for you to become a member of these tribes?

Trump: Well, I think if we lost various things, I would perhaps become an Indian myself.

Imus: You know, do one of those Robert Bly deals.

Trump: Well, I think I might have more Indian blood than a lot of the so-called Indians that are trying to open up the reservations.

I looked at one of them—well, I won't go into the whole story, but I can tell you, I said to him, "I think I have more Indian blood in me than you have in you." And he laughed at me and he sort of acknowledged that I was right, but it's a joke. It's really a joke.

Imus: A couple of these Indians up in Connecticut look like Michael Jordan, frankly.

Trump: I think if you've ever been up there, you would truly say that these are not Indians. One of them was telling me his name is Chief Running Water Sitting Bull, and I said, "That's a long name." He said, "Well, just call me Ricky Sanders." So this is one of the Indians.

I'll tell you, they got duped in Washington and it's just one of those things that we have to straighten out. It's the neverending problem of—

Imus: Having to straighten things out.

Trump: One of the big things that I'm working on is sports betting in New Jersey and we have a man over there named Chuck Hytlan who turns out to be a disaster for the people of New Jersey because this would mean tremendous taxes and tax revenues. I don't know what happened with the bookies

or whoever. I don't know who spoke to Hytlan. I have no idea, but he's single-handedly—he's a Speaker and he's got some power over there, at least now, and he's single-handedly stopped sports betting, and everybody in New Jersey wants it and it's disgraceful and it's a great opportunity for Atlantic City. It's a great opportunity for New Jersey.

And the senior citizens and New Jersey will get tremendous tax revenues from it. So for all of you folks that know Speaker Chuck Hytlan, call him up and blast the hell out of him.

Imus: Well, our opposition on sports betting is as long as the players get to bet, they might as well let the fans, you know?

Trump: Well, the players bet. That's absolutely true. And I'm sure it'll probably increase the ratings of your particular station quite a bit if they had sports betting in New Jersey.

Imus: It's not that I want to be like Mike. It's I want to bet like Mike.

Trump: Yeah, right. Maybe you don't want to bet like Mike.

Imus: Maybe I can win once in a while. What else is new with you?

Trump: Nothing. Things are going great. We're just in the process of doing some incredible things. Trump Plaza's doing something great and the hotels in Atlantic City have done record-setting business. The Taj Mahal, when they thought Trump was finished, "Trump is over. He's history," and everything, I was opening up the Taj Mahal and they said it could never do the kind of numbers projected, and it's doing substantially greater than anything ever projected. So it's really become the success of the industry.

Imus: You sound like a Trump P.R. guy, but you netted 14 million dollars or something last month.

Trump: We made a gross operating profit of 14 million dollars, which was twice what the projections were at their highest, and they won 41 million dollars last month at the Taj Mahal. And the other casinos are doing proportionately—they're much smaller, but proportionately equally as well.

Imus: What's the status with your marriage? Are you still getting married?

Trump: Oh, I'm doing great. It's really fantastic.

Imus: Yeah, but are you getting married?

Trump: That might be the most difficult question you've asked me so far. See, the Indian problem is a much simpler problem. That can be solved.

Imus: Maybe you can have one of those traditional tribal ceremonies.

Trump: That's right. Maybe that would be the best way to do it. That way, it wouldn't be an authorized marriage. Therefore, I could claim marriage without any of the liabilities, right?

Imus: That's what I was going to say.

Trump: "What are you talking about? I never got married."

Imus: "I gave her some beads and that was basically about it."

Trump: "I can get sued for nine billion dollars, but what do you mean? The marriage is forget it. I have a great relationship."

Imus: It's a work in progress.

Trump: Huh?

Imus: It's a work in progress.

Trump: It's a work of art in progress.

Imus: That's right, a work of art in progress.

Trump: That's exactly correct. How are you doing on your social front? Do you have a new beautiful girlfriend yet?

Imus: Well, you know, they come and they go.

Trump: At least with you, I know it's definitely a girlfriend, okay?

Imus: At this point, yeah.

Trump: With a lot of people, we don't know.

Imus: Donald, always nice to talk with you. Good luck and many moon come Choc-taw.

Trump: Thank you very much. Bye.

Imus: It's 8:36, 24 till 9:00, Imus in the Morning.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 228, the nomination of Ashton B. Carter to be an Assistant Secretary of Defense.

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

NOMINATION OF ASHTON B. CARTER OF MASSACHUSETTS TO BE AN ASSISTANT SECRETARY OF DEFENSE

The bill clerk read the nomination of Ashton B. Carter of Massachusetts to be an Assistant Secretary of Defense.

The PRESIDING OFFICER. The pending business is the nomination of Ashton B. Carter to be an Assistant Secretary of Defense.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I am pleased we now have before us the nomination of Dr. Ashton B. Carter to be Assistant Secretary of Defense for Nuclear Security and Antiproliferation.

Dr. Carter brings a wealth of talent and experience to this position. I am very confident that he will serve our Nation with distinction in what I believe is an increasingly important role.

I have known Ash Carter for many years. He is a person of intense dedication to public service and a person of deepest integrity.

I believe he is superbly qualified for the position of Assistant Secretary of Defense for Nuclear Security and Counterproliferation.

Ash Carter has held positions with the Rockefeller University, the Congressional Office of Technology Assessment, and the Office of the Secretary of Defense. He has been at MIT and Harvard. At Harvard he currently serves as the director of the Center for Science and International Affairs; at the Ford Foundation; and professor for Science and International Affairs at the Kennedy School of Government.

I am confident that Ash Carter will make a significant member of Secretary Aspin's team, and he will make a major contribution to our national security policy.

So I urge the Senate to support Dr. Carter's nomination for this important national security position.

Mr. THURMOND addressed the Chair. The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, for the past few weeks, Dr. Carter's confirmation has been a matter of considerable controversy in the Armed Services Committee. I am glad that today the Senate will have the opportunity to consider some valuable lessons raised by this controversy as we finally lay the matter to rest. I heartily commend the Senator from Idaho [Mr. KEMPTHORNE] and the Senator from New Hampshire [Mr. SMITH] for doggedly pursuing the troubling issues surrounding the Carter nomination, and I particularly thank Senator SMITH for his determination to have this debate.

Mr. President, Republican Members were not seeking a battle over this particular nomination. But in the course of evaluating Dr. Carter's qualifications when he was before the committee, serious questions were raised about his unauthorized assumption of executive powers prior to confirmation. Moreover, his response to questions about such activities raised even more serious questions about his forthrightness and reliability. I feel we had no choice but to delay action and look into the matter thoroughly.

I am deeply concerned about the slow pace of filling key policy jobs in the Pentagon. This is bad for the Services, for the Department, and for the Nation's security. I want to cooperate fully with our chairman, Senator NUNN, and get the civilian leadership ranks in the Pentagon filled as soon as we can.

But I also feel a strong obligation to safeguard the integrity of the confirmation process. My opposition to any administration nominee is always going to be based on principles and not on personalities. It will be based on a good-faith evaluation of an individual's suitability to serve and the Nation's interests, not on any other consideration.

In spite of the delay and distress in Dr. Carter's nomination, I believe some good has come out of the experience. First, this controversy has put a stop to the assumption of executive authority by unconfirmed appointees. I hope the Senate will take this lesson one step further and pass the Kempthorne bill, which makes this a matter of law. The Carter affair has made it clear that administration nominees, no matter how impressive their academic degrees and other qualifications, must meet high standards of conduct. In the Pentagon's especially sensitive positions, they must avoid even the appearance of impropriety.

Mr. Chairman, I feel the Defense Department has learned these lessons. Based on the assurances of the Department's general counsel and Deputy Secretary Perry, I am satisfied that

the Department has taken the necessary steps to end the abuse of authority by Dr. Carter and all unconfirmed appointees. Many of his actions fell into an ambiguous category, and it is debatable whether he truly understood that he had crossed over the line in every instance. Since so many of his actions fell into a grey area where there is no overwhelming certainty, I believe we have to give Dr. Carter the benefit of the doubt.

Mr. President, in the absence of sufficient contradictory information, I also had to accept assurances that Dr. Carter did not willfully and knowingly mislead the committee about his actions. Secretary Perry and our distinguished chairman, Senator NUNN, vouched for his truthfulness and integrity in the most ringing terms, and I sincerely hope that no one will ever have cause to regret their unqualified endorsement of his reliability. For these reasons I voted with the committee, despite lingering doubts, to report Dr. Carter favorably to the Senate, and I will vote to confirm him.

I thank the Chair, and yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Is there further debate on the nomination?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, at this time, I would like to ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH. Mr. President, I rise today with some reluctance in opposition to the nomination of Dr. Ashton Carter to be the Assistant Secretary of Defense for Nuclear Security and Counterproliferation.

Mr. President, the Senate's advice-and-consent role in Presidential nominations is vitally important. It is a very important constitutional responsibility—indeed, the responsibility that is outlined in the book presented to us by the Honorable ROBERT C. BYRD of West Virginia, in which he, in his chapter II on the Proceedings of the Senate, addresses the history of the U.S. Senate on the whole nomination process. There are several pages on the importance of nominations and the advise-and-consent role.

I think it is important not only in a constitutional responsibility, but we understand that anything that subverts this process of advise and consent, or diminishes its credibility, undermines the constitutional separation of powers, which is so fundamental to our democratic Government. Sometimes, we hastily push to confirm the nominations before us, even in the interest of rushing. I think that perhaps

the nomination of Ashton Carter threatens to do that.

Let me begin with some general background. Until just recently, Dr. Carter was a paid consultant to the Defense Department. While awaiting Senate confirmation, he is also on the payroll of the Minor Corp., a federally funded research and development corporation at Harvard.

We understand the fact that for many of the Defense Department positions, indeed, people have not even been nominated. We also understand that many of these positions are not filled. We only have about 25 percent, it is my understanding, that are filled. I recognize that. It is not the desire of this Senator to delay the nomination but simply to have a recorded vote so that Senators can choose whether or not the advise-and-consent concept or process has been unfairly treated here, and to debate this nomination on some concerns that I feel very deeply about.

I want to also say, Mr. President, that I appreciate the cooperation of Chairman NUNN and the ranking member, Senator THURMOND, for their support and cooperation and the fair process, as we went through this entire issue of the nomination of Ashton Carter.

The policies concerning the preconfirmation activities of nominees such as Dr. Carter are largely a matter of custom, rather than law. In the past, nominees have served as consultants—that is not anything new—or as special assistants, or in other positions within the executive branch. They have to be there to get some idea or some understanding as to what it is their job will be. We all understand that and respect that. It has happened before and will happen again in the future. I do not object to that.

However, in each case, the Defense Department has traditionally deferred to the concerns of the Senate Armed Services Committee with respect to preconfirmation activities.

These concerns include:

First, the nominees adhere to applicable laws and regulations governing conflicts of interest.

Second, that authoritative guidance in the Defense Department should come from the Department's civilian and military officials, not from consultants.

And third, that nominees and potential nominees should assume no duties and take no actions that would appear—and I emphasize the word "appear"—appear to presume the outcome of the confirmation process.

I again repeat the word "appear." Mr. President, because I think appear is the key action word in this debate. Did Ashton Carter do anything that would appear to presume the outcome of the confirmation process? That is really the issue that I am dealing with here today, and I think the Senate is dealing with here today.

If you do not think he did, and you do not object to him for any other reason, then you should vote for him. If you think he did do things that appear to presume the outcome of the confirmation process, and you feel that the advise and consent role, as outlined by Senator BYRD in chapter 2 of his book, if you do feel that that is important, then I think the nomination of Dr. Carter is a problem for the U.S. Senate.

On March 9, 1993, Defense Secretary Aspin issued a memorandum for Presidential appointees. This memorandum outlined guidelines for activities of nominations prior to confirmation.

According to the Aspin memo, and I will quote from it:

The basic principle is that prior to nomination and subsequent Senate consideration, you should act in a manner consistent with your role as an adviser preparing for additional duties and responsibilities—

Additional duties and responsibilities, preparation for those duties—

and avoid acting or appearing as if you have been appointed.

Secretary Aspin continues by stating:

In implementing this principle, you should be guided by the following: You may consult within the Department of Defense on current policy topics, receive briefings, familiarize yourself with relevant issues, and even attend briefings. You may offer general advisory views on policy issues, but on a strictly informal basis.

"Advise" again is the key word.

Secretary Aspin said:

You should not serve as the official Department representative in meetings or on travel. You are not to sign any documents that give the appearance of having assumed official duties.

Again, the word "appearance" appears constantly and consistently throughout this documentation.

You are not to undertake to hire, transfer, or terminate members of your potential future organization or otherwise reorganize its management. You should not use the term "designate" prior to nomination by the President.

Those are the words of the Secretary of Defense.

Now, Mr. President, these guidelines were issued by the Secretary of Defense for good reason. They are very concise, very specific, and very straightforward. There is absolutely no ambiguity whatsoever in what the Secretary said and certainly no room for misinterpretation. You are not to do anything at all that would give the appearance that you were in a position that you had not yet received the advise and consent of the Senate on to do. That is the bottom line here, pure and simple.

Nonetheless, in response to reports of widespread noncompliance with these regulations, Senators NUNN and THURMOND sent a letter dated April 22, 1993, to Secretary Aspin requesting that he issue guidance and take steps to ensure that the activities of nominees comply with the concerns of the Armed Services Committee.

Mr. President, this was all before we knew anything about Ashton Carter. We did not know Ashton Carter was going to be nominated or do anything before he was nominated. But we did not know he was doing anything that might be considered the appearance of taking actions, that he should not be doing.

So, the Secretary of Defense issued the directive. Senators NUNN and THURMOND sent a letter to Secretary Aspin requesting that he issue guidance and take steps to ensure.

So this was proactive on both the Secretary of Defense and the Armed Services Committee, and it had been done many times before. It was just to reaffirm that no one should appear to do anything that would appear to be incorrect or wrong, or in any way give the appearance that they were acting in the role of a nominee before they were confirmed.

Secretary Aspin responded in a letter dated April 29; so in a week, he responded to that letter. He reaffirmed the existing guidelines, and he emphasized that each nominee receive an extensive briefing from the Department's Office of Standards and Conduct to ensure that their behavior met all legal and administrative requirements. An extensive briefing; that is what the language said.

Secretary Aspin stated, and I quote:

I gave this clear directive to all prospective nominees to ensure that no one here in DOD would presume any authority that can come only from the Senate's confirmation.

He said:

I gave this clear directive to all prospective nominees to ensure that no one here in DOD would presume any authority that can come only from the Senate's confirmation.

Dr. Carter was a nominee at that time. On May 25, Dr. Carter appeared before the Armed Services Committee for his confirmation. I was there. He was asked by Senator NUNN whether he, Dr. Carter, had made any authoritative decisions or provided authoritative guidance, and whether he had assumed any duties or undertaken any actions that would appear to presume the outcome of the confirmation process.

Dr. Carter responded in the negative to both questions. This was not a question that was prepared specifically for Dr. Carter. This is a question that is routinely asked by the chairman—correctly so—of all nominees when they come before the committee.

Dr. Carter again said no; he had not assumed any duties or undertaken any actions that would appear to presume the outcome of his confirmation process.

Mr. President, reluctantly I must submit that the facts do not substantiate what Dr. Carter gave in formal testimony under oath before the committee at his hearing. Subsequently, and in direct contradiction to this af-

firmation, it has been determined that Dr. Carter did in fact make authoritative decisions, did in fact provide authoritative guidance, and did in fact act in a manner which gives the appearance of presuming that he was confirmed.

The information I have before me indicates that Dr. Carter has been actively involved in the formulation and implementation of strategic nuclear policy, counterproliferation policy, and weapons dismantlement programs while serving as a consultant to the Defense Department. Again, implementation of strategic nuclear policy, counterproliferation policy, and weapons dismantlement—very serious issues.

Mr. President, at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. 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. NUNN. Mr. President, as I noted at the outset of this debate, I strongly support the nomination of Ashton B. Carter to be Assistant Secretary of Defense for Nuclear Security and Counterproliferation. Dr. Carter brings a wealth of talent and experience to this position and I am confident that he will serve our Nation with distinction in this important position.

Because issues about the prerogatives of the Senate in the confirmation process were raised during the proceedings on his nomination before the Armed Services Committee, I would like to briefly describe the background to the committee's action on this nomination.

On May 26, the committee voted to report this nomination to the Senate. At that time, the committee also decided that prior to reporting the nomination to the floor, Senator THURMOND and I would look into the issue of whether Dr. Carter had taken actions inconsistent with the guidance applicable to preconfirmation activities of nominees.

At the outset, I would note that the committee received and reviewed all of the required standard documents on Dr. Carter, including:

The committee questionnaire;

Letters from the Director of the Office of Government Ethics and the general counsel of the Department of Defense accompanying the nominee's Financial Disclosure Report, certifying that the nominee is in compliance with applicable laws and regulations governing conflict of interest;

The nominee's responses to the committee's prehearing questions; and

The letter from the counsel to the President on the scope of the background investigation.

The committee held a hearing on Dr. Carter's nomination, and on the nominations of seven other DOD officials, on May 25, 1993. Subsequent to the hearing, questions were raised about whether certain of his actions as a consultant to the Department of Defense were consistent with applicable guidance on preconfirmation activities of nominees. Senator SMITH has alluded to those questions.

I would like to briefly review the applicable guidance and the actions taken by the committee to review Dr. Carter's situation.

The policies governing the preconfirmation activities of nominees are largely a matter of custom, rather than law. Nominees in the past have served as consultants, special assistants, or in other positions within the executive branch. The traditional concern of our committee, as expressed in an April 22, 1993, letter from myself and Senator THURMOND to Secretary Aspin, has been that nominees act in accordance with the following three concerns:

First, that such persons adhere to the applicable laws and regulations governing conflicts of interest;

Second, that authoritative guidance in the Department of Defense should come from the Department's civilian and military officials, not from consultants; and

Third, that nominees and potential nominees should assume no duties and take no actions that would appear to presume the outcome of the confirmation process.

Secretary Aspin responded on April 29, expressing his agreement with our views and enclosing guidance which he had issued on March 9, I ask unanimous consent that our letter to Secretary Aspin and his response be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. NUNN. At the May 25 hearing, I asked each of the nominees whether they had made any authoritative decisions, provided authoritative guidance, or otherwise undertaken any actions that would appear to presume the outcome of the confirmation process. Each responded in the negative. After the hearing the committee received a document, signed by Dr. Carter on May 17, which raised an issue of whether it constituted authoritative action. I ask unanimous consent that the May 17 document be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. NUNN. The committee determined that Senator THURMOND and I, working with other interested Senators, would review the matter. Senators SMITH, KEMPTHORNE, FAIRCLOTH, and KENNEDY have participated in the

process, and several other Senators indirectly.

We met twice, informally, with Bill Perry, the Deputy Secretary of Defense; Jamie Gorelick, the general counsel, and Dr. Carter. I would like to summarize the results of our meetings.

The Department has recognized—and this nomination brought this to their attention in a very vivid way—has recognized using nominees as consultants puts them in a very difficult position. As a general matter, Government consultants are permitted to attend meetings, prepare documents, and provide advice and recommendations. When such an activity has been undertaken by a nominee for a policy position, however—particularly a position which primarily involves providing advice to the Secretary of Defense—it may give the appearance of presuming the outcome of the confirmation process.

Dr. Perry, for whom I have the greatest respect, determined that the Department should make a number of major changes in its preconfirmation procedures after this matter came to his full attention. On June 2, Dr. Perry issued a memorandum containing the following guidance:

First, he directed the general counsel to review all documents by potential appointees pending confirmation to determine whether any action of the Department had been effected through an inappropriate assumption of authority. The general counsel has completed this review, and has advised the committee that there were no such actions.

Second, he directed all potential Presidential appointees to adhere to strict new guidance issued by the general counsel.

Third, he directed that all potential Presidential appointees receive a personal briefing from the general counsel.

Fourth, he directed that in the future, no potential appointee requiring confirmation will become a consultant for purposes of rendering advice.

And it is my understanding, Mr. President, that applies to future appointees and is not retroactive in the sense of people who already are appointees.

The sole purpose of any future designation of such a person as a consultant will be to receive briefings and to participate in other activities related to preparation for confirmation proceedings, and that person will be in an unpaid status.

These actions go far beyond the limitations established by any other agency, and they go far beyond the requirements of law, as well as the requirements of custom. They are not conditions our committee has imposed. And I want to make that clear. These were directed voluntarily by Dr. Perry, after looking at the position consultants were being placed in under the current circumstances. These conditions re-

fect the seriousness with which Dr. Perry views the confirmation process and the need to avoid any actions which would violate the customary limitations on preconfirmation activities.

Mr. President, I ask unanimous consent that Dr. Perry's June 2 memorandum be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. NUNN. Mr. President, it is my view that this whole situation is a result of the slow pace of nominations. Every administration seems to get slower and slower with nominations. Individuals have been placed in consulting positions for too long a time waiting for their nominations to be formally submitted to the Senate. It is my hope that the transition process in this administration is drawing to a close. It is my further hope that the time between the Secretary's recommendation to the White House and the submission of a nomination will be reduced drastically. When that happens, it may be possible to revisit the guidance issued by Dr. Perry. So I do not think we should view that guidance as permanent.

With respect to the document signed by Dr. Carter on May 17, Dr. Perry has described that as an anomaly. He also noted that the actual action in the case was taken by a confirmed DOD official, not Dr. Carter. Dr. Perry has advised us that he is confident that Dr. Carter has acted in good faith in his role as a consultant, and has not intentionally violated the guidance regarding preconfirmation activities.

I accept Dr. Perry's representations. I have known Ash Carter for many years. I believe him to be a person of intense dedication to public service, and a person of the deepest integrity.

Nevertheless, I would also acknowledge that the document that he signed was a document he should not have signed. He recognizes that now, and I think that has made a deep impression not only on him but on the other nominees and on Dr. Perry and the other people in the Department of Defense, including Secretary Aspin.

Mr. President, as I noted as we commenced this debate, Dr. Carter is superbly qualified for the position of Assistant Secretary for Nuclear Security and Counterproliferation. He has held positions with the Rockefeller University, the Congressional Office of Technology Assessment, the Office of the Secretary of Defense, MIT, and Harvard, where he currently serves as the director of the Center for Science and International Affairs and Ford Foundation of professor for Science and International Affairs at the Kennedy School of Government. I am confident that he will be a significant member of Secretary Aspin's team, and that he will

make a major contribution to our national security policy.

Mr. President, on June 11, the committee held a public meeting, which provided members with an opportunity to speak on this nomination and to have their vote recorded. The committee ordered that Dr. Carter's nomination be reported to the Senate, by a vote of 16-3. I urge the Senate to support this nomination.

It is supported by both me, as chairman of the committee, and by Senator THURMOND, as ranking member, and by the majority of Members on both sides of the aisles.

I respect those Members who dissented on this nomination. To all of us, the confirmation process is very, very important and any time there are procedures adopted, whether advertent or inadvertent, that seem to bypass that confirmation process, then certainly it is up to those of us in the Senate to defend the prerogatives of the institution and the important constitutionality responsibilities that lie with the requirements for confirmation.

So, to those Senators who will vote "no" on this nomination, and I am sure there will be some, I respect their views on it. But I do believe this is a very valuable public servant. I think the mistakes that were made were inadvertent mistakes and in my view there are procedures and guidelines that have now been put into place as a result of this that minimize the chance of this happening again in the Department of Defense.

I would add, though, Mr. President, the Department of Defense is not the only department that has a very long delay in nominees being sent forward by this administration. I would say this process we have been through in the last several weeks with Dr. Carter's nomination should serve as a warning light to other nominees and to other departments, because this could be repeated in other areas. I hope it would not. I hope the delay in this nomination that has occurred will serve notice to other nominees and to other departments, and that this will not be a procedure that is repeated or mistakes would not be repeated.

Mr. President, I urge the Senate to confirm this nominee.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, April 22, 1993.

HON. LES ASPIN,
Secretary of Defense, Department of Defense,
Washington, DC.

DEAR MR. SECRETARY: We are concerned about recent press and other reports regarding the activities of nominees and prospective nominees in the Department of Defense.

Although nominees on occasion have served for a short period of time in consulting, special assistant, or other similar capacity with the Department of Defense prior to confirmation, our Committee traditionally has advised the Department that their activities with respect to the position for

which they may be appointed should be limited to discussions necessary to familiarize nominees with their prospective duties. We have consistently asked the Department to ensure that any such nominees and prospective nominees act in accordance with three concerns that have been important to this Committee:

First, that such persons adhere to the applicable laws and regulations governing conflicts of interest, particularly with regard to private sector investments or employment.

Second, that authoritative guidance in the Department of Defense should come from the Department's civilian and military officials, not from consultants.

Third, that nominees and potential nominees should assume no duties and take no actions that would appear to presume the outcome of the confirmation process.

The longer that individuals remain in a consulting or similar status prior to confirmation, the greater the likelihood that issues will arise concerning activities that could be viewed as presuming the outcome of the confirmation process. We recognize that delays in the nomination process are often beyond your control. In our view, however, such delays make it all the more important that strict guidelines on preconfirmation activities are established and followed.

It is important that guidance be issued to all nominees and potential nominees regarding preconfirmation activities related to the position for which they may be appointed. This guidance should make it clear that their activities must be strictly limited to receiving familiarization briefings, and that they should not undertake any activities that could be construed as providing authoritative guidance on matters within their area of responsibility if confirmed.

Please advise the Committee of the actions that you will take to ensure that the activities of nominees and potential nominees adhere to applicable laws and regulations, take into account the concerns noted above, and do not presume the outcome of the confirmation process.

Sincerely,

SAM NUNN,
Chairman.
STROM THURMOND,
Ranking Minority.

THE SECRETARY OF DEFENSE,
Washington, DC, April 29, 1993.

HON. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you very much for your letter of April 22, concerning the activities of nominees and prospective nominees.

You outlined those concerns that have been important to the Committee:

Compliance by potential nominees and nominees with applicable conflict of interest and employment rules;

Department civilians and military officials (not consultants) should prioritize authoritative guidance;

Potential nominees assuming no duties or take any action that precedes confirmation.

On March 9, 1993, I issued a memorandum (Attachment 1) for potential presidential nominees that paralleled, and I hope anticipated, the concerns expressed by your letter (Attachment 2). As you can see, the memo is intended to address the same issues you have raised. While potential nominees and consultant nominees may familiarize themselves with their duties properly, and may offer me informal advice as I make decisions

as a duly confirmed Secretary of Defense, they are not to act in any way that suggests that they have the authority they would have only after they are confirmed by the Senate. In addition, each potential nominee received an extensive briefing from the Department's Office of Standards and Conduct to delineate the legal requirements concerning their tenure as consultants, prospective nominees and nominees. Of course, all consultant nominees and prospective nominees are to comply with all applicable laws and regulations, including employment and private sector investment.

I gave this clear directive to all prospective nominees to insure that no one here in DoD would presume to any authority that can come only from the Senate's confirmation.

As you pointed out to me at my confirmation hearing, the Committee needs to consider and dispose of over 50 Presidential nominations. We appreciate all the cooperation you, the Committee and your staff have provided. We look forward to continuing to work with you and your staff as we build DoD's new team.

If you need any additional information or clarification, please do not hesitate to contact me.

Sincerely,

LES ASPIN.

THE SECRETARY OF DEFENSE,
Washington, DC, March 9, 1993.

Memorandum for: Potential Presidential Appointees in the Department of Defense.
Subject: Guidelines for Activities Prior to Recommendation, Nomination and Confirmation.

I appreciate your willingness to serve as my advisor during this very important transitional period. I have already given verbal guidelines as to what actions you may appropriately and legally take during the period you are waiting decisions regarding your possible nomination and, subsequently, waiting for the Senate to consider your nomination as a Presidential appointee. However, I think it appropriate to formalize these guidelines to avoid any misunderstandings or potential embarrassment.

The basic principle is that prior to nomination and subsequent Senate consideration, you should act in a manner consistent with your role as an advisor preparing for additional duties and responsibilities, and avoid acting, or appearing, as if you have been appointed. In implementing this principle, you should be guided by the following:

You may consult within the Department of Defense on current policy topics, receive briefings, familiarize yourself with relevant issues, and attend briefings.

You may offer general advisory views on policy issues, but on a strictly informal basis.

You should not serve as the official Department representative in meetings or on travel.

You are not to sign any documents that give the appearance of having assumed official duties.

You are not to undertake to hire, transfer or terminate members of your potential future organization, or otherwise reorganize its management.

You should not use the term "Designate" prior to nomination by the President.

LES ASPIN.

EXHIBIT 2

MAY 17, 1993.

Memorandum for: Mr. Paul Boren, Defense Nuclear Agency.

Through: Senior Civilian Official, OUSD-P.
Dr. John Birely, Acting ATSD-AE.

Subject: Nunn-Lugar Funding of Defense and Military Contacts (U).

(U) In accordance with the DepSecDef approved Plan for the Use of Nunn-Lugar Funds for Expanded Defense and Military Contacts request DNA transfer the necessary funds for the interagency approved defense and military contact events described on the attachment. Cost figures are only rough estimates.

Dr. ASHTON B. CARTER.

EXHIBIT 3

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, June 2, 1993.

Memorandum for: Potential Presidential appointees.

Subject: Procedures To Be Followed Pending Formal Appointment.

Late last week, the Senate Armed Services Committee raised serious questions regarding the level of compliance by potential presidential appointees with the directive issues by Secretary Aspin on March 9, 1993, limiting the activities that may be undertaken pending confirmation. Although the expressed concern related to presidential appointees for whom confirmation is required, the same restrictions are and should be applicable to potential appointees who have not yet actually been appointed.

In response to the concerns that have been raised, I have taken the following actions:

1. I have represented to the Committee that we will take all appropriate steps to ensure that potential appointees adhere to the rules.

2. I have directed the General Counsel to review all documents signed by potential presidential appointees who are pending confirmation to determine whether any action of the Department has been effected through an inappropriate assumption of authority. I direct each of you to cooperate with this review, as requested. Should we find any action that has been so effected, we will revise it in accordance with standard procedure.

3. I am directing each of you to adhere to the implementing guidance prepared by the General Counsel (Tab A) and to address to her any questions that you may have either with regard to documents or actions that you may take. She will be scheduling briefings with you to review this guidance.

4. I have asked the Executive Secretary and the General Counsel to review and revise as necessary the format for memoranda and correspondence within the Department, working with those responsible for such matters in the operating components of the Department, including the Military Departments (Tab B).

5. Henceforth, no potential appointee requiring confirmation will become a consultant to the Department for the purpose of rendering advice pending appointment. Rather, the sole purpose for which unpaid consultant status will be granted such persons is to permit the potential nominee to engage in activities in preparation for undertaking his or her position and/or in connection with the confirmation process (e.g., receiving briefings, reading background material and making courtesy calls.)

WILLIAM J. PERRY.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, May 29, 1993.

Memorandum to: All Potential Presidential Appointees.

Subject: Implementing Guidance for Activities Prior to Appointment.

Before you are formally appointed, there are significant restrictions on what you may or may not do within the Department of Defense. The purpose of this memo is to explain how Secretary Aspin's memo of March 9, 1993, and the relevant regulations apply to various circumstances that may present themselves. For your information, I have attached, at Tab A, the March 9 memo and the subsequent exchange of correspondence between Senators Nunn and Thurmond and the Secretary on that subject.

1. Meetings Outside the Department of Defense.—You should not meet with anyone outside the Department unless you are accompanied by a "responsible official" of the Department who can speak for the Department, e.g., someone who has responsibility for the issue in question and who could have attended the meeting on his or her own. Your limited role as a consultant to the Department and not an official of the Department, should be made clear. This general rule is subject to the following more specific guidance:

a. Meetings with Contractors.—You should not attend a meeting with a contractor.

b. Meetings with Foreign Officials or Interest Groups.—While you may attend meetings with foreign officials or interest groups, subject to the guidance stated above, your participation should be kept to a minimum.

2. Meetings or Advice Inside the Department of Defense.—You should not represent or speak for a component of the Department of Defense, or a prospective component, in a meeting within the Department unless you are accompanied by a responsible official, as defined above. If you have been brought into the Department as a consultant for the purpose of advising the Secretary, you may provide such advice in the form of your personal views. Do not use Departmental stationery.

3. Press Contacts.—You should not meet or speak with the press, other than in connection with the confirmation process and then only after consultation with the Public Affairs office.

4. Contacts with Capitol Hill.—You should not have any contact with members of Congress or staff, other than in connection with the confirmation process and then only after consultation with the Legislative Affairs Office.

5. Speeches or Presentations Outside the Department.—You should not give any speeches, make any appearances or give any presentations outside the Department on any issue relating to the business of the Department.

6. Trips.—You may not participate in official trips of the Department of Defense except with the express permission of the Secretary.

7. Internal Decisions.—You should not make any decision for a component of the Department, e.g., such as clearing a cable. You may advise the decision-maker, and note that you have seen an action item, but you may not order or control the advice that is given by a responsible official of the Department who is representing a component with respect to a particular decision.

8. Documents.—You may not originate an action, have official actions of the Department pass through you or approve or disapprove any actions of the Department. You may indicate that you have seen a particular item. In general, you are not to sign any documents in such a way as to give the appearance of having assumed official duties.

9. Hiring.—You are not to undertake to hire, transfer or terminate members of your potential future organization or otherwise

reorganize its management. You may meet and interview applicants. The process for hiring to fill non-career SES and Schedule C positions is outlined in Larry Smith's memo of March 9, 1993 (Tab B).

JAMIE GORELICK.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, June 1, 1993.

Memorandum for: The General Counsel and the Executive Secretary.

Subject: Review of the Format and Coordination Process for Correspondence, Memoranda, etc.

In light of the matters discussed in my Memorandum to Potential Presidential Appointees of this date, I would like you to review the process by which correspondence, memoranda and other actions are presented within the Department to ensure (a) that the process is operating consistent with the applicable regulations and the commitments that we have made with regard to the limited role that consultants may play within the Department and (b) that there is appropriate legal review of all matters presented for action. This review should include not only documents that come to the Secretary or the Deputy Secretary for review, information or action, but also similar documents within the other components of the Department, including the Military Departments.

WILLIAM J. PERRY.

Mr. KEMPTHORNE. Mr. President, last week, I introduced a bill, S. 1147, which is designed to reinforce the constitutional rights and prerogatives of the U.S. Senate. It is a bill that addresses the serious concerns that many of my colleagues on the Senate Armed Services Committee and I have regarding the activities of unconfirmed Presidential nominees.

Many times in the past, I have looked to the words of the founders of our country for inspiration and guidance in my role as a U.S. Senator. In Federalist paper No. 76, Alexander Hamilton expounded on the nature of the President's nomination power, as provided in the Constitution. He said that concurrence in nominations by the Senate would have a powerful effect on the quality of Presidential nominees and that Senate confirmation would be a source of stability in the administration. Yet, I believe that the intended stability provided through the Senate's role of advise and consent is being compromised by the acts of nominees which frustrate no less a mandate than the U.S. Constitution.

I am here on the floor today to warn my fellow Senators that if we do not act in a bipartisan manner to send a clear message of our constitutional duty, we will lead astray those who feel that we, by our silence, condone such acts by nominees to positions of great importance in our Government. We do not do the Senate, or the Presidency, any favors by allowing the continuing slow erosion of our obligations. As Senator SMITH has so eloquently discussed today, the Senate Armed Services Committee recently encountered a situation where a political nominee, Dr. Ashton Carter, admittedly violated the Secretary of Defense's guidelines concerning the preconfirmation activities

of unconfirmed nominees. There are other documented instances where equally questionable activities have occurred. One problem is that many unconfirmed nominees serve as consultants between the time the President decides to nominate them and the time the Senate confirms them. This dual status, that of a consultant and as an unconfirmed nominee, has blurred the line between appropriate and inappropriate activities. Failure to give clear direction to consultants and others, that they shall not act as if they had already been confirmed, is at the root of my bill and our purpose for being here on the floor today.

I would like to take a few minutes to summarize the activities that led me to introduce my bill. On March 9, 1993, Secretary Aspin issued a memo to potential Presidential appointees in the Department of Defense. In that memo, Secretary Aspin stated:

The basic principle is that prior to nomination and subsequent Senate consideration, you should act in a manner consistent with your role as an advisor preparing for additional duties and responsibilities, and avoid acting, or appearing, as if you have been appointed.

Secretary Aspin's March 9 memo offered the following guidelines:

You may offer general advisory views on policy issues, but on a strictly informal basis. You should not serve as the official Department representative in meetings or travel. You should not sign any documents that give the appearance of having assumed official duties.

Throughout the confirmation process, members of the Senate Armed Services Committee have expressed concern about the preconfirmation activities of DOD nominees. As a result of this concern, on April 22, Chairman NUNN and Senator THURMOND sent a letter to Secretary Aspin advising the Secretary that the committee believed that, "nominees and potential nominees should assume no duties and take no actions that would appear to presume the outcome of the confirmation process." The Nunn-Thurmond letter also stated that nominees, "should not undertake any activities that could be construed as providing authoritative guidance on matters within their area of responsibility if confirmed."

In an April 29 letter to Chairman NUNN, Secretary Aspin informed the Armed Services Committee that he had advised prospective nominees that "they are not to act in any way that suggests that they have the authority they would have only after they are confirmed by the Senate."

Based upon these three documents, I believed that the Department of Defense has established clear policies and guidelines concerning inappropriate activities of unconfirmed nominees.

On May 25, the Senate Armed Services Committee met to consider eight DOD nominees. Dr. Ashton Carter was among the eight nominees under con-

sideration. After brief opening statements by the nominees, Chairman NUNN began the questioning by asking each of the witnesses, "Have you made any authoritative decisions or provided authoritative guidance? Have you assumed any duties or undertaken any actions that would appear to presume the outcome of the confirmation process?" In response to Chairman NUNN's question, each of the nominees, including Dr. Carter, answered, "no."

On May 26, members of the Armed Services Committee met just off the Senate floor in the Vice President's office to consider the eight pending DOD nominees. However, an hour before that meeting, I received a copy of a memo signed by Dr. Ashton Carter. In that May 17 memo, Dr. Carter requested that the Defense Nuclear Agency transfer certain funds related to the Nunn-Lugar program. The memo, signed by Dr. Carter, was approved by Dr. Graham Allison. As of today Mr. President, President Clinton has not even nominated Dr. Allison, and yet, Dr. Allison approved the transfer of funds at DOD.

In the Vice President's office, my colleagues on the Armed Services Committee reviewed a copy of the Carter/Allison memo which I had authorized to be released to the committee by my staff. After a short discussion about the memo's significance, the committee voted to report out seven of the pending DOD nominees. The committee agreed to a motion to report out the Carter nomination pending my approval.

On May 27, members of the Armed Services Committee met with the Deputy Secretary of Defense, Dr. Bill Perry, the DOD general counsel, Ms. Jamie Gorelick and Ashton Carter. In the meeting, Ash Carter acknowledged that he signed the May 17 memo but he told us that he did not think that the May 17 memo fell under the authoritative actions Chairman NUNN had asked him about during his confirmation hearing. At this meeting, I asked Dr. Perry to give us written assurances that none of the other 7 DOD nominees had offered authoritative guidance or signed official documents. Pending that written assurance from Dr. Perry, I placed a hold on the seven other DOD nominees.

Later that day, Dr. Perry provided Chairman NUNN with written assurances that none of the seven pending DOD nominees had acted in an authoritative manner. When informed of Dr. Perry's written assurance, I lifted my hold on the seven nominees and the Senate subsequently confirmed them by voice vote.

It was around this time that DOD provided the Armed Services Committee with a revised copy of the Carter/Allison memo. This time, an authorized DOD employee, A.R. Williams, initiated the request to the Defense Nuclear Agency.

During the Memorial Day recess while I was in Idaho, my office received four additional documents signed or initiated by Ashton Carter. In one of these memos, Dr. Carter asks for Secretary Aspin's, "guidance on how to set up a new system to make the [Nunn-Lugar] program work." In another memo, Carter states, "As you requested, I attached a binder containing the essential information on the Cooperative Threat Reduction [CTR] Program. Tabs 8-10 are provided for your information, I have not yet approved them." This statement implies that tabs 1-7 have been approved and tabs 8-10 will be approved. Both of these memos were transmitted to Secretary Aspin and Deputy Secretary Perry through Frank Wisner. This documentation again proved that yet another unconfirmed nominee had rendered the Senate confirmation process irrelevant. The Senate has not yet confirmed Mr. Wisner.

During the Memorial Day recess, my office also received a copy of Dr. Carter's schedule. The schedule showed that Dr. Carter had been busy attending interagency working group meetings at the Department of Defense, the State Department, and the White House. Dr. Carter's schedule refers to these appointments such as "coordinating staff meeting," "meeting on implementation of Vancouver package for Russia" and "steering group meeting Russia, Ukraine, New Independent States." In addition, Dr. Carter's schedule also showed a morning appointment—the Wisner Staff Meeting.

In the wake of the activities of Ashton Carter and Graham Allison, on May 29, the DOD General Counsel issued a memo to all potential Presidential nominees clarifying the restrictions contained in Secretary Aspin's March 9 memo. At about this time, Deputy Secretary of Defense Perry asked the DOD general counsel to review the correspondence, memoranda, and other actions of potential DOD nominees. On June 1, Deputy Secretary Perry issued new guidelines for potential nominees. Included in these new guidelines was a decision not to hire potential nominees as paid consultants.

On June 1, Ashton Carter sent a letter to Secretary Aspin. In the letter, Carter writes:

I have made every effort to adhere to your guidelines stipulating that, as an advisor who is not confirmed in any official position, I have no authority to assume the duties of office, and, furthermore, should not give any appearance of having done so. As you know, I mistakenly violated that guidance by signing a memorandum dated May 17, 1993, regarding the transfer of Nunn-Lugar funds. That was a careless error, which I deeply regret.

In light of the additional memos signed by Ashton Carter, on June 8, Senator THURMOND sent a letter to Chairman NUNN requesting a second hearing with Dr. Carter.

On June 10 members of the Armed Services Committee met with Dr. Perry, Jamie Gorelick, Dr. Carter, and one of Secretary Aspin's top aids, Rudy De Leon. In this meeting, Dr. Carter and Dr. Perry stated that in their view the additional Carter/Wisner memos did not represent authoritative guidance. Dr. Carter also assured us that he had not served as the official DOD representative as the various interagency meetings he attended. Jamie Gorelick, the DOD general counsel, reported to us that her review did not identify any other authoritative memos from, or actions by, Ashton Carter. I asked Ms. Gorelick to provide me with a written assurance to that effect. After our DOD guests departed, Senator SMITH asked Senator NUNN for a second vote on the Carter nomination. Chairman NUNN agreed to Senator SMITH's request. Later that evening, Chairman NUNN informed me he would not be able to get a quorum for the June 11 meeting of the committee. I told Chairman NUNN that I would lift my objection to reporting out the Carter nomination.

On June 11, the Armed Services Committee met for a second time to consider the nomination of Ashton Carter. At this meeting of the committee, Chairman NUNN and Senator THURMOND outlined the history of the Ashton Carter affair. After comments by other members of the committee, the Armed Services Committee voted 14 to 3 to report out Dr. Carter's nomination. Weighing all of the evidence, I voted not to confirm Ashton Carter because of my belief that a clearly recognizable line had been crossed. For me, this was a question of principle not personality.

Later that day, Senator SMITH sent a series of legitimate and detailed questions to Dr. Carter regarding his preconfirmation activities. When the Carter nomination was placed on the Executive Calendar, Senator SMITH placed a hold on the nomination. On June 14, Senator SMITH received Ashton Carter's responses to his questions. Having reviewed the responses to Senator SMITH's questions, I cannot say that Ashton Carter reassured me that he had not acted in an authoritative capacity. For example, Dr. Carter says that other DOD officials joined him at White House and State Department interagency working group meetings on all but rare occasions. Thus, Ashton Carter asks us to believe that on the rare occasions he attended these meetings alone, he was not officially representing DOD. Given the subject matter of these meetings, as outlined in Dr. Carter's schedule, I cannot believe that the Department of Defense was not authoritatively represented at these interagency working group meetings.

Mr. President, I ask for unanimous consent that documents verifying this chronology of events by printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, DC, March 9, 1993.

Memorandum for: Potential Presidential Appointees in the Department of Defense.
Subject: Guidelines for Activities Prior to Recommendation, Nomination and Confirmation.

I appreciate your willingness to serve as my advisor during this very important transitional period. I have already given verbal guidelines as to what actions you may appropriately and legally take during the period you are waiting decisions regarding your possible nomination and, subsequently, waiting for the Senate to consider your nomination as a Presidential appointee. However, I think it appropriate to formalize these guidelines to avoid any misunderstandings or potential embarrassment.

The basic principle is that prior to nomination and subsequent Senate consideration, you should act in a manner consistent with your role as an advisor preparing for additional duties and responsibilities, and avoid acting, or appearing, as if you have been appointed. In implementing this principle, you should be guided by the following:

You may consult within the Department of Defense on current policy topics, receive briefings, familiarize yourself with relevant issues, and attend briefings.

You may offer general advisory views on policy issues, but on a strictly informal basis.

You should not serve as the official Department representative in meetings or on travel.

You are not to sign any documents that give the appearance of having assumed official duties.

You are not to undertake to hire, transfer or terminate members of your potential future organization, or otherwise reorganize its management.

You should not use the term "Designate" prior to nomination by the President.

LES ASPIN.

THE SECRETARY OF DEFENSE,
Washington, DC, April 29, 1993.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you very much for your letter of April 22, concerning the activities of nominees and prospective nominees.

You outlined those concerns that have been important to the Committee:

Compliance by potential nominees and nominees with applicable conflict of interest and employment rules;

Department civilians and military officials (not consultants) should prioritize authoritative guidance;

Potential nominees assuming no duties or take any action that precedes confirmation.

On March 9, 1993, I issued a memorandum (Attachment 1) for potential presidential nominees that paralleled, and I hope anticipated, the concerns expressed by your letter (Attachment 2). As you can see, the memo is intended to address the same issues you have raised. While potential nominees and consultant nominees may familiarize themselves with their duties properly, and may offer me informal advice as I make decisions as a duly confirmed Secretary of Defense, they are not to act in any way that suggests that they have the authority they would have only after they are confirmed by the

Senate. In addition, each potential nominee received an extensive briefing from the Department's Office of Standards and Conduct to delineate the legal requirements concerning their tenure as consultants, prospective nominees and nominees. Of course, all consultant nominees and prospective nominees are to comply with all applicable laws and regulations, including employment and private sector investment.

I gave this clear directive to all prospective nominees to insure that no one here in DoD would presume to any authority that can come only from the Senate's confirmation.

As you pointed out to me at my confirmation hearing, the Committee needs to consider and dispose of over 50 Presidential nominations. We appreciate all the cooperation you, the Committee and your staff have provided. We look forward to continuing to work with you and your staff as we build DoD's new team.

If you need any additional information or clarification, please do not hesitate to contact me.

Sincerely,

LES ASPIN.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, April 22, 1993.

Hon. LES ASPIN,
Secretary of Defense, Department of Defense,
Washington, DC.

DEAR MR. SECRETARY: We are concerned about recent press and other reports regarding the activities of nominees and prospective nominees in the Department of Defense.

Although nominees on occasion have served for a short period of time in a consulting, special assistant, or other similar capacity with the Department of Defense prior to confirmation, our Committee traditionally has advised the Department that their activities with respect to the position for which they may be appointed should be limited to discussions necessary to familiarize nominees with their prospective duties. We have consistently asked the Department to ensure that any such nominees and prospective nominees act in accordance with three concerns that have been important to this Committee:

First, that such persons adhere to the applicable laws and regulations governing conflicts of interest, particularly with regard to private sector investments or employment.

Second, that authoritative guidance in the Department of Defense should come from the Department's civilian and military officials, not from consultants.

Third, that nominees and potential nominees should assume no duties and take no actions that would appear to presume the outcome of the confirmation process.

The longer that individuals remain in a consulting or similar status prior to confirmation, the greater the likelihood that issues will arise concerning activities that could be viewed as presuming the outcome of the confirmation process. We recognize that delays in the nomination process are often beyond your control. In our view, however, such delays make it all the more important that strict guidelines on preconfirmation activities are established and followed.

It is important that guidance be issued to all nominees and potential nominees regarding preconfirmation activities related to the position for which they may be appointed. This guidance should make it clear that their activities must be strictly limited to receiving familiarization briefings, and that

they should not undertake any activities that could be construed as providing authoritative guidance on matters within their area of responsibility if confirmed.

Please advise the Committee of the actions that you will take to ensure that the activities of nominees and potential nominees adhere to applicable laws and regulations, take into account the concerns noted above, and do not presume the outcome of the confirmation process.

Sincerely,

SAM NUNN,
Chairman.
STROM THURMOND,
Ranking Minority.

SENATOR NUNN'S QUESTIONS
PRECONFIRMATION ACTIVITIES

In my opening statement, I outlined the concerns that the Committee has expressed about activities of nominees and prospective nominees prior to confirmation. I would like each member of the panel to respond to the following questions.

First, what position in the Department of Defense have you occupied prior to confirmation?

Second, have you adhered to the applicable laws and regulations governing conflict of interest?

Third, have you made any authoritative decisions or provided authoritative guidance?

Fourth, have you assumed any duties or undertaken any actions that would appear to presume the outcome of the confirmation process?

MAY 17, 1993.

Memorandum for: Mr. Paul Boren, Defense Nuclear Agency.

Through: Senior civilian official, OUSD-P and Dr. John Birely, Acting ATSD-AE.
Subject: Nunn-Lugar Funding of Defense and Military Contacts (U).

(U) In accordance with the DepSecDef approved Plan for the Use of Nunn-Lugar Funds for Expanded Defense and Military Contacts request DNA transfer the necessary funds for the interagency approved defense and military contact events described on the attachment. Cost figures are only rough estimates.

DR. ASHTON B. CARTER.

Attachment:

EXPANDED DEFENSE AND MILITARY CONTACTS WITH THE FSU—EVENTS TO BE FUNDED UNDER THE NUNN-LUGAR PROGRAM

Event No.	Sponsor and Description	Use of funds ¹	Estimated cost
OSD-1	OUSD-(PRE): Belarus BWG Meeting in early May in Minsk.	1	\$22,000
OSD-2	OASD (FM&P): Russian DepMOD for manpower visit to United States.	2	22,000
JS-1	Joint Staff J-5: Russian Joint Staff Talks in Washington May.	2	31,000
JS-2	Joint Staff J-4: Russian Rear Service Delegation visit to United States, May 21-28.	2	22,000
A-1	Army: Russian military historian Gen. Gareev visit to United States in April.	3	23,000
A-2	Army: Russian Frunze Academy Cmdt. visit to Combined Arms Center in May.	3	6,000
A-3	Army: Army Recruiting Command delegation visit to Russia in May.	1	17,000
A-4	Army: Combined Arms Center (CAL) visit to Russia in May/June.	1	35,000
A-5	Army: Russian Main Staff visit to TRADOC.	3	22,000
A-6	Army: Russian O-6 visit to Ft. Sill in May.	3	4,000
A-7	Army: Russian visit to Combined Arms Center on peacekeeping in June.	3	40,000
A-8	Army: DA team visit to Russian Frunze Academy on FADs in June.	1	7,000
A-9	Army: Russian participation in Pacific Armies Reserve Comp. Seminar in July.	3	7,000

EXPANDED DEFENSE AND MILITARY CONTACTS WITH THE FSU—EVENTS TO BE FUNDED UNDER THE NUNN-LUGAR PROGRAM—Continued

Event No.	Sponsor and Description	Use of funds ¹	Estimated cost
N-1	Navy: Russian Naval Staff Talks in United States, May 22-29.	2	31,000
N-2	Navy: Russian ship visit to Boston July 7-10.	5	40,000
N-3	Navy: Russian Chief of Main Navy Staff visit to United States, June 6-11.	2	22,000
AF-1	Air Force: Joint search and rescue exercise in Russia April 19-24.	4	344,900
AF-2	Air Force: Russian AF Engineering Academy visit to United States, June 21-25.	2	22,000
AF-3	Air Force: Russian AF visit to Charleston AFB (Sister Base Exchange), June 26-July 2.	2	20,000
AF-4	Air Force: Air Command and Staff College visit to Gagarin Air Academy in May.	1	15,000
AF-5	Air Force: Barksdale AFB visit to Ryzan AB in Russia (Sister Base Exchange).	1	10,000
AF-6	Air Force: Russian Kachinski Academy visit to the AFA (Sister Base Exchange).	2	15,000
C-1	PACOM: Russian FEMD working group visit to United States, April 22-29.	2	22,000
C-1	STRATCOM: Visit by CIS CINC and delegation to United States this summer.	2	22,000
Total			821,000

¹ Use of funds: 1. Travel and per diem for DOD members of United States delegation. 2. Travel and per diem for DOD members of United States delegation and food, lodging, transportation, etc. to host visiting delegation while in the United States. 3. Travel and per diem for DOD members of United States delegation and food, lodging, transportation, etc. to host visiting delegation while in the United States and transportation for the visiting delegation to and from the United States. 4. Cost of United States participation in exercise. 5. United States services provided to support ship visit and food and transportation necessary to hosting visiting crews.

OFFICE OF
UNDER SECRETARY OF DEFENSE,
Washington, DC.

Memorandum for: Mr. Paul Boren, Defense Nuclear Agency.

Through: Dr. John Birely, Acting ATSD-AE.
Subject: Nunn-Lugar Funding of Defense and Military Contacts (U).

(U) In accordance with the DepSecDef approved Plan for the Use of Nunn-Lugar Funds for Expanded Defense and Military Contacts request DNA transfer the necessary funds for the interagency approved defense and military contact events described on the attachment. Cost figures are only rough estimates.

A.R. WILLIAMS,
Acting Assistant Deputy Under Secretary of Defense, Russian, Eurasian, and East European Affairs.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, May 27, 1993.

HON. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the meeting earlier today, we have reviewed with each of the pending nominees the letter signed by Dr. Carter on May 17, 1993, and your letter to Secretary Aspin of April 22, 1993. We have received the good faith assurance of each nominee that he or she has not given authoritative guidance or signed documents in an official capacity. Deborah R. Lee has served as Assistant to the Secretary of Defense for Legislation and has properly carried out her duties pursuant to her appointment in the Senior Executive Service on January 22, 1993. She has not given authoritative guidance or signed documents relating to the position for which she has been nominated.

This confirms my earlier report to you and, I trust, is responsive to your concerns.

Sincerely,

WILLIAM J. PERRY.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, May 29, 1993.

Memorandum to: All potential Presidential appointees.

Subject: Implementing Guidance for Activities Prior to Appointment.

Before you are formally appointed, there are significant restrictions on what you may or may not do within the Department of Defense. The purpose of this memo is to explain how Secretary Aspin's memo of March 9, 1993, and the relevant regulations apply to various circumstances that may present themselves. For your information, I have attached, at Tab A, the March 9 memo and the subsequent exchange of correspondence between Senators Nunn and Thurmond and the Secretary on that subject.

1. Meetings Outside the Department of Defense. You should not meet with anyone outside the Department unless you are accompanied by a "responsible official" of the Department who can speak for the Department, e.g., someone who has responsibility for the issue in question and who could have attended the meeting on his or her own. Your limited role as a consultant to the Department and not an official of the Department, should be made clear. This general rule is subject to the following more specific guidance:

a. Meetings with Contractors. You should not attend a meeting with a contractor.

b. Meetings with Foreign Officials or Interest Groups. While you may attend meetings with foreign officials or interest groups, subject to the guidance stated above, your participation should be kept to a minimum.

2. Meetings or Advice Inside the Department of Defense. You should not represent or speak for a component of the Department of Defense, or a prospective component, in a meeting within the Department unless you are accompanied by a responsible official, as defined above. If you have been brought into the Department as a consultant for the purpose of advising the Secretary, you may provide such advice in the form of your personal views. Do not use Departmental stationery.

3. Press Contacts. You should not meet or speak with the press, other than in connection with the confirmation process and then only after consultation with the Public Affairs office.

4. Contacts with Capitol Hill. You should not have any contact with members of Congress or staff, other than in connection with the confirmation process and then only after consultation with the Legislative Affairs Office.

5. Speeches or Presentations Outside the Department. You should not give any speeches, make any appearances or give any presentations outside the Department on any issue relating to the business of the Department.

6. Trips. You may not participate in official trips of the Department of Defense except with the express permission of the Secretary.

7. Internal Decisions. You should not make any decision for a component of the Department, e.g., such as clearing a cable. You may advise the decision-maker, and note that you have seen an action item, but you may not order or control the advice that is given by a responsible official of the Department who is representing a component with respect to a particular decision.

8. Documents. You may not originate an action, have official actions of the Department pass through you or approve or disapprove any actions of the Department. You

may indicate that you have seen a particular item. In general, you are not to sign any document in such a way as to give the appearance of having assumed official duties.

9. Hiring. You are not to undertake to hire, transfer or terminate members of your potential future organization or otherwise reorganize its management. You may meet and interview applicants. The process for hiring to fill non-career SES and Schedule C positions is outlined in Larry Smith's memo of March 9, 1993 (Tab B).

JAMIE GORELICK.

Memorandum for The General Counsel and the Executive Secretary.

Subject: Review of the Format and Coordination Process for Correspondence, Memoranda, etc.

In light of the matters discussed in my Memorandum to Potential Presidential Appointees of this date, I would like you to review the process by which correspondence, memoranda and other actions are presented within the Department to ensure (a) that the process is operating consistent with the applicable regulations and the commitments that we have made with regard to the limited role that consultants may play within the Department and (b) that there is appropriate legal review of all matters presented for action. This review should include not only documents that come to the Secretary or the Deputy Secretary for review, information or action, but also similar documents within the other components of the Department, including the Military Departments.

WILLIAM J. PERRY.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC.

Memorandum For: Potential Presidential appointees.

Subject: Procedures To Be Followed Pending Formal Appointment.

Late last week, the Senate Armed Services Committee raised serious questions regarding the level of compliance by potential presidential appointees with the directive issued by Secretary Aspin on March 9, 1993, limiting the activities that may be undertaken pending confirmation. Although the expressed concern related to presidential appointees for whom confirmation is required, the same restrictions are and should be applicable to potential appointees who have not yet actually been appointed.

In response to the concerns that have been raised, I have taken the following actions:

1. I have represented to the Committee that we will take all appropriate steps to ensure that potential appointees adhere to the rules.

2. I have directed the General Counsel to review all documents signed by potential presidential appointees who are pending confirmation to determine whether any action of the Department has been effected through an inappropriate assumption of authority. I direct each of you to cooperate with this review, as requested. Should we find any action that has been so effected, we will revise it in accordance with standard procedure.

3. I am directing each of you to adhere to the implementing guidance prepared by the General Counsel (Tab A) and to address to her any questions that you may have either with regard to documents or actions that you may take. She will be scheduling briefings with you to review this guidance.

4. I have asked the Executive Secretary and the General Counsel to review and revise as necessary the format for memoranda and correspondence within the Department,

working with those responsible for such matters in the operating components of the Department, including the Military Departments (Tab B).

5. Henceforth, no potential appointee will become a consultant to the Department for the purpose of rendering advice pending appointment. Rather, the sole purpose for which unpaid consultant status will be granted is to permit the potential nominee to engage in activities in preparation for undertaking his or her position and/or in connection with the confirmation process (e.g., receiving briefings, reading background material and making courtesy calls).

WILLIAM J. PERRY.

WINCHESTER, MA, June 1, 1993.

Secretary of Defense LES ASPIN,
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: It has been an honor to serve as your advisor during the first months of the new Administration, and I strongly hope that I will have the opportunity for further service, as Assistant Secretary of Defense for Nuclear Security and Counterproliferation.

During this initial period when I have been serving as an advisor, I have made every effort to adhere to your guidelines stipulating that, as an advisor who is not confirmed in any official position, I have no authority to assume the duties of office, and, furthermore, should not give any appearance of having done so. As you know, I mistakenly violated that guidance by signing a memorandum dated May 17, 1993, regarding the transfer of Nunn/Lugar funds. That was a careless error, which I deeply regret.

To avoid any potential for further problems of this sort, I have decided that I should not continue my advisory role while my nomination is pending in the Senate. I look forward to rejoining your team if and when I am confirmed.

Yours,

ASHTON B. CARTER.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, April 20, 1993.

EXECUTIVE SUMMARY/COVER BRIEF

Memorandum for Secretary of Defense, Deputy Secretary of Defense.

Through: OUSD(P) senior civil official.

From: OASD(ISP) senior civilian official.

Subject: SDIO Expanded Acquisition of Russian TOPAZ Space Nuclear Reactors.

Purpose: Action—(U) To seek approval to procure four additional Russian TOPAZ space nuclear reactors, prior to seeking interagency approval.

Discussion: The main DoD objectives of the proposed acquisition are: to capitalize on significant Soviet investment and experience in space nuclear reactors for the benefit of SDIO and other DoD missions which require large amounts of power in orbit; and to promote conversion in the former Soviet Union from a defense oriented, state controlled economy to a commercially oriented, privatized, free market system.

SDIO seeks to procure four unfueled Russian TOPAZ II space nuclear reactors. These would be used in follow-on tests to the Thermionic System Test Evaluation (TSET), which is evaluating TOPAZ II technology for U.S. space missions. The additional reactors will be used in the Nuclear Electric Propulsion Space Test Program, which will eventually involve fueling and space testing one of the reactors. Total SDIO cost for the reactors will be \$20M, with \$15M going to Russian entities over a four year period. Details on the SDIO effort are at TAB A.

In March 1992, a White House Press Statement announced the procurement of the two reactors used in the TSET effort. Based on informal guidance from the Deputy Secretary, DoD approval for that procurement was based on a technical evaluation by DDR&E and a foreign policy evaluation by USD(P). Following DoD approval, USD(P) ensured the necessary interagency coordination. SDIO gave an informal briefing to the interagency on March 22 (See memorandum for record at TAB B). In accord with the prior guidance, the same internal DoD review has been accomplished on this additional acquisition.

Recommendation: That you approve SDIO acquisition of four additional Russian TOPAZ reactors in accordance with applicable law, upon clearance by USD(P) through the appropriate interagency process.

Note: Ashton Carter initials
MAY 13, 1993.

NUCLEAR SECURITY AND
COUNTERPROLIFERATION UPDATE

Memorandum for: Secretary of Defense, Deputy Secretary of Defense.

Through: Frank Wisner.

From: Ashton B. Carter.

Subject: Format for the Daily Update Cover Memo—Information Memorandum.

This should be a standard opening on all updates: "As part of your Cooperative Threat Reduction and Denuclearization effort [or: Counterproliferation Initiative; or: the Aspin New Nuclear Policies effort] we have" * * * blah, blah, (introduce how this paper is of interest to Nuclear Security, Counterproliferation, Regional Security, Democratic Security, Economic Security * * * put it in the context of our new strategic framework and goals—one short paragraph.)

This one paragraph (or two) is a short summary of what the update means. To the point * * * use attachments if you intend to build a watch * * * tell what time it is here.

The credit line. "This information memorandum was prepared by Larry, Darrell, and their other brother Darrell."

The intent of this one (one!) page cover memo is to focus the SECDEF's attention on why he should read further. Put the bottom line first and add in deeper rationale as attachments.

(Since the memo may have some edits, you may wish to bring a paper copy and a Word for Windows disk * * * we'll do the retype in that case. This template is available as a Word for Windows template file if you are interested.)

NUCLEAR SECURITY AND
COUNTERPROLIFERATION

Memorandum for: Secretary of Defense, Deputy Secretary of Defense.

Through: Frank Wisner.

From: Ashton B. Carter.

Subject: Nunn-Lugar Implementation Update—Information Memorandum.

Tomorrow's meeting has the purpose of giving your people—especially Deutch, Guidry, Broydrick, and me—your reactions to our plans to implement the new Nunn-Lugar ("CTR") program.

As you read the attached material, please reflect upon these points, on which we will be seeking your direction:

(1) This is your program, and it draws on your budget. I believe that this building can do the best job of carrying out the program, since you actually want to implement it and have the required expertise at hand. We are carrying the burden of the previous administration's administrative system, where DoD

was an unwilling partner. We need your guidance on how to set up a new system to make the program work.

(2) We are seeking authority from the Hill for a dedicated appropriation. We have devised language that follows precedent so as not to arouse opposition, but also strikes out in new directions.

(3) Several meetings are proposed at which you enlist the support of congressional leaders for the program. Do you concur in these plans, or should we change them?

(4) Reducing the nuclear threat to the United States is your principal responsibility—and a responsibility for which you can receive much public exposure.

How would you like us to proceed?

NUCLEAR SECURITY AND
COUNTERPROLIFERATION

Memorandum for: Security of Defense, Deputy Secretary of Defense.

Through: Frank G. Wisner.

From: Ashton B. Carter.

Subject: Follow-Up on Today's Briefing on Secretary Aspin's Cooperative Threat Reduction Program.

As you requested, I attach a binder containing the essential information on the Cooperative Threat Reduction (CTR) program. Tabs 8-10 are provided for your information only; I have not yet approved them.

Tab 1: Major Points for the Secretary of Defense.

Tab 2: Outline of Today's Discussion.

Tab 3: DOD Nunn-Lugar Task Force Report (a separate package requests your approval).

Tab 4: Past Problems and New Solutions: What's We're Doing Differently to Implement CTR.

Tab 5: Proposed Letter to Members of Congress, with List of Addressees (a separate package requests your approval).

Tab 6: Summary of Nunn-Lugar Spending to Date: What Have We Spent, Where, on What?

Tab 7: Summary of Current Nunn-Lugar Legislation and Proposed FY94 Appropriations Language.

Tab 8: Draft CTR Legislative Affairs Plan (under review).

Tab 9: Draft CTR Public Affairs Plan (under review).

Tab 10: Possible Threat Reduction "Docudramas" (under review).

DR. CARTER'S SCHEDULE, WEDNESDAY, 17
FEBRUARY (REV NO. 1)

0800—Wisner Staff Meeting.

0945—LTGEN Teddy Allen, Dir, Defense Security Assistance Agency (courtesy call).

1000—LTGEN Ed Leland, Dir, J-5, Strategic Plans and Policy (courtesy call).

1100—Scooter Libby.

1300—POAC.

1300—Working Lunch [trays] w/Mr. Miller [et al], Prep for Interagency Group Meeting (Thurs, 18 Feb, 0900).

1500—Dr. Deutch, 3E 1006.

1530—VADM Dick Macke, Dir, Command & Control, Joint Staff (courtesy call).

1700—Meeting at National Academy of Science, Main Bldg.

1900—German Marshall Fund Dinner, Nora's Restaurant.

MR. INGLEE'S SCHEDULE, WEDNESDAY, 17 FEB 93

0830—Morning Brief.

1100—SecDef Mtg w/GE MOD Ruehe.

1300—Closure of NATO Site 43.

DR. CARTER'S SCHEDULE, TUESDAY, 30 MARCH

8:00—Policy Video Conf.

9:00—(CCC).

9:30—IWG Mtg @ NSC.

11:00—(Re: ABM/SCC).

11:15—Lunch w/D. Poneman.

12:00—Mtg w/D. Poneman & T. Graham.

12:45—(Re: HEU, Rm. 208).

1:00—Brussels Debrief w/F. Wisner.

1:45—(DepSecDef's Ofc).

3:00—Mtg w/F. Miller & M. Schneider.

4:00—(Re: Ballistic Missile Defense).

4:30—Mtg w/B. Auster & S. Strednansky.

5:00—(Re: Proliferation Interview).

MR. INGLEE'S SCHEDULE, TUESDAY, 30 MAR 93

0830—Morning Brief.

1000—Mtg w/German Parliamentarians (W. Wimmer, W. Kolbow & Col. Mueller).

Re: CSCE.

1400—USD(P) Staff Mtg.

SCHEDULE FOR MR. LOCHER, SENIOR CIVILIAN

OFFICIAL—USD(P) WEDNESDAY, MAR. 31, 1993

0800—Mr. Wisner Staff Mtg.

0900—Mtg w/Gen Joulwan and Mr. Wisner.

1400—Briefing by DSAA to Mr. Wisner.

1500—SO/LIC Staff Mtg.

DR. CARTER'S SCHEDULE, WEDNESDAY, 31 MARCH

(REV11)

8:00—Policy Staff Meeting.

8:45—Coordinating Staff Meeting.

9:30—Dr. Perry and Dr. Deutch rm 3E944.

10:30—SDI Brfg on International.

10:45—rm 3E 1006.

12:00—Poneman Mtg on HEU, rm 208.

1:00—Prof Paul Doty.

2:00—Poneman Mtg on Iran, rm 208.

3:00—SDI Brfg On Weapons Lethality.

4:00—Mr. Wisner/Mr. Miller.

4:15—Mitchell Wallerstein.

MR. INGLEE'S SCHEDULE, WEDNESDAY, 31 MAR 93

0845—Coordinating Staff Mtg.

1000—Mtg w/D. Cooke.

1400—Mtg w/T. Parker.

SCHEDULE FOR MR. LOCHER, SENIOR CIVILIAN

OFFICIAL—USD(P) WEDNESDAY, APR. 7, 1993

0800-0830—Wisner staff meeting.

0900-1000—Interview with Col Pearce.

1100-1330—Appointment with Dr. Litman.

1400-1500—SF briefing W/LTC Davis, BG

Dubla, BG Taylor & Mr. Dominguez.

1500-1600—SO/LIC staff meeting.

1600-1630—Bottom-up review of strategy, forces and programs W/PD, DASDS & Dr. Lamb.

DR. CARTER'S SCHEDULE, WEDNESDAY, 7 APRIL

8:00—Policy Staff Meeting.

9:30—Coordinating Staff Meeting.

10:00—Gen Klugh.

11:00—Pantex Brfg.

12:00—"Try" POAC.

1:45—Courier to OEOB.

2:00—Toby Gatl, Amb Goodby, Eric Edelman OEOB 368.

3:30—Jim Hinds, SecDef Rep for Forum Security Cooperation.

4:15—Courier to State Department.

4:30—Amb Winston Lord, State 5205.

5:30—Courier to Pentagon.

6:00—RAND Working Reception, 2100 M Street, NW.

MR. INGLEE'S SCHEDULE, WEDNESDAY, 7 APR 93

00845—Morning Brief (4E838).

0930—Coordinating Mtg

1000—Mtg w/Cal Vos, SOCO

1100—Pantex Briefing by Steve Guidice & George West Re: Dismantlement Ops

DR. CARTER'S SCHEDULE, TUESDAY, 13 APRIL

8:00—Policy Video Conf, CCC

8:30—Mtg w/ Messrs. Wisner & Freeman

8:45—Re: Korea

9:30—Coordinating Staff Meeting

10:30—Charles Kelley, RAND

11:00—Tom Parker, Interview

11:30—Amb Ted McNamara, Ass't to Gallucci

11:45—Courier to OEOB

12:00—Lunch w/Dan Poneman, OEOB 380

1:00—IWG on PDD±3, OEOB 208

2:30—Poneman Brainstorming session on COCOM and ExportControls OEOB 380.

4:00—Courier to Pentagon.

[4:00—W/T Topics due].

MR. INGLEE'S SCHEDULE: TUESDAY, 13 APR 93

1000—Mtg w/Mr. Scher.

DR. CARTER'S SCHEDULE, THURSDAY, 15 APRIL

7:30—Breakfast w/Dr. Perry, 3E944.

[8:00—Policy Staff Meeting.]

9:00—Slocombe Mtg on Contingency Plan/

Bastion Paper, 4E829.

11:00—FARR Brfg.

12:30—POAC.

2:30—Ken Flamm.

3:00—Dorothy Zinberg.

3:45—Courier to OEOB.

4:00—IWG on Ukraine Nuc Issues OEOB 208.

4:45—Courier to Pentagon.

5:00—Swearing-In Ceremony/Reception iho

Dr. Deutch, 3E869/912.

MR. INGLEE'S SCHEDULE, (THURSDAY, 15 APR. 93)

0930—Coordinating Staff Mtg.

1700—Swearing-In Ceremony for John

Deutch (3E869).

DR. CARTER'S SCHEDULE, FRIDAY, 16 APRIL

8:30—Policy Staff Meeting.

9:30—Coordinating Staff Meeting.

(T) 11:45—Larry Smith, 3E 856.

(2:00—Steering group meeting, Russia, Ukraine, New Independent States, State 7516).

2:00—Courier to Residence/AP.

Reminders: Lisa Burdick, Inglee/Joseph (prebrf).

MR. INGLEE'S SCHEDULE, (FRIDAY, APR. 93)

1215—Lunch w/Mr. Hadley (Blue Room).

1400—HASC Briefing (Rayburn Bldg.).

DR. CARTER'S SCHEDULE, FRIDAY, 23, APRIL 93

8:30—Policy Staff Meeting.

9:00—Michael May.

9:30—Dr. Perry w/Michael May, 3E944.

10:00—Coordinating staff meeting.

11:30—"TRY" POAC.

2:00—Talbot Mtg on Implementation of Vancouver Package for Russia, State 7516.

4:00—Jim Miller.

7:00—JASON Reception., JW Marriott Hotel, Capitol Ballroom., Pennsylvania Ave.

MR. INGLEE'S SCHEDULE, FRIDAY, 23 APR 93

No schedule.

MR. WISNER'S SCHEDULE—WEDNESDAY, MAY 12

0730—Breakfast with Roland Evans, Metropolitan Club.

0900—Appt. with Dr. Kossack, 1634 Eye Street., N.W., Suite 406.

1000—50th Anniversary Ceremony of the Pentagon, River Entrance, followed by SecDef's private reception in Room 3E912.

1100—Courtesy call by Lt. Gen. Mike Ryan (replacing McCaffrey).

1200—Luncheon w/Liz Drew, Metropolitan Club.

1330—Amb. Charles Thomas (Hungary).

1400—Meeting with Gordon Adams, Assoc. Dir for Natl. Security & Intrntl. Affairs OMB, w/Halperin and Locher.

1500—Gen. David Ivry, DirGen Israeli Defense Ministry.

1600—Briefing by Commander Ingram on Special Access Programs

1800—Mr. Francisco Villa, Secy Gen. Political Affairs, Spanish MFA.

1930—Reception/Dinner Speech, Defense Science Board, Army Navy Club, Farragut Square, N.W.

MR. SLOCOMBE, WED. 12 MAY 93

0900-0930—Policy Bfg to SecDef.

0945-1000—D. Johnson/Prbrf Teleconf.
 100-1100—Teleconf, COC.
 1130-1200—Lt Gen Mike Ryan, USAF, Asst
 to CJCS/CC (Here).
 1600-1630—Wisner's Ofc/Special Program
 Briefing.
 1815-1900—Defense Gp Mtg Chrd by Dr.
 Deutch, 3E928.
 1930—Personal Engagement/Roslyn.
 SCHEDULE FOR GRAHAM ALLISON, WEDNESDAY,
 MAY 12, 1993, AS OF 5/11, 1830
 10:00—River Entrance-Ceremony re 50th
 Anniversary of Pentagon (Reception follows
 in Rm 3E912)
 12:40—Depart River Entrance
 13:30—Mtg w/Nick Burns re: Kokoshin
 Visit, Rm 368 OEOB
 1400—Return car.
 1500—General Leland (15 mins) Farewell
 call.

DR. CARTER'S SCHEDULE, WEDNESDAY, 12 MAY
 8:30—DSB Spring Meeting 3E869
 9:30—Coordinating Staff Meeting
 10:00—Ceremony/Reception lho Pentagon
 50th Anniversary Hb SecDef, River Entrance/
 3E912.
 11:30—Mr. Vos, Standards of Conduct Ofc
 12:00—Lunch w/DSB
 1:30—Blue Rm
 1:30—Bruce Burton
 2:00—North Korea Working Group
 4:00—Messrs. Rostow and Knapp.
 4:20—re Update on Conf on Disarmament.
 7:00-8:00—DSB Spring Dinner (Cocktails).
 8:00-9:00—Dinner.
 9:00-10:00—Speaker.
 Army/Navy Club, 901 17th St., NW.
 MR. INGLEE'S SCHEDULE, WEDNESDAY, 12 MAY 93
 0845—ISP Morning Brief.

COMMITTEE MEETING TO ACT ON THE NOMINA-
 TION OF ASHTON B. CARTER TO BE ASSISTANT
 SECRETARY OF DEFENSE (NUCLEAR SECURITY
 AND COUNTERPROLIFERATION), JUNE, 11, 1993
 (Remarks by Senator Sam Nunn, Chairman,
 Senate Armed Services Committee)

The Committee meets today to act on the
 nomination of Ashton B. Carter to be Assis-
 tant Secretary of Defense for Nuclear Security
 and Counterproliferation. On May 26, the
 Committee voted to report this nomination
 to the Senate. At that time, the Com-
 mittee also decided that prior to reporting
 the nomination to the floor, Senator Thur-
 mond and I would look into the issue of
 whether Dr. Carter had taken actions incon-
 sistent with the guidance applicable to
 preconfirmation activities of nominees.

Senator Thurmond and I, along with sev-
 eral other Senators, have reviewed these
 matters over the past two weeks. It is my in-
 tention this morning to give the Committee
 a report on our review, and to provide an op-
 portunity for any member who wishes to re-
 consider his prior vote.

At the outset, I would note that the Com-
 mittee has received and reviewed all of the
 required standard documents on Dr. Carter,
 including: the Committee questionnaire; let-
 ters from the Director of the Office of Gov-
 ernment Ethics and the General Counsel of
 the Department of Defense accompanying the
 nominee's Financial Disclosure Report, cer-
 tifying that the nominee is in compliance
 with applicable laws and regulations govern-
 ing conflict of interest; the nominee's re-
 sponses to the Committee's prehearing ques-
 tions (May 20, 1993); and the letter from the
 Counsel to the President on the scope of the
 background investigation.

The Committee held a hearing on Dr.
 Carter's nomination, and on the nominations

of seven other DoD officials, on May 25, 1993.
 Subsequent to the hearing, questions were
 raised about whether certain of his actions
 as a consultant to the Department of De-
 fense were consistent with applicable guid-
 ance on preconfirmation activities of nomi-
 nees.

I would like to briefly review the applica-
 ble guidance and the actions taken by the
 Committee to review Dr. Carter's situation.

The policies governing the preconfirmation
 activities of nominees are largely a matter
 of custom, rather than law. Nominees in the
 past have served as consultants, special as-
 sistants, or in other positions within the Ex-
 ecutive Branch. The traditional concern of
 our committee, as expressed in an April 22,
 1993 letter from myself and Senator Thur-
 mond to Secretary Aspin, has been that
 nominees act in accordance with the follow-
 ing three concerns:

First, that such persons adhere to the ap-
 plicable laws and regulations governing con-
 flicts of interest.

Second, that authoritative guidance in the
 Department of Defense should come from the
 Department's civilian and military officials,
 not from consultants.

Third, that nominees and potential nomi-
 nees should assume no duties and take no ac-
 tions that would appear to presume the out-
 come of the confirmation process.

Secretary Aspin responded on April 29, ex-
 pressing his agreement with our views and
 enclosing guidance which he had issued on
 March 9. Without objection, our letter to
 Secretary Aspin and his response will be in-
 cluded at an appropriate point in the record.

At the May 25 hearing, I asked each of the
 nominees whether they had made any au-
 thoritative decisions, provided authoritative
 guidance, or otherwise undertaken any ac-
 tions that would appear to presume the out-
 come of the confirmation process. Each re-
 sponded in the negative. After the hearing
 the Committee received a document signed
 by Dr. Carter on May 17, which raised an
 issue of whether it constituted authoritative
 action. Without objection, the document will
 be included in the record. The Committee de-
 termined that Senator Thurmond and I,
 working with other interested Senators,
 would review the matter. Senators Smith,
 Kempthorne, Faircloth, and Kennedy have
 participated in the process.

We have met twice, informally, with Bill
 Perry, the Deputy Secretary of Defense;
 Jamie Gorelick, the General Counsel, and
 Dr. Carter. I would like to summarize the re-
 sults of our meetings.

The Department has recognized that using
 nominees as consultants puts them in a very
 difficult position. As a general matter, gov-
 ernment consultants are permitted to attend
 meetings, prepare documents, and provide
 advice and recommendations. When such an
 activity has been undertaken by a nominee
 for a policy position, however—particularly
 a position which primarily involves provid-
 ing advice to the Secretary of Defense—it
 may give the appearance of presuming the
 outcome of the confirmation process.

Dr. Perry, for whom I have the greatest re-
 spect, determined that the Department
 should make a number of major changes in
 its preconfirmation procedures. On June 2,
 Dr. Perry issued a memorandum containing
 the following guidance:

First, he directed the General Counsel to
 review all documents by potential ap-
 pointees pending confirmation to determine
 whether any action of the Department had
 been effected through an inappropriate as-
 sumption of authority. The General Counsel

has completed this review, and has advised
 the Committee that there were no such ac-
 tions.

Second, he directed all potential Presi-
 dential appointees to adhere to strict new
 guidance issued by the General Counsel.

Third, he directed that all potential Presi-
 dential appointees receive a personal brief-
 ing from the General Counsel.

Fourth, he directed that in the future, no
 potential appointee requiring confirmation
 will become a consultant for purposes of ren-
 dering advice. The sole purposes of any fu-
 ture designation of such a person as a con-
 sultant will be to receive briefings and to
 participate in other activities related to
 preparation for confirmation proceedings,
 and will be in an unpaid status.

These actions go far beyond the limita-
 tions established by any other agency, and
 go far beyond the requirements of law or cus-
 tom. They are conditions this Committee
 has imposed. They were directed by Dr.
 Perry. They reflect the seriousness with
 which Dr. Perry views the confirmation
 process and the need to avoid any actions
 which would violate the customary limita-
 tions on preconfirmation activities. Without
 objection, Dr. Perry's June 2 memorandum
 will be included at an appropriate point in
 the record.

It is my view that this situation is the re-
 sult of the slow pace of nominations. Individ-
 uals have been placed in consulting positions
 for too long a time waiting for their nomi-
 nations to be formally submitted to the Sen-
 ate. It is my hope that the transition process
 in this Administration is drawing to a close,
 and that the time between the Secretary's
 recommendation to the White House and the
 submission of a nomination will be reduced
 drastically. When that happens, it may be
 possible to revisit the guidance issued by Dr.
 Perry and return to traditional, short-term
 use of potential nominees as consultants.

With respect to the document signed by
 Dr. Carter on May 17, Dr. Perry has described
 that as an anomaly. He also noted that the
 actual action in the case was taken by a con-
 firmed DoD official, not Dr. Carter. Dr.
 Perry has advised us that he has confidence
 that Dr. Carter has acted in good faith in his
 role as a consultant, and has not intention-
 ally violated the guidance regarding
 preconfirmation activities.

I accept Dr. Perry's representations. I have
 known Ash Carter for many years. He is a
 person of intense dedication to public ser-
 vice, and a person of the deepest integrity.

He is superbly qualified for the position of
 Assistant Secretary for Nuclear Security and
 Counterproliferation. He has held positions
 with the Rockefeller University, the Con-
 gressional Office of Technology Assessment,
 the Office of the Secretary of Defense, MIT,
 and Harvard, where he currently serves as
 the Director of the Center for Science and
 International Affairs and Ford Foundation of
 Professor for Science and International Af-
 fairs at the Kennedy School of Government.
 I am confident that he will be a significant
 member of Secretary Aspin's team, and that
 he will make a major contribution to our na-
 tional security policy.

We have already voted to report out his
 nomination. In order to provide an oppor-
 tunity for all members to be recorded, we
 will have a roll call after we complete our
 discussion this morning. I will keep the vote
 open until 6:00 p.m. today for any members
 who wish to be recorded. If, as I anticipate,
 the Committee continues to support his
 nomination, I will report it to the floor on
 Monday.

I will now turn to Senator Thurmond for any opening remarks he would like to make.

STATEMENT BY SENATOR THURMOND, MEETING OF THE ARMED SERVICES COMMITTEE, JUNE 11, 1993, FOR FINAL ACTION ON THE NOMINATION OF ASHTON CARTER

Mr. Chairman, these past few weeks have caused Dr. Carter, the Defense Department, and the Committee a great deal of distress. I can assure you that Republican Members were not seeking a battle over this particular nomination. But once serious and legitimate questions were raised, I felt we had no choice but to delay action and look into the matter thoroughly. I appreciate your accommodating us in this regard.

I can speak for the Minority in saying that we share your deep concern about the slow pace of filling key policy jobs in the Pentagon. This is bad for the Department and for the nation's security, and we want to continue to work with you to expedite the confirmation of DoD appointees.

But we also feel a strong obligation to safeguard the integrity of the confirmation process. I know you share that commitment as well. If we are forced to contest any future nominations, I know you will take these words to heart, and understand that our opposition to any DoD nominee is based on principles and not on personalities. It is based on our good-faith evaluation of an individual's suitability to serve in a sensitive national security position, and not on any other consideration.

In spite of the delay and distress surrounding Dr. Carter's nomination, I believe some good has come out of the experience. First, we have put a stop to the unauthorized assumption of executive powers by unconfirmed appointees. We have sent a strong message that all Administration nominees, no matter how well qualified they may be, are accountable to high standards of conduct. We have demonstrated the Committee's belief that in the Pentagon's especially sensitive positions, there should not even be the appearance of impropriety.

Mr. Chairman, I cannot speak for every Republican Member, but yesterday's meeting with Dr. Carter, Deputy Secretary Perry, and the Department's General Counsel resolved the Carter case to my satisfaction. Based on the assurances of the General Counsel and Secretary Perry, I am satisfied that the memos Dr. Carter signed—besides the May 17 memo—were not genuine action items, but were instead informational and advisory in nature. In the absence of contradictory information, I must also accept their assurances that his attendance at inter-agency meetings was permissible, and that he did not represent himself as the official Department representative.

It is clear that Dr. Carter and other unconfirmed nominees were in a very difficult situation. As time and world events marched on and they were still not confirmed, they were steadily pulled into the leadership vacuum. As active, intelligent people—perhaps with too much hubris—they felt a natural urge to put their hands on the tiller of the ship. In doing so Dr. Carter stepped well over the line of what was permitted.

But frankly, Mr. Chairman, it was not merely his improper actions that precipitated this controversy. It appeared to some Members that Dr. Carter may have misled the Committee about his actions, and not just the one time in his confirmation hearing, but several times. This is why the additional memos and documents, the reports of hiring, and the daily appointment

schedule were significant. They constituted at least prima facie evidence contradicting his statements that he had not assumed executive authority. Under the difficult circumstances, we could overlook some improper assumptions of authority—if corrected. But we could not overlook what we felt were acts of equivocation.

However, upon hearing from the General Counsel and Secretary Perry, I agree it is at least debatable whether his actions crossed permissible lines of authority. Many of them fall into an ambiguous category. And it is equally debatable whether Dr. Carter understood that he had crossed over the line in every instance. Since so many of his actions fall into a grey area where there is no overwhelming certainty, I believe we have to give Dr. Carter the benefit of the doubt.

Moreover, Mr. Chairman, both you and Secretary Perry assured us yesterday that Dr. Carter did not intentionally mislead the Committee about the extent of his unauthorized assumption of authority. You and Secretary Perry vouched for Dr. Carter's truthfulness and integrity in the most ringing terms. I accept your assurances, Mr. Chairman. But lingering doubts remain in the minds of some Members, and no doubt they will be observing Dr. Carter's future actions and statements very closely. I sincerely hope that no one will ever have cause to regret their unqualified endorsement of his reliability.

Though I will vote to confirm Dr. Carter, I am aware that legitimate, unresolved questions remain in the minds of other Republican Members. I wholeheartedly encourage them to vote their conscience, and commend them for doing so. I am grateful to you, Mr. Chairman, for scheduling another Committee meeting so that Members could vote again, record their individual opposition to Dr. Carter if that is the case, and make known their reasons.

I hope this will be the last such hotly contested nominee to come before the Committee. But if it is not, then I hope future disagreements can be resolved as amicably as this one.

In closing, I want to commend you for the fair way in which you have handled this matter, Mr. Chairman. I also want to commend the Senator from Idaho, Mr. Kempthorne, the Senator from New Hampshire, Mr. Smith, and Senator Kennedy for their concern, and for participating with us in resolving the issues surrounding this nomination.

Thank you, Mr. Chairman.

THE DEPUTY SECRETARY OF
DEFENSE,

Washington, DC, June 14, 1993.

Hon. BOB SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: I have enclosed responses to the questions posed to Dr. Carter in your letter of June 11, 1993. I hope that this is of assistance.

Sincerely yours,

WILLIAM J. PERRY.

RESPONSE TO QUESTIONS OF SENATOR SMITH

1. Interagency Working Group (IWG) meetings on issues in the general area of nuclear security and counterproliferation took place at a rate I would estimate as about 5-7 per week. I attended about one fourth or one third of such meetings. Invitations for me to attend such meetings were extended by the Acting Assistant Secretary of Defense for International Security Policy, by the Undersecretary for Acquisition or the Undersecretary

Designate for Policy, and/or by the White House staff. I understood my role in such meetings to be to familiarize myself with the issues and with the personalities and views of other government agencies, and not to represent the Department of Defense. I did, on occasion, voice my opinion, but I did not do so as the Department's official representative. On several occasions I noted that I was not a confirmed official of DoD and could not speak for it. I understood the above-described activities to be consistent with my role as a consultant to the Department and within the guidance to potential appointees.

2. Ambassador-at-Large Strobe Talbott invited me to several (I would estimate three to five) meetings at which policy towards the former Soviet Union was discussed. My role in these meetings was the same as in the IWG meetings.

3. On all but rare occasions when I was invited to such meetings, the White House or State Department parties convening the meeting would also invite DoD officials who could represent the Department. The officials present most often at meetings I attended were John Deutch, Frank Miller, Susan Koch, Bob Joseph, and Bill Ingles.

4. I have not officially represented the DoD at meetings with foreign officials, but the Secretary and other DoD officials sometimes invited me to sit in on their meetings with foreign government officials. Again, I understood this to be consistent with my role as a consultant and the guidance to potential appointees.

5. As noted in response to Question 4, I have not officially represented DoD at such meetings or participated as an official representative of DoD.

6. The HEU agreement with the Russian Federation was the topic of numerous meetings and discussions that I attended. Though DoD did not have lead responsibility for this issue within the U.S. Government, the Secretary viewed it as an important aspect of facilitating nuclear weapons dismantlement in the former Soviet Union. The Secretary and other DoD officials asked me for my advice on this issue, in view of my familiarity with issues relating to nuclear power technology and with nuclear dismantlement in the former Soviet Union. My role was advisory and not decisionmaking.

7. I have limited personal knowledge of this matter because my involvement was limited, as noted. I believe, however, that if the U.S. were to buy highly enriched uranium (HEU) from Russia, it should not do so unless the proceeds are shared with Ukraine, Kazakhstan, and Belarus. I also believe that the U.S. should be confident that such HEU comes from dismantled nuclear weapons.

8. I did not issue authoritative policy guidance or policy directives. Consistent with my role as a consultant, I provided advice and analysis as requested. On occasion that advice was in writing. On occasion, I also reported to others positions advocated by the Secretary. I understood this to be proper and consistent with my stated role.

I cannot recall doing analysis or giving advice regarding nuclear weapons targeting or the SIOP, though these topics fall within the general areas upon which Secretary Aspin asked me to advise. I did advise Secretary Aspin on the related issue of how the U.S. could respond to Russian President Yeltsin's "detargeting" proposal at the Vancouver summit.

I cannot recall doing analysis or giving advice on START I or START II compliance, though these topics fall within the general

areas upon which Secretary Aspin asked me to advise. I did advise Secretary Aspin on the related issue of what steps the United States could take to ensure that Russia, Ukraine, Kazakhstan, and Belarus carried out their obligations under the START agreements.

I cannot recall doing analysis or giving advice on force structure levels or weapons deactivation regarding U.S. forces, though these topics fall within the general areas upon which Secretary Aspin asked me to advise. I gave advice on means the U.S. could take to ensure and hasten deactivation of Russian/CIS forces.

I attended briefings and provided Secretary Aspin with advice regarding whether and how the U.S. should respond to Russian "detraining" and "strategic disengagement" proposals. A number of options were analyzed, though details are classified.

9. I have not hired or fired anyone nor have I reorganized elements of the DoD. With regard to reorganization, my involvement was as follows. Secretary Aspin has stated that he intends to reorganize the Office of the Undersecretary for Policy (OUSD/P), replacing the existing assistant secretary offices with new offices. One of these new offices, that of the Assistant Secretary for Nuclear Security and Counterproliferation, is the one to which I would be appointed if confirmed. Secretary Aspin's guidelines to nominees also made it clear that nominees had no authority to carry out such a reorganization. General John Gordon, [title] and the military assistants in OUSD/P prepared for the eventual reorganization, and I am aware of two steps they look to that end. First, the responsibilities of each of the new offices was defined. My role in this step was to convey the topics and issues Secretary Aspin had discussed with me at the time he told me he intended to ask President Clinton to nominate me to one of the new positions. I explained that these topics fell into three broad categories, as I described in my written statement before the SASC at the time of my confirmation hearing: reducing the nuclear threat from the former Soviet Union, counterproliferation, and U.S. nuclear policy and forces. Second, notional staffing levels ("billets") were defined for each office in a manner consistent with the overall staffing targets for OUSD/P. This task was performed by the Acting Assistant Secretary for International Security Policy (Bill Inglee) and his military assistant (Col. Ron Keys). Mr. Inglee and Col. Keys showed me these staffing tables. With regard to staffing, I do not have authority to hire, but I have been asked to interview potential candidates for schedule C positions and to make known my views to the appropriate personnel within the DoD, which I have done.

10. Mr. Barre was hired by the Department to join the OUSD/P in the office that I would join if confirmed.

11. I did not make, nor do I have authority to make, a hiring decision. I may, and did, recommend candidates to the appropriate personnel within the DoD.

12. I did not interview, recommend or offer a position to Robert Blackwill or recommend that he receive government contracts.

13. I have received approximately 150 resumes since being nominated for this position. I have interviewed approximately 15 persons. I have recommended to the appropriate people within DoD that two career DoD employees be considered for DASD-level positions, three non-career employees be considered for DASD-level positions, and two non-career employees be considered for Schedule C positions. I have recommended

that one State Department official and one Congressional Research Service analyst be detailed to OSD/P, and that a Council on Foreign Relations Fellow be given a desk in OSD/P. Some, but not all, of these recommendations were accepted.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, June 17, 1993.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Dirksen Office Building, Wash-
ington, DC.

DEAR SENATOR KEMPTHORNE: My office was directed by Deputy Secretary Perry to determine whether any action of the Department had been effected through an inappropriate assumption of authority by Dr. Ashton Carter. As indicated when we met last week, we found no action of the Department that is required to be reversed or ratified.

Sincerely,

JAMIE S. GORELICK.

Mr. KEMPTHORNE. Mr. President, the legislation I introduced, S. 1147, I introduced in a spirit of bipartisanship and out of a sense of duty to this body and the U.S. Constitution. Currently, although the Constitution requires Senate action on certain Presidential nominations, there is no law which specifically prohibits nominees from performing functions required to be performed by an officer of the United States.

The enforcement of the constitutional duty to refrain from acting as a Federal officer before this body acts, is left to individual policies promulgated by the several executive departments. It is not memorialized in law and, Mr. President, it should be. We do no favors to this or future administrations by not providing clear direction that this body intends to continue to exercise the duty of confirmation. Any nominee who acts as a Federal officer, before he or she has been confirmed by the Senate, should carefully consider their oath to "support and defend the Constitution."

However, I do not intend to reinforce one clause of the Constitution at the expense of another. This legislation exempts from its embargo constitutional recess appointments. Further, it exempts acting appointments or details; we do not intend to restrict the legitimate acts of Federal officers.

Mr. President, Alexander Hamilton recognized that, with regard to the nomination process, "the true test of a good government is its aptitude and tendency to produce a good administration." The Senate confirmation process is but one building block to a good administration.

It is my sincere hope that my bill, which simply makes law what has been custom for decades, will receive the bipartisan support that I believe it deserves.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BREAU). The Senator yields the floor. Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. Mr. President, I thank my colleague from Idaho for his remarks and also for the fine work that he has done in preparing the information we have on the nominee. I concur very much with the very strong statements he has made.

I think everyone understands mistakes. Lord knows we are all guilty of making them. Certainly this Senator has made a few in his time. The issue here, though, with this nominee is whether or not he, in essence, inadvertently signed a document that he should not have signed or, in fact, maybe he signed it deliberately but should not have signed it.

That is the one side. The other side is whether he was an active participant in other decisions or whether he believed he was a participant, was he engaged? I think it is the latter. That is where I disagree with my colleague, Senator NUNN, for whom I have the greatest respect. He knows that, I am sure.

I think it is a matter of interpretation, and people can differ. But I think what I intend to try to show during the course of this debate—not to beat it to death, if you will, or beat a dead horse, if you will—is to show that we have a person who violated the advise-and-consent process of the Constitution. That is a fact.

Was it done deliberately, with some sinister motive? I do not know that I know the answer to that question, but I think there was certainly a modus operandi around the White House which allowed this thing to take place. I do not think that Ashton Carter was the only one who was doing these things. I do not think he was the only nominee who was engaged in making decisions.

Now, the argument has been used that a very low number of nominees have been approved and the process is not very good because there are so few nominees sent to us and we need more people on duty in the Pentagon. I agree we need more people on duty there and the nominees should be coming to us at a faster pace, but that does not mean an individual should be engaged in doing work in the executive branch before he or she is approved by the Senate.

There is great precedent for that. Senator BYRD talks about it in great detail, the advise-and-consent process. As a matter of fact, he says that:

The Senate must continue seriously and painstakingly to perform its constitutional responsibility of rendering advice and consent on Presidential nominations if we are to maintain the unique system of checks and balances that has brought our democratic form of Government to its bicentennial.

It is interesting that many times there are confrontations between the executive branch and the legislative branch over nominations. But again, it is not meant to be a confrontation with

the executive branch. I am not trying to have a confrontation with the executive branch in calling the Senate's attention to this matter. Those of us in the committees of jurisdiction have a responsibility to bring this to the Senate's attention. The vote was 16 to 3 in committee, as the chairman has indicated. I was one of the three. It is clear that this nomination will be approved, I believe, but I think it is also clear to me that a record must be made, a public record must be made as to what happened.

Now, I referred in my earlier remarks to a memorandum, and I would like, Mr. President, to enter three documents into the RECORD.

The first of those documents is the "Potential Presidential Appointees in the Department of Defense," dated March 9, 1993 from the Secretary of Defense, Les Aspin, which outlines the point that I made before that "you are not to sign any documents that give the appearance of having assumed official duties." That is the key line. It is very clear. It was sent out to all nominees.

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

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

THE SECRETARY OF DEFENSE,
Washington, DC, March 9, 1993.

Memorandum for: Potential Presidential Appointees in the Department of Defense.
Subject: Guidelines for Activities Prior to Recommendation, Nomination and Confirmation.

I appreciate your willingness to serve as my advisor during this very important transitional period. I have already given verbal guidelines as to what actions you may appropriately and legally take during the period you are waiting decisions regarding your possible nomination and, subsequently, waiting for the Senate to consider your nomination as a Presidential appointee. However, I think it appropriate to formalize these guidelines to avoid any misunderstandings or potential embarrassment.

The basic principle is that prior to nomination and subsequent Senate consideration, you should act in a manner consistent with your role as an advisor preparing for additional duties and responsibilities, and avoid acting, or appearing, as if you have been appointed. In implementing this principle, you should be guided by the following:

You may consult within the Department of Defense on current policy topics, receive briefings, familiarize yourself with relevant issues, and attend briefings.

You may offer general advisory views on policy issues, but on a strictly informal basis.

You should not serve as the official Department representative in meetings or on travel.

You are not to sign any documents that give the appearance of having assumed official duties.

You are not to undertake to hire, transfer or terminate members of your potential future organization, or otherwise reorganize its management.

You should not use the term "Designate" prior to nomination by the President.

LES ASPIN.

Mr. SMITH. In addition, the second document, Mr. President, was the letter to the Secretary of Defense from Chairman NUNN and Senator THURMOND which basically reaffirms that. And therein the response on April 29, 1993, from Secretary Aspin in which he said I gave this clear directive to all prospective nominees to assure that no one here in DOD would presume any authority that can only come from the Senate's confirmation.

Mr. President, I ask unanimous consent these documents be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, April 22, 1993.

Hon. LES ASPIN,
Secretary of Defense, Department of Defense,
Washington, DC.

DEAR MR. SECRETARY: We are concerned about recent press and other reports regarding the activities of nominees and prospective nominees in the Department of Defense.

Although nominees on occasion have served for a short period of time in a consulting, special assistant, or other similar capacity with the Department of Defense prior to confirmation, our Committee traditionally has advised the Department that their activities with respect to the position for which they may be appointed should be limited to discussions necessary to familiarize nominees with their prospective duties. We have consistently asked the Department to ensure that any such nominees and prospective nominees act in accordance with three concerns that have been important to this Committee:

First, that such persons adhere to the applicable laws and regulations governing conflicts of interest, particularly with regard to private sector investments or employment.

Second, that authoritative guidance in the Department of Defense should come from the Department's civilian and military officials, not from consultants.

Third, that nominees and potential nominees should assume no duties and take no actions that would appear to presume the outcome of the confirmation process.

The longer that individuals remain in a consulting or similar status prior to confirmation, the greater the likelihood that issues will arise concerning activities that could be viewed as presuming the outcome of the confirmation process. We recognize that delays in the nomination process are often beyond your control. In our view, however, such delays make it all the more important that strict guidelines on preconfirmation activities are established and followed.

It is important that guidance be issued to all nominees and potential nominees regarding preconfirmation activities related to the position for which they may be appointed. This guidance should make it clear that their activities must be strictly limited to receiving familiarization briefings, and that they should not undertake any activities that could be construed as providing authoritative guidance on matters within their area of responsibility if confirmed.

Please advise the Committee of the actions that you will take to ensure that the activities of nominees and potential nominees adhere to applicable laws and regulations, take into account the concerns noted above, and

do not presume the outcome of the confirmation process.

Sincerely,

SAM NUNN,
Chairman,
STROM THURMOND,
Ranking Minority.

THE SECRETARY OF DEFENSE,
Washington, DC, April 29, 1993.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you very much for your letter of April 22, concerning the activities of nominees and prospective nominees.

You outlined those concerns that have been important to the Committee:

Compliance by potential nominees and nominees with applicable conflict of interest and employment rules;

Department civilians and military officials (not consultants) should prioritize authoritative guidance;

Potential nominees assuming no duties or take any action that precedes confirmation.

On March 9, 1993, I issued a memorandum (Attachment 1) for potential presidential nominees that paralleled, and I hope anticipated, the concerns expressed by your letter (Attachment 1). As you can see, the memo is intended to address the same issues you have raised. While potential nominees and consultant nominees may familiarize themselves with their duties properly, and may offer me informal advice as I make decisions as a duly confirmed Secretary of Defense, they are not to act in any way that suggests that they have the authority they would have only after they are confirmed by the Senate. In addition, each potential nominee received an extensive briefing from the Department's Office of Standards and Conduct to delineate the legal requirements concerning their tenure as consultants, prospective nominees and nominees. Of course, all consultant nominees and prospective nominees are to comply with all applicable laws and regulations, including employment and private sector investment.

I gave this clear directive to all prospective nominees to insure that no one here in the DoD would presume to any authority that they can come only from the State's confirmation.

As you pointed out to me at my confirmation hearing, the Committee needs to consider and dispose of over 50 Presidential nominations. We appreciate all the cooperation you, the Committee and your staff have provided. We look forward to continuing to work with you and your staff as we build DoD's new team.

If you need any additional information or clarification, please do not hesitate to contact me.

Sincerely,

LES ASPIN.

Mr. SMITH. So again, the question here is, was this simply a document that passed by Dr. Carter which he signed? Maybe he should not have signed it. He said that, to his credit. He told us he should not have signed it. And he was very honest in his answer to those of us who spoke with him about it. But the question is, were there other documents and was he in a mode of operation over there where he was more of an active person in terms of policy than a passive?

I submit that he was an active participant, and I think the evidence concludes that. I would like to go into some of that evidence at this time.

There is a memorandum which I referred to in my earlier remarks, dated May 17, which was signed by Dr. Carter and was approved by Dr. Allison on May 13. The interesting thing about the approval by Dr. Allison is that Dr. Allison was not confirmed either, and yet he approved what Dr. Carter had said.

So I think we see here more than one individual—Dr. Carter happens to be the unfortunate one who is being debated right now, but there was an attitude going on in DOD which I think, to the credit of the Secretary in response to the concerns raised by the chairman and by the committee, has stopped. But the point is, it did take place, and we have an obligation to cite for the record that it did take place, and Senators have to determine whether or not they believe it is appropriate and wish to vote against a nominee because it took place.

In the memo dated May 17, Dr. Carter directed the transfer of Nunn-Lugar funding for defense and military contacts with the former Soviet Union. The memo is signed by Dr. Carter, and let me quote what it states:

In accordance with the Deputy Secretary of Defense approved plan for the use of Nunn-Lugar funds for expanded defense and military contacts, request DNA transfer the necessary funds for the interagency approved defense and military contact events described on the attachment.

I request that the transfer take place. That is not a person who is not engaged. When you request something, you clearly feel like you have the authority to request it. I do not think there is any question about it. This memo is not the work of somebody sitting on the sidelines watching and learning, trying to determine what the policy is. This is the work of someone who is actively involved in the formulas and implementation of policy. Clearly, he believes that he is—and he is.

The memo directly violates the Secretary of Defense regulations, and I will not go through all of this because, in essence, Dr. Carter admitted that he signed the document and admitted that he should not have signed it.

But again, to repeat, the point which sent up a red flag to me was that Dr. Allison approved it, and Dr. Allison, again, is not confirmed, or was not at the time. He has been named to be Assistant Secretary, and evidently he, too, then is conducting policy level work in the Defense Department. The question is, was it a one-time occurrence? I say that it was not. And I think, again, the documentation supports that.

I ask unanimous consent, Mr. President, that the document dated May 17,

1993, memorandum to Mr. Paul Boren, Defense Nuclear Agency, from Dr. Carter be entered as part of the RECORD.

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

MAY 17, 1993.

Memorandum for: Mr. Paul Boren, Defense Nuclear Agency.

Through: Senior civilian official, OUSD-P; Dr. John Birely, Acting ATSD-AE.

Subject: Nunn-Lugar Funding of Defense and Military Contacts (U).

(U) In accordance with the DepSecDef approved Plan for the Use of Nunn-Lugar Funds for Expanded Defense and Military Contacts request DNA transfer the necessary funds for the interagency approved defense and military contact events described on the attachment. Cost figures are only rough estimates.

Dr. ASHTON B. CARTER.

Mr. SMITH. The second document, Mr. President, is one entitled "Nuclear Security and Counterproliferation" which is a memorandum from the Secretary of Defense through Frank Wisner, who has also not been confirmed, and this document sailed through him as well for his review. It came from Dr. Carter and the subject was a "Follow-up on Today's Briefing on Secretary Aspin's Cooperative Threat Reduction Program." And the language is:

As you requested, I attach a binder containing the essential information on the Cooperative Threat Reduction Program. Tabs 8-10 are provided for your information only; I have not yet approved them.

"I have not yet approved them" is the line.

Again, is this a person who is not engaged? This is a second document. And I would just ask my colleagues, again, does this memorandum reflect someone who is a passive observer, who made the mistake of signing one document, or is he an adviser, or does he think he is an adviser to someone who is acting in an official capacity?

So here, again, I think that the evidence concludes very strongly that it was an active person we had here, not a passive one, who inadvertently signed a document. So now we have two documents.

Mr. President, I ask unanimous consent that memorandum be printed in the RECORD.

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

NUCLEAR SECURITY AND
COUNTERPROLIFERATION

Memorandum for: Secretary of Defense, Deputy Secretary of Defense.

Through: Frank G. Wisner.

From: Ashton B. Carter.

Subject: Follow-up on Today's Briefing on Secretary Aspin's Cooperative Threat Reduction Program.

As you requested, I attach a binder containing the essential information on the Cooperative Threat Reduction (CTR) program. Tabs 8-10 are provided for your information only; I have not yet approved them.

Tab 1—Major Points for the Secretary of Defense.

Tab 2—Outline of Today's Discussion.

Tab 3—DOD Nunn-Lugar Task Force Report (a separate package requests your approval).

Tab 4—Past Problems and New Solutions: What's We're Doing Differently to Implement CTR.

Tab 5—Proposed Letter to Members of Congress, with List of Addresses (a separate package requests your approval).

Tab 6—Summary of Nunn-Lugar Spending to Date: What Have We Spent, Where, on What?

Tab 7—Comparison of Current Nunn-Lugar Legislation and Proposed FY94 Appropriations Language.

Tab 8—Draft CTR Legislative Affairs Plan (under review).

Tab 9—Draft CTR Public Affairs Plan (under review).

Tab 10—Possible Threat Reduction "Docudramas" (under review).

Mr. SMITH. Mr. President, I ask unanimous consent that a document dated April 20, 1993, a TOPAZ reactor memorandum for Secretary of Defense that was initialed by Ashton Carter be printed as part of the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,

Washington, DC, April 20, 1993.

Memorandum for: Secretary of Defense, Deputy Secretary of Defense.

Through: OUSD(P) senior civilian official.

From: OASD(ISP) senior civilian official.

Subject: SDIO Expanded Acquisition of Russian TOPAZ Space Nuclear Reactors.

Purpose: Action—(U) To seek approval to procure four additional Russian TOPAZ space nuclear reactors, prior to seeking interagency approval.

Discussion: The main DoD objectives of the proposed acquisition are: to capitalize on significant Soviet investment and experience in space nuclear reactors for the benefit of SDIO and other DoD missions which require large amounts of power in orbit; and to promote conversion in the former Soviet Union from a defense oriented, state controlled economy to a commercially oriented, privatized, free market system.

SDIO seeks to procure four unfueled Russian TOPAZ II space nuclear reactors. These would be used in follow-on tests to the Thermionic System Test Evaluation (TSET), which is evaluating TOPAZ II technology for U.S. space missions. The additional reactors will be used in the Nuclear Electric Propulsion Space Test Program, which will eventually involve fueling and space testing one of the reactors. Total SDIO cost for the reactors will be \$20M, with \$15M going to Russian entities over a four year period. Details on the SDIO effort are at TAB A.

In March 1992, a White House Press Statement announced the procurement of the two reactors used in the TSET effort. Based on informal guidance from the Deputy Secretary, DoD approval for that procurement was based on a technical evaluation by DDR&E and a foreign policy evaluation by USD(P). Following DoD approval, USD(P) ensured the necessary interagency coordination. SDIO gave an informal briefing to the interagency on March 22 (See memorandum for record at TAB B). In accord with the prior guidance, the same internal DoD review has been accomplished on this additional acquisition.

Recommendation: That you approve SDIO acquisition of four additional Russian TOPAZ reactors in accordance with applicable law, upon clearance by USD(P) through the appropriate interagency process.

Note: Ashton Carter initials.

MAY 13, 1993.

Mr. SMITH. Again, Dr. Carter's initials are on this April 20 memo to the Secretary of Defense. We are talking here about the acquisition of Russian TOPAZ space nuclear reactors. This is not exactly some minor decision here. The memo was submitted by senior civilian officials, and recommends that the former strategic defense initiative organization acquire four Russian TOPAZ reactors for use in the United States nuclear electric propulsion space test program. The conclusion of Dr. Carter's approval, on memo again, reinforces his direct role in formulation and implementation of nuclear policy while serving as a consultant who is not a confirmed official—a paid consultant, but not a confirmed official.

So again, this third document I think speaks for itself. Again a person engaged; again, a person who is acting, I believe, in a capacity that is far more than passive, and indeed very active. I think, also, it indicates that there was an environment around DOD at this time which was very clear, that maybe the memorandum on paper, directed by Secretary Aspin, was there on paper; but it is not anything we have to worry about because we have to get moving, we have to keep the Government running. And there is some justification for keeping the Government running, especially DOD. But there is also another process that could be used.

Out of respect for the chairman of the Armed Services Committee in the Senate, I think they could have come to us, could have come to the committee, and said: Look, we have a problem here. Here it is: We cannot make decisions. We need a little latitude. Or, even better, they could have come up with the nominees at a faster pace.

It is my understanding that Senator KEMPTHORNE might be interested in making comments at this point. I will be more than happy to yield to the Senator from Idaho at this point.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, I thank the Senator for yielding.

Mr. President, clearly, something is wrong here. Clearly, errors have been made. I believe we have established that the system at the Department of Defense is flawed. Hopefully, corrective measures have been taken. But during the outline and during much of the timeframe in which this all occurred, the process was flawed.

I want to make sure, though, that it does not bring into question the integrity of the individuals involved. When I

lifted my hold with regard to the confirmation of Ashton Carter, it was based in part because of the comments made to me and my office by Dr. Perry. I have the utmost respect for Dr. Perry. When he speaks and gives his word on behalf of an individual, as he did for Ashton Carter, that carries great weight with me.

It also is based upon the comments made by the chairman of the Armed Services Committee, Chairman NUNN. Again, when the chairman of that committee speaks on behalf of an individual, to me that is significant, because of the integrity and the respect that is universally held for Chairman NUNN.

Dr. Carter did violate the process. When the chairman of the Armed Services Committee feels that an issue is so important that he issues a memo to the Department of Defense and has response, when the chairman feels that it is so important that he asks the nominees the first question—if they have done anything that could be construed as operating in an authoritative manner—and we have now established that, in fact, it did occur, then I feel somebody crossed the line.

In this case, I have to vote against the confirmation of Dr. Carter. But again, it is based on the principle of this issue, not on the personality or the integrity of Dr. Carter.

I believe, again, that Dr. Carter may be a victim of a flawed system. But that is why I have to stand as I do for this principle, and again hope that we can have bipartisan support for the legislation that hopefully will prevent this from happening to future nominees.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from Idaho, and also the Senator from New Hampshire. I particularly want to emphasize, again, the feeling I have as chairman of this committee, that there are two Senators on the floor today who are indeed sincerely expressing their concern about the process itself, about the confirmation process, and protecting the integrity of the Senate's prerogative and protecting the integrity of the Senate's responsibility under the Constitution of the United States.

The Senator from Idaho made it clear that he does not question the integrity of Dr. Carter nor his ability, and that his objection to this nomination lies with certain procedures that have not been followed as they were intended to be followed.

I would also stipulate for the record that I think Dr. Carter made a mistake. I think it was a mistake. And he acknowledges he made that mistake. He did not make it, in my opinion, in bad faith. I think he made it inadvertently, and I think his value to the De-

partment of Defense is such that I would urge my colleagues to support the nomination.

I hope that those who are now designated by the President as being probable nominees, but who have not yet been sent up for confirmation, or even those who are pending in the Senate—we do not have many of them in the Department of Defense. I believe we now have two not counting this nomination, because we have been moving them out very rapidly. But I hope all of them will learn a lesson from this. I know it has been a very painful lesson for Dr. Carter himself. I know that he would not have signed that document if he had thought about it in a careful way.

But, nevertheless, I hope we can support the nomination.

I inquire of my colleagues from New Hampshire if they know how many more speakers they anticipate. I know the Senator from Massachusetts would like to make some remarks. If we did have some feel about how much more time, I could inform the majority leader because we do have caucuses coming up in a few minutes. Perhaps we could set some time for disposition of this matter after the caucus.

Mr. SMITH. Mr. President, if the Senator will yield for a moment, I know we are about at caucus time. It is my understanding that Senator LOTT wanted to speak. I have some more remarks.

I think probably between Senator LOTT and myself, unless other Senators were to come by, I do not know of any, I would say an hour or less on our side.

Mr. NUNN. Does the Senator from New Hampshire believe we could perhaps vote on this at about 3 o'clock, considering we will be out of here, and probably come back here about 2:15?

I am not going to propound the unanimous consent. I just ask the Senator from New Hampshire to think about that.

Mr. SMITH. I think that would be very, very close, unless somebody comes in that I do not know about. Yes.

Mr. NUNN. I will discuss it with the majority leader before I propound the unanimous consent request.

Mr. SMITH. Will we be coming back to this?

Mr. NUNN. I have to discuss that with the majority leader. But it is my hope that we can come back and dispose of this as soon as possible.

The Senator from Massachusetts, I want to thank—I have already done that in his absence—for his interest in this nomination. I know he knows the nominee very well on a personal basis.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank the chairman of the committee.

Parliamentary inquiry: Do I understand that the Senate is supposed to recess at 12:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I was wondering if I could ask unanimous consent that we void that request to permit brief comments by myself so we could get a complete comment on this measure and on another matter.

Mr. President, I ask unanimous consent that we do so. If there is some objection, obviously, by the majority leader, I would then conform to that request and accede to adjourning at an earlier time.

The PRESIDING OFFICER. Does the Senator request a specific time?

Mr. KENNEDY. Yes; for 10 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH. Mr. President, reserving the right to object, I assume the Senator wishes to speak for the next 10 minutes. When we come back after the recess, we will go back to this issue?

Mr. KENNEDY. Permit me to speak briefly, about 6 minutes. But I have no objection, when we return, for the Senator from New Hampshire to be recognized, if that is the will of the Senate.

Mr. SMITH. I have no objection.

The PRESIDING OFFICER. Without objection, the time is extended for 10 minutes.

Mr. KENNEDY. Mr. President, I want to join in thanking the chairman, Chairman NUNN, and the Senators from Idaho and New Hampshire, as well, for the way this issue was handled. I, too, join in respecting their deep concerns about the process and procedures, which are fundamental in terms of not only the Defense Department, but other agencies as well.

And I am very hopeful that we will be able to have a final resolution and a vote on this individual, who is superbly qualified by background and reputation. In both his public and private life, he has been a person of extraordinary integrity and of commitment to the security of this country. He has performed his commitment in a variety of different ways for the security of this Nation. I appreciate very much the comments that have been made, and in spite of the delay of the confirmation, there is not really any doubt as to the fundamental integrity of this superb nominee.

Mr. President, I give my strong support to the nomination of Ash Carter for Assistant Secretary of Defense.

Anyone who studies the threats we face from nuclear and other high-technology weapons knows two things. First, even with the end of the cold war, the existence of thousands of nuclear weapons and the spread of high-technology weapons around the world pose grave challenges to U.S. security. Second, they know that Ash Carter is

among the most qualified persons in the country to lead the Pentagon's effort to reduce these threats.

In fact, it is no surprise that the Clinton administration chose him for this position. Dr. Carter is one of the world's foremost experts on nuclear weapons and the dangers of nuclear proliferation. He has unique understanding of both the practical and political dimensions of modern security issues. It is this dual expertise that makes him so qualified to lead the Pentagon's counterproliferation effort.

Dr. Carter's academic credentials are impeccable. He is a Rhodes scholar who earned his doctorate at Oxford in theoretical physics. He held positions at the Rockefeller University and MIT before joining the faculty at Harvard. He has also served in Government, holding positions at the Office of Technology Assessment and in the Office of the Secretary of Defense, and serving on numerous Government, academic, and private advisory boards, including the White House Office of Science and Technology Policy, the National Academy of Sciences, and the Sandia National Laboratory. He is currently a member of the Defense Science Board, for which he has chaired several studies on intelligence matters.

I could also list his many other affiliations and achievements, including the long list of his books and articles on the issues of nuclear security, non-proliferation, and ballistic missile defense. Obviously he is eminently qualified for the position to which President Clinton has nominated him.

My colleagues on the other side of the aisle point to a Department of Defense document that Dr. Carter signed on May 17. They argue that it amounted to a violation of the guidelines on behavior of Presidential nominees in the Defense Department prior to confirmation.

I understand why this issue was raised when the document first came to light. It is certainly important that nominees at the Defense Department honor the constraints on their activities. But what this episode demonstrates is that prospective nominees were asked to carry out duties as consultants to the Secretary of Defense, without any clear lines between permitted and prohibited activity. Clearly, there was no intentional violation.

When the incident first came to light, the chairman of the Armed Services Committee, Senator NUNN, joined by Senator SMITH, Senator KEMPTHORNE, Senator THURMOND, and Senator FAIRCLOTH met to study the matter further. We met twice with Deputy Secretary of Defense Bill Perry, Defense Department General Counsel Jamie Gorelick, and with Dr. Carter. We reviewed the facts, and discussed the concerns of the Republican members of the committee.

Senator NUNN has described this thorough investigation in detail. As

Dr. Perry assured us, the action described in the document signed by Ash Carter on May 17 was executed by a confirmed DOD official, not by Dr. Carter. The document does not constitute a case where Dr. Carter acted in final, official capacity.

The guidelines governing the behavior of preconfirmation consultants are a matter of custom, not law, and are very unclear. They create a gray area in which Department consultants are permitted to take part in many activities, they attend meetings, prepare documents, and provide advice and recommendations. One of the restrictions is that they cannot take actions which "presume the outcome of the confirmation process." This is an especially murky guideline.

As a result of this process, Secretary Aspin and Dr. Perry have instituted revised guidelines and are redoubling their efforts to ensure that nominees avoid the appearance of improper acts.

Ash Carter answered the President's call, to serve in the Pentagon and has acted as a consultant prior to his confirmation. The incident involving the document has pointed out the need for clearer guidelines. It is certainly not a disqualification that should keep this extraordinarily able nominee from serving in the Department of Defense. I urge the Senate to confirm him.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I would like to comment that I think, for future Presidents, this should be an indication of how we need to speed up the nomination process. This certainly is an example of what can go wrong, as we all know, for judges that have been sent to the White House for approval and for U.S. marshals and U.S. attorneys. The process simply takes too long. This is certainly true with all of the Cabinet offices that need to be filled.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate at 12:43 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WELLSTONE].

The PRESIDING OFFICER. The Senator from Nevada is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. 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. METZENBAUM. Mr. President, is the body in morning business at the moment?

The PRESIDING OFFICER. The body is not in morning business. It is considering a nomination.

MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the body now turn to morning business for a period not to exceed 30 minutes.

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

CONCLUDING MY SERVICE IN THE U.S. SENATE

Mr. METZENBAUM. Mr. President, at the adjournment of this, the 103d session of the Congress, I will conclude my service as a Member of the U.S. Senate.

For over 17 years, the people of Ohio have allowed me the great privilege and high honor of representing them in this body. For that, I am extremely grateful. My years here have been the most rewarding and meaningful of my life.

I have endeavored to express that sense of gratitude by working as hard as possible on behalf of my State, and by fighting for what I believe is right for this country.

Over the years, I have loved my work here—I have won my share of battles, and fought my share of lost causes. And while I have not tired of the vigorous debates in this Chamber, and though I still enjoy the work of my committees and the friendship of my colleagues, I have concluded that it is time to turn the final pages of this chapter in my life, and begin another.

It is a decision I have struggled with and one I am convinced is sound.

I love my job in the Senate but I love other things in my life more.

Foremost, I am blessed to be married almost 47 years to a woman I adore, and for whom my love has continued to grow. Shirley has been a full partner in my life; my confidante, conscience, and my closest friend.

She has stood by me, adapting to the irregular, erratic, and often excessive demands on my time that running and serving requires.

Every hour I spend with her is special to me, and the stolen moments, the interrupted dinners, and the days away on the campaign trail simply allow us to see too little of each other. I want more time with her, and the schedule of a Senator constantly conflicts with that desire.

I also have four wonderful daughters, with four great families, and seven incredible grandchildren.

I need to see more of them. I want to be on hand to watch those kids grow.

I fully expect to stay actively involved in public affairs, and to serve in some appropriate capacity. While I will retire this seat, I will not retire my views, nor my voice. Throughout my

life—both in and out of government—I have tried to do everything I can to make progress on civil rights and social justice; to represent the interests of American consumers; to improve and protect the public health; and to fight for jobs, fairness, and dignity for the American worker. These are the issues I care about deeply. They are the issues which will continue to be my concern.

But I have concluded that it is time for me to stand down as a Member of this body.

My regrets are few, my memories are treasured, my health is great, and my love for the battle is undiminished. I have acquired sufficient wisdom to realize that that ain't a bad way to go out.

To my colleagues, I will miss both the camaraderie and the clashes. The friendships I have made I hope to maintain always. And while there are many here in the Senate for whom I have made life difficult, or with whom I've had disagreements, I have always tried to honor this body by being clear about my intentions, direct in my statements, and true to my word. I respect this institution, and hold its Members in the highest regard.

And on this point, I offer my colleagues a reflection and a challenge.

I know that the Members of this body have the wisdom, talent, and experience to accomplish more than we now do. We seem somehow to fall short of our considerable potential, and as a result have a less positive impact than might otherwise be possible. I have come to believe that this is because we regularly calculate every vote for its immediate political impact.

We do not look beyond 1 day's news cycle—unless it is to envision the next election's negative ad. We, therefore, find ourselves ducking tough choices, postponing the inevitable, passing the buck, and pointing fingers.

Obviously, that is not always the case—but too often it is. And it is a criticism from which I certainly do not exempt myself.

So I hope that we can challenge ourselves. Let us make better use of the opportunity that the voters have given us and face squarely the Nation's problems. There will always be plenty of time for healthy partisan scrapping.

Easy for me to say, I suppose, as I will not face the voters next fall. But if I have learned one thing here, it is that you can take positions that do not sit well with the majority of your constituents and still thrive politically.

I never believed that I was sent here to take a computerized opinion poll on every issue, nor to adopt the prevailing view from the latest electronic town meeting.

I have always felt it was my obligation to vote based on my own values, and to accept the fair judgment of the voters on election day.

While these are far from farewell remarks, I find it impossible to make this statement without a word of appreciation to the most dedicated, loyal, and hard-working staff any Senator has ever had. Many have been with me since I was first elected.

All of them have given of themselves to help me serve in this body. I will be everlastingly grateful.

Finally, to my constituents, I again offer my heartfelt gratitude for the confidence you have placed in me. I have voted my conscience, spoken my mind, and fought on the side I believed to be right.

I have tried to let you know exactly where I stand on an issue and why. It has been an honor to serve you, and I will continue to do so until the last vote is cast in this Congress.

I look ahead with a renewed sense of enthusiasm and excitement. There remains much yet to do, and I will strive in the months ahead to accomplish as much as I possibly can.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

RETIREMENT IS WELL DESERVED

Mr. MITCHELL. Mr. President, I listened to Senator METZENBAUM'S words with mixed feelings. I recognize from the point of view of his personal life, his retirement is well deserved. He served the public for many years, the last 16½ here in the Senate. He has devoted a great deal of time, energy, and effort to serving the public at the expense of time with his family, as he has just described here. And so all of us understand his desire to devote more to his family and respect and admire his decision for that reason.

At the same time, I, and I know many others of our colleagues and many, indeed I venture most of the people he represents, listened and consider his retirement with a considerable degree of sadness. If the American people need proof of the fact that independent judgment is a prize attribute in a representative democracy, HOWARD METZENBAUM has provided that proof in his time here in the Senate.

We have often disagreed. We have often debated, often vigorously, but there has never been the slightest doubt in my mind, nor do I think there can be any doubt in any other Senator's mind, that each and every one of Senator METZENBAUM'S positions and decisions is based upon a deeply held conviction and a statement of his principle.

He has done what his conscience and his judgment have told him are best for the people of his State and our country, and that is the ideal to which every legislator in a representative democracy strives but rarely attains.

He has especially been an effective advocate for those in our society who

are otherwise lacking in advocates—the poor, the elderly, minorities, women, those who have suffered from discrimination, those who have confronted barriers to progress, those who have not had the means to be represented through spokesmen here in our Nation's Capital, those who have depended upon democracy for the vindication of their interests. They have never had a better, more convincing, more aggressive, more articulate, and more persuasive advocate than Senator HOWARD METZENBAUM.

I know that Senator METZENBAUM will not mind my disclosing our personal conversation this morning. He, of course, is described, and I think enjoys the description, as being irascible and difficult. And when he told me this morning that he was going to be announcing his retirement, he said, "You won't have to deal with an irascible Senator like me." That was his self-characterization. And I told him then and I repeat now, Senator METZENBAUM is not nearly as irascible as he likes to think he is.

He is, in fact, a very decent, civil, honorable, and dedicated person, and it has been an honor to serve with him in the Senate, more than that a matter of great personal privilege to call him a good friend. I know that although I do not often speak confidently for every single Member of the Senate, I believe on this occasion I can do so and say to Senator METZENBAUM, we will miss you very much.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

A CHAMPION OF THE UNDERDOG

Mr. GLENN. Mr. President, as many of our colleagues here know, HOWARD METZENBAUM and I have had a long, long history together. We ran against each other twice, and to say that those were spirited campaigns would be to understate the campaigns. I am sure HOWARD will agree with that. They were tough campaigns. Our relationship many years ago was not all that smooth on many occasions. But for many other years and for all of the most recent years while we have shared tenure in the Senate, HOWARD and I joined forces and we wound up even chairing one another's reelection campaigns.

In short, I have worked with HOWARD METZENBAUM and I have worked against HOWARD METZENBAUM, and I think every Senator in this Chamber will agree with me when I say it is a whole lot more pleasant to be working with HOWARD METZENBAUM. HOWARD is by nature a fighter. He is by nature a champion of the underdog and the little guy, and I think that probably comes naturally because he started out from humble beginnings. He did not have a lot of money starting out in life. He made his own way in the world. And HOWARD is by nature a man who will

never back down or back off when he believes he is right. I would say that is the case no matter what the odds or what may be the strength of the opposition.

I have not always agreed with HOWARD on every issue. In fact, we still disagree on matters of policy and politics on occasion, but no one can ever doubt HOWARD's dedication or commitment to the values and the principles that he holds dear.

I think it also fair to say, as the majority leader has already mentioned, that the working men and women of this country have never had, I do not think, in the history of this body a stronger voice or a more dedicated proponent for their causes than HOWARD METZENBAUM has provided for them.

A few minutes ago I said that HOWARD and I had had our differences, but there is one thing on which HOWARD and I have always agreed, and maybe it is the most important thing of all. For HOWARD and for me, there has always been one thing more important than our jobs or our careers, and that one thing has been our families. I have not totaled this up quite exactly, but I think between HOWARD and Shirley and Annie and me there is a combined total of very close to 100 years of married life, and I guess that comes close to setting some sort of record for two Senators from the same State.

I know how much HOWARD loves the work of being a Senator. I also know how much he loves Shirley and how important his children and grandchildren are to him. I know the prospect of being able to spend more time with all of them is the only thing that could have persuaded HOWARD to leave the Senate of the United States.

So I warn other people, get the tennis rackets out, alert the art galleries, give his wife fair warning: Get ready, Shirley, because HOWARD is coming home.

I wish to close by quoting a man who meant so much to me and I know to HOWARD also. That was Bob Kennedy. Although he wrote these words more than two decades ago for another purpose, I think they describe very well what motivated HOWARD during his 18-year career in this Chamber. Bob said:

We have triumphed not in spite of controversy, but because of it; not because we have avoided problems, but because we have faced them. * * * And if we ever place the claims of power ahead of the claims of justice * * * if we shrink in the face of the passing winds of controversy or reaction * * * then we will have lost the great purpose which has made us strong.

Mr. President, HOWARD METZENBAUM has always given top priority to the claims of justice. He certainly has believed in facing problems in spite of controversy when he believed he was right, and he has always done his level best to hold, and to hold all of us, to the great purposes which have made this Nation strong.

So the Senate will never be the same without him. And because he served here, because he stood tall and stood fast, because he refused to bend with the winds or break with the waves, and because he has always answered the call of conscience, I know millions of Americans all across this great land are better off because HOWARD METZENBAUM has spent 18 years in the Senate of the United States.

So, HOWARD, I know I speak also, as the majority leader said, for many in this Chamber when I say we respect you; we salute you; we are going to miss you.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

A GREAT LOSS TO THE NATION

Mr. KENNEDY. Mr. President, I learned of HOWARD METZENBAUM's decision this morning with real regret. His retirement is a great loss to the Senate and to the people of Ohio, whom he has served so well. It is also a great loss to the country because HOWARD METZENBAUM is a wise and brilliant and dedicated Senator who has left an indelible mark on virtually every aspect of the Nation's Life for the past two decades of his outstanding service.

If President Kennedy were writing his book today, he would have a special chapter on HOWARD METZENBAUM as a profile in courage for our times.

Day after day, on the Senate floor, year in and year out, HOWARD METZENBAUM has taken principled stands for the people of America and against the special interests.

He has stood up with eloquence and insight and wisdom for the working men and women of America, for the consumers of America, and for the hard-pressed taxpayers of the country. In the years ahead, it will be said of HOWARD METZENBAUM, as it was of Franklin Roosevelt, "He was loved for the enemies he made."

Senator METZENBAUM was often at his best in the closing hours of each Congress, insisting that special interest legislation shall not pass. He has stood up for countless courageous whistleblowers, and in fact he has been a courageous whistleblower himself, insisting that the Senate meet its responsibility to the people.

I could single out a thousand issues and a hundred bills that HOWARD METZENBAUM has left his mark on—and the Metzenbaum Mark is like the Good Housekeeping Seal of Approval. It means that these issues and these laws are in better and fairer shape, because HOWARD METZENBAUM cared enough to roll up his sleeves, get to the bottom of the issue, and persuade a Senate committee, the full Senate, and even the entire Congress to do the right thing.

He and I have served together on the Labor Committee and the Judiciary Committee for many years, so I feel his loss especially deeply and personally.

His leadership there, on issues ranging from health care and education to the Brady bill and the most arcane issues of antitrust policy, has set the highest standard of excellence for us all.

All Senators, when we take the oath of office, solemnly swear to support and defend the Constitution. Few, if any, Senators have been more committed to that document and to "We the People." Often, in battles for civil rights and on Supreme Court nominations, Senator METZENBAUM'S ability and his passionate commitment to the basic principles of the Constitution have carried the day and won the battle. He would have made a great Supreme Court Justice, too.

I know this decision was a difficult one for Senator METZENBAUM to make, and I suspect that all of us on both sides of the aisle wish it had come out the other way. We will miss his leadership and his statesmanship, but most of all, we will miss the friendship of HOWARD and Shirley.

It has been both a privilege and constant learning experience for us all to serve with HOWARD METZENBAUM. He will rank as one of the greatest Senators in the long and enduring history of this institution.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the Chair.

SENATOR HOWARD METZENBAUM'S IMPACT ON MANY LIVES

Mr. RIEGLE. Mr. President, I want to join with my other colleagues in talking for just a few moments about HOWARD METZENBAUM and how special he is to us personally, and how special he is to this institution.

I feel a lot of emotion about it because HOWARD has had a great impact on the lives of many of us here. He has had an impact on my life. It is an understatement to say that he is both a great Senator and a great human being. HOWARD brings something that we do not see here too often; that is, he brings conscience, which everybody has to a greater or lesser degree. But he also brings the courage to do something about it. We have seen that any number of times in his actions here.

I do not think there is anybody here who works harder or accomplishes more than he does. When I look at the carpet on the floor under his desk, it is worn down more so than it is almost any other place on the floor, because HOWARD has stood here hour after hour presenting issues, challenging certain items. I would say that if we could add up all the money that has been saved by challenges that he has made to things that he thinks were wasteful, it would total easily in the hundreds of millions, I think in the billions, of dollars. I can think of a great number of cases like that.

I think the tribute that he pays to his wife, Shirley, is also very impor-

tant and part of this story, because HOWARD has had the good fortune to have not just a loving wife and partner, but a family situation from which great children and grandchildren have come.

They have done this together. They have done this as a joint venture, if you will. And I think that has given HOWARD the strength here at times, when otherwise I think a normal human being might have been too tired or too weary to press on, 3 or 4 o'clock in the morning, in the face of withering gunfire in terms of the debate here on the floor. But Shirley Metzenbaum has given HOWARD METZENBAUM strength he could never otherwise have had.

I want to also, just on a personal note, remember an occasion just 15 years ago this year when my wife, Lori, and I were married in a little town in northern Michigan called Reed City. HOWARD and Shirley were kind enough to fly up and be present at our wedding. But they had to come through a violent thunderstorm in a small plane. HOWARD, not being one to turn back on anything, persevered and got up there, and they were with us on that very special occasion.

So I know my wife, Lori joins me in expressing the special feelings that we have for the Metzenbaums.

Also, GEORGE MITCHELL, a few minutes ago, talked about irascible Senators. HOWARD has never been irascible, in my view. He has spoken up and he has stood his ground. But when he leaves, I can assure you that there will be 98 irascible Senators left, if we leave out the majority leader himself. So that should not be overworked here, in terms of the focus on HOWARD.

In terms of his impact for working people, I come from a community—Flint, MI—in a State where we have a lot of working people that are really struggling every day, and a lot of them sliding backwards, in the kind of economic riptides that we have seen in this country over the last several years.

No one has fought harder to help working families, day in and day out, on the things that really give them a chance to have a better life, than HOWARD METZENBAUM—not just some working families; not just some working families in Ohio, Michigan, or other States, but all working families.

And on the issue of discrimination—confronting, racism, sexism, and the other "isms" that have blocked people out and have served as a cause of denial to people in terms of their chance to advance and achieve fully in our society—he has fought against those kinds of barriers and evils as much as anybody here.

So if there is a person around here that is irreplaceable—I do not know that anybody is irreplaceable here in the Senate. But HOWARD, I think, gets as close to that as anyone we might think of.

Finally, in addition to being a prodigious worker, and I think expending as much energy day in and day out as any Senator here on the issues in which he has given leadership, HOWARD also has a great love for art. It is an important part of his makeup and personality. If you do not know that about HOWARD, then you do not know everything you should know about him.

So I urge every Senator that may not yet have had the occasion, to go to HOWARD'S office, to take that opportunity over the next year and a half and go over and walk through and see the different—the many art objects, and the expression of HOWARD'S personality that you will not get just by watching him in action here on the Senate floor. This is a man of a very diverse and broad set of interests.

There are wonderful, sparkling aspects to his personality that are unique and endear him to this institution and to all of us who know him.

So HOWARD and Shirley, you go with the love of all of us.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

TRIBUTE TO SENATOR HOWARD METZENBAUM

Mr. HATCH. Mr. President, I would feel badly if I did not stand up and pay tribute to the Senator from Ohio.

I might add, as one of those in the Senate whose life has been made more difficult by the Senator from Ohio, perhaps I can speak with a certain amount of authority. I do not know anybody that I would rather debate or rather have to fight with than HOWARD METZENBAUM. He fights clean. He is tough. He is articulate. He is knowledgeable. And he really believes what he does. To me, that is the mark of a great Senator, regardless of whether you agree or disagree with him or her. HOWARD really believes what he is doing. And that, to me, makes all the difference in the world.

I am honored today to pay tribute to my good friend HOWARD METZENBAUM. I congratulate the good Senator from Ohio on a long and honorable record. And I wish him well when, at the end of this term, he returns to a well-deserved private life. I have to say, HOWARD, I feel the same way, too, about my children and grandchildren. Elaine and I should have our 14th grandchild maybe by the end of this day. And I understand how you feel to want to spend some time with that wonderful family of yours.

I will miss this friend from across the aisle for many reasons. We came to the Senate as classmates. We have served for many years together on the Labor and Human Resources Committee, one of the most contentious and difficult committees in the whole Congress of the United States. We hosted a weekly talk show in tandem known as the Howie-Hatch Program. If we could not

always find common political ground, we were always able at least to peaceably share a hallway together, as our offices faced one another. I have had more joy in telling people this is Senator METZENBAUM's office on the other side of the hall. I think they got the idea that I had respect for him, and they were kind of in awe knowing that this is the great legend of the Senate.

HOWARD has defined for me the essence of the term "loyal opposition." While we aim for many of the same goals, our means to the end frequently differ. In fact, our working relationship reminds me of the two moving men who were struggling to get a huge crate through the doorway. They pushed and they shoved, but the big crate just would not move. Finally, the man on the outside said, "We had better give up. We will never get this in." "What do you mean, get it in?" the fellow on the outside shouted. He said, "I thought we were trying to get it out." I am afraid HOWARD and I are a little bit that way.

Despite our ideological differences, we have had occasions, many occasions, to join hands. Let me just mention a few.

I have been privileged to work with Senator METZENBAUM on a variety of issues, including job training, AIDS legislation, child care, and a whole raft of others. But whatever the issue and our respective positions, I can unequivocally pay homage to a friend and a colleague as an individual of ideals and dedication.

The famous doctor, William C. Benninger, once gave this pithy definition of mental health: Find a mission in life and take it seriously.

HOWARD had done just that. He has been a tenacious advocate for the elderly, the underprivileged, for civil liberties and those seeking it, for important health issues, job training, consumers rights, and for many other areas that are very important.

I have a great deal of respect for his wife, Shirley, too. I think this Senate ought to strike a medal for Shirley for having put up with him all these years. All I can say is that she is truly a saint in my eyes, because she is a wonderful woman, and she loves HOWARD very much, and it is very apparent to me. That means a lot to me, too.

HOWARD METZENBAUM is indefatigable. He is in his seventies, and I do not know of anybody in the Senate who outworks him. We wish he would take it a lot easier on our side. Many on our side of the aisle will be grateful for this retirement because of all of the pain he had put us through. But he is indefatigable in what he believes. When he believes something, he is uncompromising in fighting for it. That is the mark of a great Senator. I admire him for it. I care for him a great deal, and I salute him. When it comes to the end of HOWARD's term, I will personally miss him.

I know that whatever he takes on as his next mission, that will benefit from his indefatigable insights and energies.

HOWARD, I am not supposed to directly address you, but I am going to right now. I personally am going to miss you. I personally am going to miss these battles. I am personally going to miss that tremendous intellect that you have and that ability in the law that you have because, in addition to serving on the Labor and Human Resources Committee, we have served on the Judiciary Committee for 17 years as well. There is not a more contentious committee in the Senate than the Judiciary Committee, unless it is the Labor and Human Resources Committee. Even though we have disagreed, you have always presented yourself in an intelligent, very, very forthright and, I think, persuasive way. I just pay my tribute to you and share my respect with my colleagues, and I want to let you know that you will have a friend here for life and, hopefully, well beyond that.

AN OUTSTANDING SENATOR AND WONDERFUL FRIEND

Mr. SARBANES. Mr. President, I will be very brief. I want to say at the outset that it has been a privilege and a real pleasure—I mean that in every sense of the term—to serve in the Senate with HOWARD METZENBAUM. He is an outstanding Senator and a wonderful, wonderful friend, and we are going to miss him.

Fortunately, it is not for another 18 months, but he has had a powerful impact on the Senate, and I think a powerful impact on many Members of the Senate. HOWARD METZENBAUM has been a battler for justice and a fighter for human dignity. He has stood for fairness and decency for working people, not only across this land, but indeed around the world, and he has never shrunk from that fight, never tired, never backed off. He stuck with it every moment of every day, and I admire him very deeply for carrying that banner.

Time and time again, we have rallied to his call in making these fights here on the floor of the U.S. Senate and in the committees. And there are people all across this land, and indeed in other countries, who lead better lives today, with a little more dignity, with a greater decency because of the battles that HOWARD METZENBAUM has waged.

I appreciate the personal dimensions of the decision, but in many respects it is a sad day for me, because I always felt a certain comfort in knowing HOWARD would be here on the floor defending the barricades. That may be the best way to put it. I take some comfort from the fact that we are still going to have him here doing that for the next 18 months. If I know him at all, I know it is going to be done with even more renewed energy and determination. Also, I take some comfort from his

statement when he said he would not still his voice or drop his views, that he would still be out there in the great struggle to build a more decent and a more just society, which has been the hallmark of his life.

I wish HOWARD and Shirley and their family the very best.

Let me simply close by saying they do not come any better than this couple, HOWARD and Shirley Metzenbaum.

A SENATOR FOR THE DISADVANTAGED

Mr. PELL. Mr. President, as we pay tribute to HOWARD METZENBAUM, there are three points I think are overriding. First is that he really represents here the people who need representation, who do not have much representation—the disadvantaged, the old, labor, the little people; he was truly their representative.

Second, when he had a view, it was always tenaciously held, he fought for it and obviously believed in it very deeply indeed.

Three, he brought the arts into a focus that they would not have otherwise enjoyed. So his contribution to our body has been great. We will all miss him. We may not always miss his methods, but we will all surely miss the values for which he stood. I wish him and Shirley the very best.

DEVOTION TO FAMILY AND CHILDREN

Mr. KERRY. Mr. President, as I listened to colleagues talk about HOWARD METZENBAUM's devotion to family and to children, which he will now turn his attention to, I said those lucky children, because anybody who has been to his office has seen this extraordinary bulletin board with photos of all the kids that he collects as they come to his office. He has a very well-known special affection for children, which now will be to their benefit as we lose him.

As I listened to colleagues talk about HOWARD, some of them reciting things they have worked on with him, there are those things that he will point to and others will point to as his accomplishments in the Senate by the legislation that he passed: children's bills, the Brady bill, the assault weapons measure, plant closings—so many battles. I would like to just take a moment, if I can, to suggest that people ought to also measure HOWARD METZENBAUM not by what he passed, but by what he prevented from being passed in this body.

I daresay the record of what he has saved the American taxpayer—the loophole legislation, the giveaways, the bad legislation, the countless times that, at midnight and 1 o'clock in the morning, the danger hour around here, when a lot of people have gone home and things slide through, HOWARD METZENBAUM was the Senator down here who had read the legislation, whether it was in his committee or not, who consistently stood up and held the barricades, as the Senator from Maryland just said.

That is an extraordinary record, and at a time when Americans are more and more filled with cynicism about the concept of public service and about Washington and the vice grip that we are in with respect to special interests. Here is a U.S. Senator who helped to define public service, helped to give definition to the public interest and who, on more occasions than I can possibly list, has been the American consumers' advocate in the U.S. Senate.

When you think about bills that we all point to that we may have had an impact on or not, you can usually find what we hate to call but is called a special interest there, servicing the smaller group. This man always kept in mind the larger interest, not just the people of Ohio, but of people all over this country. It was usually, Mr. President, the interest of people who, without HOWARD METZENBAUM, would not have been represented in the U.S. Senate—the homeless, disenfranchised, poor people, people who are discriminated against, people who do not have the capacity to create that special interest.

I might quickly say as a member of the Banking Committee, most recently we had another example of that as we were passing on the RTC legislation, and there in our committee front row during the hearing on the RTC, though not on the committee, but nevertheless so concerned that this not be another mistake in favor of big interests and against the taxpayer, there was HOWARD METZENBAUM at the committee hearing; HOWARD METZENBAUM on the telephone to me, "How are we doing on that legislation? Are you sure we are going to come together?" And HOWARD METZENBAUM on the floor who made certain that the final package was included in the interests of the citizens of this country.

I, too, was very pleased to hear him say his voice is not going to retire, because what a voice it has been and what a champion he has been. And, Mr. President, I heard Senator GLENN quote someone, HOWARD METZENBAUM reminds me of what I and others, I think, came to the Senate to try to do, which is change things for the better and represent the larger interests. But he also personified something that Teddy Roosevelt talked about years ago, how the credit belongs to the person—and I am paraphrasing—I do not remember it completely, but:

The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, and comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows the great enthusiasms, the great devotion; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold

and timid souls who know neither victory nor defeat.

He has known victories and defeats. He surely will be remembered as someone whose soul is anything but cold and timid. He has cared.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senator from Connecticut, who has been waiting patiently, be given some time to speak without losing the opportunity for the floor.

Mr. DODD. I thank my colleague.

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

Mr. DODD. Mr. President, first of all, I want the record to note HOWARD METZENBAUM is still with us. Having listened to these remarks, I began to wonder whether or not the person sitting in front of me had somehow left us. This is not participating in a wake at all, but rather a celebration of a career and the best wishes for a future beyond this career in the Senate.

We have 18 more months, roughly, of the pleasure of his company, and I look forward to working with him during those next 18 months.

Mr. President, so much has been said here about HOWARD and Shirley, his lovely wife, and family. I will just note there are several types of Senators, all of whom play an important role historically in a Chamber such as this:

There are those who come and represent their States and do admirably well because their States need good representation. There are others who come here and represent various constituencies and do that tremendously well and play a critically important role in the life of this institution and the life of this country. And then every now and then historically this Chamber has provided people who are truly national Senators.

In a room not far removed from this Chamber, in the reception room of the U.S. Senate, there are five paintings on the wall that reflect the choice of a committee that was formed some 25 or 30 years ago to identify those five Members of the Senate historically who had made the greatest contributions. Clay, Calhoun, Webster, La Follette, and Taft are those five.

They were national Senators regardless of party. They came to this institution with the appreciation that this was not a Chamber to deal with the parochial interests of one State or merely one's own constituency, but to try to look at the great length of this country and deal with the complexities, the constituencies, the varieties and differences that make us strong.

It is not, for example, exaggeration—at least from this Senator's perspective—to include HOWARD METZENBAUM in that group and amongst that num-

ber. From day one, when he arrived here, during his entire tenure he has sought and striven very hard to be a national Senator; to not just look at the interests of his own State, but to take into consideration the needs of a nation.

Second, Mr. President, HOWARD METZENBAUM, as has been reflected or stated earlier today, cared about those who did not have the lawyers and the lobbyists and the financial interests to be heard very loudly here. He was their voice. That is why he is to be critically missed in my view with his departure.

So it is, in a sense, a sad day that a colleague with whom I have had the pleasure of serving on the Labor Committee will not be with us for the next Congress. But he serves as a good role model for all of us. We may not meet his standards every day, but we ought to remind ourselves how to become a national Senator, how to strive to serve the interests of all the people of this country no matter which State we may come from, and to remember that there are those out there today who do not have a job, who may be in difficult shape because of a health-care problem, may have children in need and cannot afford an education for them, may be struggling to provide shelter for themselves.

Those people struggling to make it through life day-to-day, their interests, their concerns, ought to be the concerns of each and every one of us. But to HOWARD METZENBAUM they were paramount, and for that reason he will go down, in my view, certainly during my tenure and I think the tenure of many people here, as truly one of the great national Senators.

I will miss you and I love you.

Mr. METZENBAUM. Thank you.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG].

TRIBUTE TO A GOOD FRIEND

Mr. LAUTENBERG. Mr. President, I too want to remind everybody that this is not a eulogy but rather a tribute to a good friend who is alive and well, and we want him to stay that way.

I noticed that in the family gallery is the other part of the Metzenbaum family.

These are dear friends of mine. HOWARD and I have known each other for more than 20 years. We first made contact when we were at the Democratic Convention in 1972, each of us with a business career at hand but each of us with an interest in Government and change.

HOWARD went on to set an example for me. He took the bull by the horns, ran for office under very difficult circumstances, took adversity as graciously as he did victory and he went on to fight each time that a cause appeared that he supported.

I am not going to talk a long time today because we are going to have lots

and lots of speeches and lots of opportunities to talk about a good friend, a great Senator.

HOWARD, for me, has been a special friend. He has been a mentor. He has given me good advice. We are close enough in age that I could not sit on his knee and say, thanks, dad. Nevertheless, the advice often was paternal in a way. But we have a special relationship, I and the Metzenbaum family. They are an achieving family, a gracious, warm family. When you sit around their table or join them at home and you see all the daughters, their spouses, the grandchildren, you see a record that does not appear in the CONGRESSIONAL RECORD but one that is equally prideful and welcome.

HOWARD is the exceptional person who can perceive, who can be as tenacious—and I will use the term—as a bulldog. I am going to make a couple of canine references, and Senator METZENBAUM will forgive me as I do this.

He has been a bulldog to make sure that his people—and his people are not limited just to Ohio, they are people across this country who are typically without the representation that we see often brought here, well financed, very resourceful by lobbyists and by skilled representatives—HOWARD is someone who automatically connects with those who are not represented as they should be. And, lo and behold, when there is some obscure issue that no one else is thinking about, no one else is looking at, HOWARD METZENBAUM comes to the forefront to defend and promote it. To that extent our friendly bulldog has earned his spurs.

HOWARD is a watchdog. Late at night—you heard it described by others—no matter what the time of day or night, there was nothing that was going to be put over on HOWARD METZENBAUM and the things that he stands for.

I am always amazed—and HOWARD and I are good friends, and we spend a lot of time together—by the number of things that he has his fingers into. The awareness of everything that goes on here is uniquely HOWARD METZENBAUM. As a matter of fact, one time one of our colleagues referred to me as the Senator from Ohio.

I greeted that with mixed emotions, because sometimes HOWARD has an adversary or two on the floor. I do not think it was meant to be complimentary at that moment because it was in the heat of a debate, but I took it as a compliment because HOWARD METZENBAUM represents the best among us.

As a matter of fact, one of those who are in leadership here once said that his disagrees with HOWARD so often, but that if HOWARD METZENBAUM were not here we would have to invent a Metzenbaum to keep us straight, productive and concerned, handling the responsibilities we have.

HOWARD is that watchdog when others are looking away, that we on this side, and many over there, turn to be on guard when necessary.

Lastly I will say this. If you have ever seen HOWARD with his grandchildren or with anybody else's child—I can barely restrain him from seizing a baby out of someone's arms and cuddling that child and saying, "Look at this beautiful child." That is when HOWARD turns into a puppy dog—last canine reference.

He is a dear friend, a great Senator. We will miss him here. But he will always be friend and Senator—HOWARD METZENBAUM.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

HOWARD METZENBAUM—SENATE CAREER COMING TO AN END IN 1994: A DEDICATED LIBERAL, AND PROUD OF IT

Mr. DOLE. Mr. President, the junior Senator from Ohio announced today that he would not be running for reelection come 1994, so I want to take a moment, too, to talk about my friend, HOWARD METZENBAUM. That is right. Some may dispute it, but he is my friend. I hope I am his friend.

As we all know, friends can differ on the issues and, no doubt about it, probably BOB DOLE and HOWARD METZENBAUM differ on just about every issue you can name. We have locked horns on the Senate floor year after year, fighting for what we believe in. I can tell you, when you lock horns with Senator METZENBAUM, you have your hands full, because he is a dedicated, smart, man of integrity and he knows the issues.

I recall when I was chairman of the Finance Committee on this floor managing tax bills, I always appointed the distinguished Senator from Ohio as my assistant IRS Commissioner, to make certain nothing slipped through in the dead of night, or in the dead of day, either one. He did an outstanding job and probably saved the taxpayers of this country untold millions of dollars by keeping an eye on some of those things that slip through from time to time.

I have always respected HOWARD METZENBAUM because he has never been shy about who he is and what he stands for. He is a liberal and proud of it; a dedicated and determined liberal. And no liberal has ever carried the banner of liberalism more proudly or more effectively than HOWARD METZENBAUM. Although I told HOWARD he was wrong on all those liberal issues, he still pushed ahead year after year after year and had a great many successes, as the Senator from New Jersey has just pointed out.

He has learned to master Senate procedure and he has tied this place up in knots. I can recall when I was majority leader one time I was trying to get his approval—I think I wanted to adjourn the Senate. I cannot remember—something not too major—he was on a flight

to Ohio, and I had to wait until the plane landed and we worked it out with the Senator. He has always been obliging—to a degree. It has always been helpful. We have always gotten along fairly well.

I know how dedicated Senator METZENBAUM is to his family, his wife Shirley. I know how much he feels about his State and the people in his State. I have to believe he is going to spend a great deal of time enjoying his family because the campaigning and staying up late every night, having sort of an uncertain life from time to time, is not in anyone's best interests. But I know Senator METZENBAUM has certainly earned his retirement.

I wish him well. I speak for all my colleagues on this side of the aisle and I thank my friend, Senator METZENBAUM, for the privilege of having served with him the past many years.

The PRESIDING OFFICER. The chair recognizes the Senator from Illinois [Mr. SIMON].

HOWARD METZENBAUM

Mr. SIMON. Mr. President, once in a while we are asked by people, whatever happened to the giants in the Senate? I think that probably is a question people always ask because sometimes, when you are with your contemporaries, you do not recognize that.

History happens to be one of my loves. Just as LaFollette from Wisconsin was a giant, both as Governor and Senator, we are in the company of a giant in the U.S. Senate. His announcement that he is going to retire—although, frankly, after all of these speeches he may change his mind and decide to run again; he has great campaign material here—but, if I were to be asked who is the greatest public servant you have ever had the opportunity to be associated with, I would give the name Paul Douglas, who was my mentor and a great U.S. Senator. But I did not have the privilege of serving with him in Congress. I was in State government when he was here.

But I have never served with anyone finer than HOWARD METZENBAUM. CHRIS DODD mentioned that he has served the Nation. HOWARD METZENBAUM has really been a U.S. Senator—not just a Senator from Ohio. He has served the people from Ohio well. But people all over this Nation ought to be grateful to HOWARD METZENBAUM. I have never seen—and I know your wife Shirley is watching us right now—but I have never seen HOWARD METZENBAUM do a thing on the floor of the Senate, or in committee—and I serve on two committees with him—that ever helped HOWARD METZENBAUM directly or indirectly. He is interested in serving the public.

We use the term servant much too loosely. HOWARD METZENBAUM really is a public servant. And, in terms of courage—the only counterpart I can think, in terms of a willingness to step on

toes, and I hope my friend from North Carolina will not object to this—but JESSE HELMS on the other side and HOWARD METZENBAUM on this side, have been willing to step on toes no matter whose toes they step on. I happen to disagree with Senator HELMS on a great many things, as does HOWARD METZENBAUM. But he has shown uncommon courage. We all know that.

If he has to offend the majority leader and the minority leader, and 99 Members of the U.S. Senate and even the Members of the Ohio delegation in the House, he is willing to do that. He has shown courage. And he has fought for people who are in need.

I, basically, believe as Paul Douglas believed, in this process of government the rich and the powerful can pretty much take care of themselves. Help the people who really need help.

HOWARD METZENBAUM happens to be a man of wealth. But he did not fight for the wealthy here. He fought for the people who really need help, to see that there was opportunity in this country. He has just been terrific.

I think it was Senator DOLE who just mentioned Senator METZENBAUM's efforts in terms of stopping waste. I would just correct Senator DOLE. He said HOWARD METZENBAUM has saved millions of dollars. He has saved billions of dollars for the taxpayers. Being here at night when the rest of us are dog tired, and Senator WOFFORD or Senator WELLSTONE or Senator HARKIN or Senator KOHL or Senator MCCAIN were all just barely dragging along, this white-haired bulldog, if I can use Senator LAUTENBERG's phrase, is there watching: What does that amendment do? He is in there fighting for us.

Then, finally—this is one of these things that is a subjective thing: He is genuine.

If there is a phony bone in his body, I have never seen it. We have been fortunate, indeed, Mr. President, to have a public servant like HOWARD METZENBAUM.

Mr. WELLSTONE addressed the Chair.

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

HOWARD METZENBAUM—A MAN TO LOOK UP TO

Mr. WELLSTONE. Mr. President, I want to be very brief. There are other Senators waiting to speak, and I had a chance to preside and listen to many Senators speak from the floor of the Senate. I, at one point, wanted to, in my capacity as a Senator from Minnesota in the chair, just simply say I find myself in full agreement with what was said.

This may be the first decision Senator METZENBAUM has made that I disagree with, and if I could, I would try to talk him out of it. I would be less than honest if I did not say to Senator METZENBAUM, when I heard about this this morning, I was very disappointed

because HOWARD METZENBAUM is somebody I really look up to. If I had a wish for the impact that I could make in the U.S. Senate, the imprint that I could leave in history, it would be to be a Senator in the HOWARD METZENBAUM tradition.

Let me give three examples, all very brief. When I first came here—and I will be very personal—it was not that easy a time. I took a position that turned out to be a minority position on the war. It was a very, very difficult time for me in the country.

HOWARD METZENBAUM came up to me and he said, "I want to talk with you," and we just sat down and talked. What he taught me then was when it gets to be very difficult, you have to have confidence in yourself; you have to reach deep within. That is who HOWARD METZENBAUM is. I think that is a lesson all of us need to learn, and I have never, never, never ever forgotten his—not courtesy—but his sensitivity and his friendship and that kind of strong support he gave me. That made all the difference in the world.

All of us know that it is the people who talk to you when the times are tough, the people who are your friends during those times, who are your really great friends.

The second point: One night late, Senator METZENBAUM was on the floor of the Senate—many Senators have commented on this—vigilant, making sure that amendments, whatnot, do not go through, really fiscally conservative, saving this country billions of dollars. I agree with Senator SIMON. I was presiding again. Someone came up to me and said, "Senator WELLSTONE, if you want to watch"—and this is a quote—"a great Senator in action, just watch Senator METZENBAUM out on the floor of the Senate."

HOWARD METZENBAUM has been and will be a great Senator. He is someone that I deeply admire. Obviously, many of his colleagues admire him from both aisles. I just simply would like to say—Senator SIMON said it better than anybody could—in the last analysis, Senator METZENBAUM—sometimes this is rhetoric, but in his case it really fits—Senator METZENBAUM has been the people's Senator. Senator METZENBAUM has been a U.S. Senator who has fought for the people. Senator METZENBAUM has been a strong voice for justice. Senator METZENBAUM epitomizes principle. Senator METZENBAUM exhibits tremendous courage, and he has really set the tradition for the U.S. Senate that I hope all of us, in whatever ways we can, live up to.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. SIMPSON].

TRIBUTE TO SENATOR METZENBAUM

Mr. SIMPSON. Mr. President, I am pleased to see that my friend from Ohio is here in the Chamber. I do not want

to sound like a eulogy, although there have been times I thought I would like to give a eulogy or two for HOWARD METZENBAUM.

We have had what can only be described as a most fascinating relationship. When I came here, I had a deep suspicion of him, and I think he shared a similar suspicion of me.

I do not think we have voted together 5 percent of the time in my 14 years here. But we have served together on Judiciary, and now on the Environment and Public Works Committee, and I have come to know him well. I have traveled with him and with Shirley. She is a magnificent woman. She is a steady, kind, compassionate woman. HOWARD and I both agreed many years ago that we had overmarried. That is very true. My wife, Ann, and Shirley are quite the evidence of that.

But we worked well together, even though we had some volatile incidents early on. I recall once when we were in a spirited exchange, utilizing the most earthy of terms. The media witnessed all this, and saw that our faces were red, and our neck muscles were bulging. As they came toward us HOWARD said, "Here they come. What do we do?" I said, "I don't know. You have been here longer than I have." He said, "Well, let's make baseball the topic by the time they get to us," and by the time they got to us, that is what we were talking about.

He works hard. He is a steady legislator. When you are in combat with him, you want to be absolutely prepared. He will be fully prepared, committed, and knowledgeable. I have never seen more determination in a man. We have scrapped. I have won some; he has won some; and we have worked to craft compromises. But the greatest indicator of trust—and I shall never forget it—was shown when we were laboring on the illegal immigration bill. HOWARD METZENBAUM, my friend—and I call him that with great sincerity—came to me and said, "You have worked long and hard on this. You are going to conference. I will try to get by whenever I can, but when I cannot—keep this proxy in your pocket, and I am ready to help."

So you can imagine the power I had in that conference. Every time it would get a little testy, I would just whip out HOWARD METZENBAUM's proxy and I would say, "What do you chaps think of that?" Well, our House colleagues thought a lot of that. That got them back in their holes. That bill was a great ride.

I have never seen Senator METZENBAUM posture much on issues. You can disagree with him—in fact, there have been times—often late at night, when the entire Senate has disagreed with him. But he is a man who sticks to his principles, even when he himself has sometimes been the issue. He does his work to the very best of his ability.

When the day comes that I begin to look at my own Senate career in retrospect, the best memory will be having the privilege of serving with people of principle—colleagues who really “stuck to their guns” and “fought the good fight,” even when they knew they would lose. Those are values that I have been able to observe as being consistently manifested in the outstanding Senate career of my friend, HOWARD METZENBAUM.

So, to my friend, you can expect that I and my colleagues over here will continue scrapping with you right down to the last hours of this Congress.

But it has been a very splendid experience to have come to know you, to work with you, to travel with you, to legislate with you, and to come to know your wife, Shirley.

I wish you well and look forward to your vigorous participation in the months to come. That is the way you have always done your work and always will.

So I commend you and wish you well in all of life's endeavors.

Mr. WOFFORD addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. WOFFORD].

A SALUTE TO HOWARD METZENBAUM

Mr. WOFFORD. Mr. President, I have not been here long, but I have known about HOWARD METZENBAUM for a long time. So it was a special pleasure for me to get to know him and Shirley and to have this chance to serve with him at his side, seeing the fruits of his victories and his defeats, but seeing him lead the charge on the barricades.

As Secretary of Labor and Industry in Pennsylvania, I experienced one of the effects and felt the effects of one of his victories: The passage of the Federal plant closing law. I saw come true one of his prophecies: That in a little while, business and labor and communities would discover that it was good to give advance notice, it was good to work together to deal with the crisis of a plant closing, and it was a law that would be seen as a law for the common good. And I saw that recognition spread around Pennsylvania, as that law went to work in Pennsylvania.

So I salute HOWARD METZENBAUM for his past battles, but I also want to promise that I hope to be at his side in the battles to come in the next 18 months, because the best gift we can give HOWARD is some more victories along the way. And in these 18 months, we can help bring about success in the causes that he gives so much for: The passage of OSHA reform, of Hatch Act reform, of prohibition against permanent replacements in a strike, and the next main order of business where I feel honored to be working together with him, the enactment of comprehensive health care reform that makes high quality, affordable health care a reality for all Americans.

It is said that we are supposed to govern in prose but we can start our campaigns in poetry. I would say today that this is an occasion of governing where at least one more line of poetry might be in order: HOWARD, when the forts or folly fall, they will find you bravely by the law.

Mr. HARKIN addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. HARKIN].

THE CONSCIENCE OF THE SENATE RETIRES

Mr. HARKIN. Mr. President, I join with my friends and my colleagues in marking this very sad day because the conscience of the Senate is retiring.

HOWARD, I know that you want to spend more time with your family. Certainly your loss is their gain, not only Shirley but Shelly and Barbara and Susan and Amy, and all your grandkids. I heard about this this morning when I was chairing a hearing. I could not believe it.

I went back to my office. There was a note there. Evidently someone had called my wife and told her. There was just one message, and it said, “I thought you said he was going to run again.”

The reason I said that was because we just last week, Mr. President, had a battle in getting a reduction in cuts in Medicare on reconciliation, helping the poorest, the elderly to make sure they did not bear the brunt of the cuts we are making to get our deficit down. I worked with HOWARD a couple weeks on that, and there was the old flash. That old fire was there again. And I told Ruth, I said, “HOWARD is in there again. He is in there doing it again.” And I said, “Boy, I tell you, it was so great what he did on that to make sure we prevailed.”

So I was very shocked to hear that, very sad.

Mr. President, I think it is fitting perhaps that the announcement comes on a week when America is gearing up to celebrate the Fourth of July because no Member of this body better represents what it means to be an American than HOWARD METZENBAUM, to represent what it means to have freedom.

He was not born with a silver spoon in his mouth. He worked hard all his life, a self-made businessman. But then when he made it to the top in business, when he could have retired comfortably, lived well, he rededicated himself to making sure that others had the same opportunities he did.

I have often said, Mr. President, it seem that around here we have two groups that always talk about economic opportunity. There are those—and I put perhaps former President Reagan and some of the people around him in that category—who always tell you about going out and making it; it is the American dream. Go out and work hard, save and everything, and

you will make it in American. But what they say in all their actions and in the laws they want passed is go ahead and make it, but when you get to the top pull the ladder up behind you.

Then there are those of us who believe that, yes, you ought to work hard in America, take advantage of opportunities, study hard and make it to the top, but we want to make sure that when you make it to the top you leave the ladder down there for others to climb, too.

That has been HOWARD METZENBAUM'S legacy. He has always made sure that the ladder was left down there for others to climb, that others had the kind of opportunity.

One of my favorite stories is about Hubert Humphrey. It seems, HOWARD, that 1 day Humphrey was playing with his grandkids, and of course he was always telling his grandkids about being a Democrat, they had to be a Democrat, what the Democratic Party meant. It was his 60th birthday. Hubert was playing with his grandkids on his 60th birthday, and one of his grandkids said, “Grandpa, how long have you been working for the Democratic Party?”

Humphrey though a minute, and he said, “Oh, about 65 years.”

And the grandkid said, “Well, Grandpa, you are only 60 years old. How could you have worked for the Democratic Party for 65 years?”

And Hubert said, “Easy; I put in a lot of overtime.”

Well, HOWARD METZENBAUM has put in a lot of overtime, I can tell you that, a lot of overtime, not just for Democrats but a lot of overtime for the working people of this country, the little guy.

I do not mean that in any kind of a gender connotation. The little person in this country, whether it be a small businessperson on Main Street, the union person about to lose his job or her job, maybe it is the woman out there who in dire circumstances has found herself AFDC, nowhere to turn. These are the people who have always been foremost in HOWARD METZENBAUM'S mind. He has put in a lot of overtime for a fair and just society and for dignity and respect for working people.

I went back to my office. I thought how many things could I, in just a few minutes, dictate to put down on a piece of paper he has fought for here on the Senate floor. And this is not exhaustive. It is just what I came up with in just a few minutes: Fighting against price-fixing; fighting against plant closings where they did not notify their workers when they were going to close a plant; fighting against strike-breaking legislation; fighting the mandatory retirement issue; sticking up for whistleblower rights; food labeling; poultry safety; pension protection; insurance and consumer banking reform;

infant formula regulations; antitrust bills; point man on the Brady bill; restructuring the thrift industry; publicly exposing tax breaks and special provisions.

As my friend from Minnesota just said, when it comes to the end of a session and there are always these little things tried to be slipped through, there is one person who is the guardian of the public interest, and he is here. I swear, whether it is 1 in the morning, whether it is a Saturday or Sunday, at the end of the sessions when people try to slip those little things through, I have always felt good because HOWARD METZENBAUM was here guarding the public interest.

I do not know who is going to pick it up after he leaves, but somebody better because, I tell you, as someone said it is not millions, it is billions of dollars he has saved the public, billions of dollars he has saved the public, by being here and guarding the public interest at the end of a session.

So, as far as I am concerned, he is a Democrat's Democrat. Nobody has done more to keep the progressive cause alive. He founded the Coalition for Democratic Values, to fight for progressive values in our politics and our policies.

HOWARD recently celebrated his 50th year in politics. Not many knew that. He entered the Ohio Legislature in 1943, the Ohio House.

One time after a session here—I forget what the issue was, but it was one in which HOWARD had held forth for a long time on the floor of the Senate—someone asked me if America still needed a HOWARD METZENBAUM. My answer then is my tribute to him today: As long as one worker is in danger of losing his job, as long as one handgun threatens our children, as long as one judge threatens to take away a woman's right, so long as powerful economic groups push their way around, then so long will America need a HOWARD METZENBAUM.

Hubert Humphrey once said that "Public and private endeavor ought to be concentrated on those who are in the dawn of life, our children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the disabled." Nobody has lived up to that credo better than HOWARD METZENBAUM.

So our loss is Shirley's gain and his children and grandchildren. He has left his mark and made this country a better place. I know we have not heard the last from him. As my friend from Wyoming said, "It sounds almost like a eulogy." Well, those of us who have gotten this news feel very sad today, but I think we take heart from one thing. HOWARD METZENBAUM will be here for 18 more months. Eighteen months in the Senate for HOWARD METZENBAUM is at least the equivalent of one full term for anyone else in the Senate. So the

way I look at it, we still have HOWARD at least for one more term.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. LEVIN].

A GENUINE PATRIOT

Mr. LEVIN. Mr. President, I was hoping against hope that Senator METZENBAUM would not retire. He and Shirley have been such great friends to Barb and me for so many years that when I first came here he was a role model for me, as somebody who had courage and guts and who would stand up for things he believes in, sometimes step on toes—never personal, never petty, always for principle, always for causes in which he deeply believes. Those causes are genuinely American causes, causes that are rooted in our Constitution and in our history. He has fought as hard as anyone I know in the Senate, anyone I think I ever could know in the Senate, for those principles. He is a genuine patriot; he is a great American; he is a great Senator; and I am going to very much miss him.

Frequently, I am asked is it possible to vote your conscience around this place and still get reelected. It is kind of the critical issue we all face because there are times when each of us reach a conclusion as to what is best for our Nation, our State, and that conclusion might not be a popular one back home at the moment.

We all face those kinds of questions around here. It is the kind of question they ask in government classes and civic classes all the time. It is a fascinating question as to what our role here is, as to whether we are here to represent what might be popular back home at the moment or what we think in our conscience is best for our people, after listening, after being accessible, after being open, after thinking, after struggling with our conscience. Are we really here to be polltakers, or are we here to vote for what we honestly believe is best for our people, be it popular or not at the moment?

HOWARD METZENBAUM, as much of any of us, is not pure, as he was the first to point out. But as much as any of us around here, HOWARD METZENBAUM has proven, No. 1, that the best Senators are those who really vote for what they believe is best for their Nation and their State, whether it might be popular or unpopular at the moment, because those poll numbers go up and down, but what is best. That is our fiduciary duty. That is the oath that we take, to do what we believe in our conscience is best for our State and our Nation, and if that means defeat at the next election, so be it. That is what elections are for.

But HOWARD is proof that you can both be conscience and win reelection. That is reassuring, I think, to a whole bunch of future officeholders that will

sit in the seat that he now occupies. I have been privileged to sit next to him in that role for a number of years and always do feel a kindred spirit in HOWARD METZENBAUM. He has been an important model for many of us who worry about whether or not we might be stepping on toes of friends. None of us like to do that. But so long as you do it with the kind of spirit that he has brought to the Senate, which is never personal, never petty, always principled, I think that everybody understands the Metzenbaum spirit, wants to emulate it, admires it on both sides of the aisle.

I associate myself with the comments of my good friend from Wyoming because I know that he does speak for everybody here, both Republican and Democrats, in saying there were times when we were the victim of the principles that HOWARD METZENBAUM espoused, that we admired him even at that moment, and maybe particularly at that moment, as someone, who is so good a friend and so great a man, who would stick to his principles even when that meant that sometimes we were on the receiving end of those battles.

So we are happy for Shirley and his family. We are not at all happy for the country or for the Senate. But for me and Barbara personally, we wish HOWARD METZENBAUM the best of luck and look forward to 18 great months and many, many years thereafter.

Mr. EXON addressed the Chair.

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

TRIBUTE TO SENATOR HOWARD METZENBAUM

Mr. EXON. Mr. President, I was not intending to come to the floor for this purpose, but when I came on the floor and saw my great friend, HOWARD METZENBAUM, sitting there, I suspected that his colleagues were using this opportunity to express gratitude for what he has done for all of us here in the Senate, to say nothing of the respect that we have for him for the great job that he did in representing the State of Ohio.

When I heard at the caucus today that Senator METZENBAUM had decided to retire, my heart kind of sank because I guess probably he did not know or appreciate fully how much he is admired and loved by his colleagues. My heart kind of sank because I thought here is another great one of the U.S. Senate that has decided it is time for him to go on to other endeavors.

I say this from the bottom of my heart. I want him to know how much I respect him and admire him. I have listened to some of the other very eloquent comments by my colleagues here today. I cannot match those. I just want to say that, from a standpoint of philosophy, from a basic approach, possibly, to some of the important issues of our times, if you look at the voting record, you will see that this Senator

from Nebraska has been on the conservative side of the voting, if there is such a thing, and my great friend from Ohio has been on the liberal side.

I have always admired him because I thought, more than anything else, he had an image of a fighting Democrat liberal doing the right thing always for what he believed in to represent his people and his State that have been so good to HOWARD METZENBAUM over the years, and I say to all he has been very, very good for them.

But more important than that, I want to say that I do not recall, Mr. President, even though you would not think that HOWARD METZENBAUM and Jim Exon come from the same strain of the Democratic Party, I do not recall an issue in 15 years that I have been here—and Senator METZENBAUM was here before I came—I do not remember that we ever clashed in debate on the floor of the U.S. Senate, which I think is somewhat unusual because I have clashed on the floor of the U.S. Senate with people on that side of the aisle and with people on this side of the aisle.

I have never seen a time when I thought that HOWARD METZENBAUM cast a political vote. I have seen him stand there like a rock, or as my friend JOHN WARNER describes people from time to time, like Stonewall Jackson, defending the very principles that are embedded in him because he is so real, he is so unselfish, and he is so dedicated to helping mankind that I have always admired him greatly.

We are going to lose the conscience of at least the Democratic side of the U.S. Senate when the Senator from Ohio walks out of here for the last time in a year and a half from now. I do not look forward to that time. I simply say that, as a friend of his, there is no one in this body, I think, who has had more respect for him and what he stands for, his determination, his standing right there, as Senator HARKIN said, on many, many occasions when things were being rushed here and putting up a hold on this or that. I remember two or three times when he put holds on some measures that I was trying to get through. I remember on each and every one of those two or three times, when I could get his attention and when something was being introduced, we would sit down and I would explain my proposition to him, and every time he said, "That is all right, Jim. You are trying to do the right thing, and I support you."

I never remember ever, where I felt that he treated me or anyone else unfairly in this body. And for one that has been here now for this, my 15th year, he is the conscience of the U.S. Senate, at least he is the conscience of those of us on the Democratic side of the aisle.

If I might pay one more tribute to Senator METZENBAUM that I have

thought of often—when I had the opportunity to serve, Mr. President, my State of Nebraska as Governor, I appointed more judges than any Governor in the history of the State of Nebraska. I always used a measuring stick when I came down to make the decision as to which person I should appoint for these judgeships. And the end measuring stick then, as Governor, and the end measuring stick here when I am required to vote yea or nay on appointments to our court systems, I have always asked myself: If I stood in front of that man or that woman who is a judge and if they were judging me as to whether or not I was guilty or not guilty for whatever I am accused of doing, I would always ask myself, is this an individual that I, as the appointing officer, was standing in front of rather than over, so to speak, with regard to whether I am going to select that individual or vote in support of that individual—the question was would I feel that this individual would be fair in the assessment and judgment of myself appearing before them?

I know the distinguished career quite well of Senator METZENBAUM. I know he is a lawyer. I do not know whether or not he ever served as a judge. But I guess maybe the highest compliment in all sincerity that I could pay Senator METZENBAUM is that he is the one, he is the type, that seems to me would be the acme of what I have just described, as my thought processes were in appointing someone to a court. If I appeared before them, would I be judged fairly? My answer is that if I ever had an opportunity to vote for you for a judgeship, you would be the very typical case, someone with the highest respect, in whom I would have respect, I think, whether under such circumstances as I outlined, you would judge me guilty or not guilty, because I felt that you would give me a fair shake.

You have given the people of Ohio a fair shake. You have given those who had the opportunity to serve with you in the U.S. Senate a fair shake, and we are looking to the continuance of that for the next 18 months. And then it is time to say: Farewell, my good servant and faithful friend. You have made a great impression on all of us here in the U.S. Senate, and we were proud to have served with you.

SENATOR METZENBAUM'S DEDICATION TO PRINCIPLES

Mr. McCAIN. Mr. President, I would like to join with my colleagues who have spoken, and those who have not, in praising Senator METZENBAUM's service to this body. We admire his dedication to his principles, and we especially admire his intricate knowledge of the parliamentary procedures that rule this body and his ability to move forward his agenda with that intimate knowledge and detailed study not only of the issues, but the par-

liamentary procedures surrounding them.

We wish him and his family every success, and we will be seeing a lot of him in the intervening 18 months. I think it is entirely appropriate, and I know I speak for all of the Members on this side of the aisle in wishing him every success.

HOWARD METZENBAUM

Mr. JEFFORDS. Mr. President, I am caught somewhat by surprise by my friend and colleague HOWARD METZENBAUM's announcement of his retirement.

Most of what I might say about HOWARD has already been said. He is a tenacious man, greatly admired by those who agree with him, and perhaps a bit less admired by those who disagree with him.

That pretty much describes the universe. Whatever else he might be, HOWARD is not bashful. You know where he stands, and seldom does he stand for equivocation.

But seldom does he stand still. I am amazed at the variety of issues on which he has pursued and prevailed. When he was on the Energy Committee, now on Environment, on Judiciary, and on the Labor Committee where we serve together, he has attacked issue after issue, seeing them through to completion.

While it is far from over, I will treasure our time together on the committee. It has been one long lesson for me in perseverance. On many issues we have agreed, and I have counted myself lucky to have him as an ally. On some we have disagreed, and I have considered myself unlucky to have him as foe.

I served as ranking Republican on the Subcommittee on Labor over these past 4 years. I must say, we had many times where we had some battles, battles royal. But, also, I found him willing to compromise. On issues where we could see commonality, we, I think, came forward with good legislative improvements. On the other hand, on other issues, I was with him most of the time. We had some good battles in the East-West confrontation about grazing fees and other matters of similar nature wherein we tried to do the best to defend our interests in the East of this country. We had a common understanding of the validity of the arts as a proper function of the Federal Government, to ensure that all our young people in particular have an opportunity to participate in training for the arts; defended the Endowment for the Arts when it was under attack and did so with vigor, both of us. He was a tremendous ally to have in those endeavors.

Some people will not regret his leaving, some witnesses in the Labor Committee for example. Businessmen will not miss being told by a former businessman how they should be running their businesses.

But I will miss him. HOWARD METZENBAUM has been good humored, straightforward, and principled in all of our dealings. His heart and his goals have always been in the right place. And his commitment to serving the public has been unshakable.

I will miss HOWARD, and I think the Senate will miss him as well.

A TRIBUTE TO SENATOR HOWARD METZENBAUM

Mr. THURMOND. Mr. President, in my many years in the Senate, I have come up against some remarkable people, and one of the most remarkable has certainly been my good friend HOWARD METZENBAUM. We have served together for a long time, and while it is an understatement to say we often disagree, I have come to respect him deeply, and to value his friendship.

HOWARD METZENBAUM has been an untiring Representative for the people of Ohio, and for the causes he holds dear. He is a fierce opponent, a sought-after ally, and an individual who never gives up. The American people—and his Senate colleagues—have come to know him as a man of character, courage, and compassion; a hard worker; and an advocate for those who often have no other champion.

I respect HOWARD METZENBAUM as an honorable man with strongly held beliefs. I like him because he always knows what he is talking about, and never loses his sense of humor. We have worked together on the Senate Judiciary Committee during many historic nominations and issues, and I have always found him to be a man of his word. Our discourse, over the years, has been spirited—to say the least—but it has always been conducted with mutual respect. I shall miss him when he retires. This place will not be the same without him.

THE COMPROMISE BUILDER

Mr. DECONCINI. Mr. President, I rise in respect of, and with the deepest friendship I can express for the retiring Senator from Ohio [Mr. METZENBAUM]. He and I came to the Senate—actually his second time to the Senate, my first—in 1977, and we became good friends both with his wife and my wife and our families. We have enjoyed a professional relationship. We come from different backgrounds from the standpoint of business. Senator METZENBAUM was a very successful businessman in Ohio and a community leader. I cannot claim that success as a businessman, although things have been very good for me in that area. But I can claim some involvement in community projects over the years.

And yet, when we came to the Senate together, we immediately found ourselves at odds on some important issues before the Judiciary Committee. In a sincere effort, time and time again, the Senator from Ohio demonstrated his very high intellect, his capacity to understand, and how to make something work. Sometimes, I

must say, at first I might have had some misimpressions that the Senator was bombastic or confrontational.

Quite the contrary. The Senator from Ohio [Mr. METZENBAUM] approached things with a strong feeling. He had a will to try to impress upon you that strong feeling. But he had an understanding, a fundamental understanding that Government needed to find a compromise, and that there was a compromise if people would work in good faith. He and I worked out a number of compromises. A couple of times perhaps we did not. Time and again he offered an approach that I might feel was a little bit extreme; I offered an approach that he might have felt the same way, and we would sit down. Sometimes the staffs could work it out. Often it would be the Senator and myself.

But what Senator METZENBAUM taught us—taught me at least—and I think is an example, is that you must speak up for what your beliefs are, even if they are not popular back home at the very moment. Senator HOWARD METZENBAUM has done that for the 17½ years he has been in this body. Though he can find a way to be effective in passing legislation, he also has not forgotten the principle to keep in mind what you believe in and to be sure that your opinion is well expressed, well thought out, and then deal with legislation before you.

I am going to miss HOWARD METZENBAUM, but I am glad to know that friendships are developed in this body that go on after one leaves office. I only wish he and Shirley and his family real retirement in the sense of their peace of mind and happiness to enjoy themselves, and the prosperity which I believe they have. They are very wealthy people because they have a family and grandchildren to enjoy life with, and they have each other.

I know that our friendship will continue because I know the Metzenbaums well enough to know that the office in itself is not what makes a man or a woman; it is the kind of being you are inside. Senator METZENBAUM is an exemplary human being who has tenderness and affection, and yet knows how to fight for his principles. So I commend him on his long service.

I thank him for his friendship, for what he has done for this country. I know during the next 18 months he will continue to be a leader.

I want to thank my friend from Montana for yielding to me a couple of minutes.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

HOWARD METZENBAUM TRIBUTE

Mr. REID. Mr. President, Oliver Wendell Holmes wrote, "I say to you in all sadness of conviction, that to think great thoughts you must be heroes as well as idealists." Senator METZEN-

BAUM is both a hero and an idealist, and it is with sadness that I learn of his departure from the Senate.

HOWARD METZENBAUM has been a hero to the downtrodden, to those who don't have enough, to those seeking justice, and to all Americans, no matter their station.

He is a man of principle who never backed down from the hard fights. It was not popular to be a liberal over the past 12 years, but HOWARD METZENBAUM never worried about his popularity. He was never ashamed to stand up and champion an unpopular cause.

The underdog could always count on HOWARD METZENBAUM. The guy who was out of work, the senior citizen who needed help making ends meet, the child who needed more to eat could all count on him. He never let them down. He didn't always win, but he always fought.

It is the spirit of this man of conscience that I will miss most. He has been an inspiration to all those who aspire to do the right thing in Government. We have not always agreed on every issue, but I respect his tenacity and his courage.

We all owe HOWARD METZENBAUM a debt of gratitude for his leadership. He is admired by even his enemies. If you are going to engage him in debate, you had better be well prepared.

He is truly one of the great heroes of our party, of the Senate, and of our time.

SENATOR METZENBAUM'S COMBINATION OF SERVICE AND DOING

Mr. BAUCUS. Mr. President, I join my very good friend from Arizona, Senator DECONCINI, in paying tribute to SENATOR METZENBAUM.

Mr. President, I believe that the most noble human endeavor is service—service to family, service to friends, service to community, service to one's God, service to State, service to Nation.

I also believe that, regardless of whether it is private service or whether it is public service, that there are two classes of people. One class is that of the be-ers, people who like to be something. They like to be a Senator, they like to be President, they like to be head of an organization, they like to be something. The other category is the doers. They like to do something. They want to make something happen. They want to be effective.

I can think of no one who better combines service with doing something than HOWARD METZENBAUM.

I wish that everyone could see the way HOWARD METZENBAUM and his wife, Shirley, love each other. They are constantly together. They do things together. They help each other out. They support each other. The glow when they are together. For HOWARD and Shirley Metzenbaum, the honeymoon has lasted for many years.

Moreover, HOWARD METZENBAUM is the quintessential family man. Over the

years his commitment to the Senate and to the people of Ohio has in no way lessened his commitment to his children and grandchildren.

The same is true with his God and his religion. HOWARD is a man of admirable, faith.

HOWARD METZENBAUM constantly wins elections and reelections by very large margins. He does so by being outspoken, by being effective and standing up for what he believes in.

What does HOWARD believe in? HOWARD METZENBAUM believes in people. He believes in the little guy. He believes in the average person. More than anything else, HOWARD METZENBAUM knows the difference between right and wrong.

If something is wrong, he fights against it. If something is right, he fights for it. For HOWARD, what is right is to assure that the average person, whether he or she lives in Ohio, or anywhere else in this country, is treated fairly, and is not taken advantage of.

I can tell you, Mr. President, I can think of no one for whom I have more admiration or higher regard, or is more of a role model for what is really right in life: the basic values in life of love, decency, and standing up for what you believe in.

A lot of people in the State of Ohio do not agree with HOWARD's position. They think perhaps he is a little too confrontational or a little too outspoken, but they vote for him. They vote for him because they trust him. They trust him because he says what he thinks and believes.

Why else do they trust him? They trust him because they know he is working for them. He is working for people. He is working to help make their lives better.

Mr. President, the State of Ohio the Nation and this body are going to sorely miss Senator METZENBAUM when he retires.

But we know that whenever he does, wherever he is, he is going to be working as hard for those basic values in life, and he will continue to be an example for us all.

I wish him, and I wish Shirley, his children, and his grandchildren the very best.

SENATOR METZENBAUM

Mr. NUNN. Mr. President, I know there are others who want to speak to the announcement by Senator METZENBAUM, but I would like to identify myself with all the remarks that have been so apt in describing his terrific contribution to this body. He has been a person I have voted with not very often. But I have always admired and respected and always benefited from hearing him and his views. He brings a perspective and a sense of courage and a sense of integrity to this body that will be sorely missed when he retires. But I know we are going to have him quite a while longer and we are all going to be blessed by that.

I also admire very much the priorities he has in his own life and his obvious love for his wife, Shirley, who we all know and love, and his fine family.

So I wish you, Senator METZENBAUM, the very best.

SENATOR METZENBAUM

Mr. WARNER. Mr. President, I would like to add my voice to the many voices who have spoken today on behalf of our distinguished friend and colleague from Ohio who has shown his usual capacity for great and true incredible wisdom, and made a tough decision. It is a decision all of us face at some point in time in our careers. I will not give a long speech but I want to come right directly to it.

How will I remember the Senator from Ohio? As the individual who would stay here way into the night, 2, 3, 4 o'clock in the morning. Senator NUNN and I would manage the authorization bills, check on those amendments. He was the honest broker who kept us honest. And no matter how much flexibility the managers of a bill may have from time to time, certainly in those instances where my colleague was present I think my distinguished friend, the chairman from Georgia, would agree with me we were very cautious and careful.

Also, Mr. President, the Nation is now considering a very serious issue and that is the service of gays in the military. I remember it was the Senator from Ohio who first addressed the Chamber about the importance of that subject. It was his intention to move on it last fall but we were able to persuade him that more time, more analysis had to be done. The Senator reluctantly but I think wisely acceded to that request rather than trying to have that completed last fall.

So I salute my good friend and his lovely wife, with whom I shared many happy occasions in our Senate life. I wish you well. I commend you for the strength of your wisdom to make this tough decision at this time.

Mr. METZENBAUM. Mr. President, I thank my good friend from Virginia for his very kind remarks. I am very grateful.

Mr. WARNER. I wish you luck.

SENATOR METZENBAUM

Mr. BIDEN. Mr. President, I want to speak to the Senator from Ohio for literally just 2 minutes. I have served in the U.S. Senate now going on 21 years. I have had the benefit of, in that long duration, serving with some of the great names in the U.S. Senate. I have also had the benefit of observing how lobbying groups and interest groups, left, right, and middle, influence the process, as they have a right to under our process in this body.

But I have never met in my years in the U.S. Senate, any U.S. Senator who feels as strongly about some of the most controversial issues that have come before this Nation and before this

body, who nonetheless has never once in my observation been cowed by, had his opinion altered by, been intimidated by, changed his view by—any lobbying, any influence, any attempt to apply pressure.

There are very conservative Senators who would no more take on some of the conservative groups than fly. There are very liberal Senators over here, none of whom I have ever observed to be willing to take on liberal interest groups. Conservative Senators seldom ever have the courage to take on conservative interest groups; liberal Senators seldom ever take on liberal groups.

This is the only man that I have served with who is the darling of the left, who, when he thinks they are wrong whether it is a women's group, a black group, a Hispanic group—any of the groups with whom I vote mostly all the time, and he does—has looked them straight in the eye and said: You are wrong. I am against you on this. And come to the floor.

I do not know of any other Member of the Senate in the years I have been here, who has been—sometimes as strident, always as forceful, and totally with conviction—who has been willing to take on those very groups with whom he most often agrees when he thinks they are wrong on some of the most inflammatory, controversial and divisive issues in the Nation.

HOWARD—if you will excuse the personal reference—I truly admire you. You have known that for a long time. Because I think you have such incredible integrity politically. I just want to say that. I realize that is not as flowery as others have been. But I want to tell you something, it is a trait that I admire more than you will ever know. I think it is a trait the Senate is about to lose because we have a tendency to elect people, myself included, to this body, who get elected by groups—I do not mean interest groups per se—by points of view. And even when we disagree with them we are very reluctant to say so, for fear it will be used in ways unrelated to our own personal political gain or political loss; that will undercut the overall cause or it will, whatever—1,000 rationalizations.

You are the only person with whom I have served—it would not matter whether the Lord Almighty disagreed with you. It would not matter whether it was your family, whether it was—whatever. If it was a principled position with you, you took it, you stood by it, you fell or rose on it, you made no excuses about it.

Senator METZENBAUM, that is an incredible, admirable trait in a human being whether or not they are in politics. I am lucky to have had the opportunity to serve with you and I am going to miss you a great deal for that trait above all else. I yield the floor.

RETIREMENT OF SENATOR HOWARD
METZENBAUM

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to my friend and colleague HOWARD METZENBAUM.

Senator METZENBAUM and I did not always agree on all the issues. But there are few people with whom I have served in the U.S. Senate that I have admired as much as my distinguished colleague from Ohio.

I have had the pleasure of serving with HOWARD METZENBAUM on the Labor and Human Resources Committee for a considerable period of time now. And I can tell you from personal experience that there has been no stronger voice for the American worker in this body than HOWARD METZENBAUM.

HOWARD METZENBAUM knows what he believes in. And he always stands up for what he believes. He fights for the downtrodden, for minorities, for women, for the disabled, for the elderly.

Throughout his Senate career, HOWARD METZENBAUM stood tall for all Americans—for rich and poor, white and black, male and female, young and old. He was a powerful, persistent voice for justice in the U.S. Senate.

Senator METZENBAUM, I will miss serving with you. You are a great Senator, and a great American. And while we have had our differences over the years, I have only the highest respect for you.

I have learned many lessons from your outstanding record of service in the Senate—commitment to excellence, dedication to service, and belief in a cause no matter how popular or unpopular it may be.

I look forward to continuing to serve with you for the next 18 months. And I wish you the very best in your retirement.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

TV MOVIE ON ROBERT GARWOOD
IS MISLEADING

Mr. MCCAIN. Mr. President, last night ABC television broadcast an entirely fictional account of the life of Robert Garwood. Robert Garwood was a Marine Corps private who, while serving in Vietnam, was either captured by or defected to the enemy in 1965. The producers of the movie, "Private Robert Garwood: The Last POW?," may have thought that they were creating a drama which had some basis in fact. But other than the fact that there is a Robert Garwood who spent nearly 14 years in Vietnam, the movie adaptation of the curious life of Robert Garwood bears little resemblance to reality.

In the film, Garwood is depicted as a young Marine who, after capture by

the enemy in 1965, exhibits an indomitable will to survive and return home. This fierce determination to go home leads him initially to attempt two unsuccessful escapes. Garwood is then joined in captivity by first one, and then a second American POW. They make a solemn pact with one another to do everything necessary to ensure that at least one of them returns home some day. Garwood learns to speak fluent Vietnamese in 2 months, makes himself generally useful around the camp, and attempts to avoid upsetting his captors but never to the extent that he violates the military code of conduct.

In 1967, according to this film, his Vietnamese captors cynically promise Garwood an early release. They renege on this promise. Soon after, one of Garwood's fellow prisoners succumbs to mistreatment. After the death of his close friend, Garwood is portrayed as even more determined to survive his captivity. More American POW's have joined Garwood by this time. Garwood is segregated from and treated differently than his fellow POW's. According to the script, this unusual arrangement exists because the enemy fears that Garwood's facility with their language would enable him to translate for his fellow POW's their guards' private discussions.

Garwood is then shown interviewing his fellow POW's, not to extract information from them or to propagandize, but to advise them not to trust their captors and on other matters related to their survival. Garwood is shown stealing food and taking other risks on behalf of his comrades. The fact that he has been observed carrying a rifle is casually dismissed in the film by the assertion that the weapon was unloaded.

The film places the blame for the death of another prisoner on all the other POW's except Garwood. Enraged by their carelessness, Garwood heaps abuse on the other POW's, strikes one of them, and promises to hold him responsible for the death of his friend.

In response, the POW's inform the Vietnamese that Garwood has been stealing food. For this crime, Garwood is marked for execution. He is spared only because a bombing raid on the camp killed the other prisoners, and Garwood is moved to a prison in North Vietnam.

In 1973, after the United States has withdrawn from Vietnam and the American POW's have been released, Garwood is shown being told that he will not be released until relations between the United States and Vietnam are normalized.

Following that disappointing news, Garwood is sent to a prison camp outside Hanoi where he is required to work as a truck mechanic. In 1979, he persuades his guards to drive him into Hanoi, allow him to enter a hotel occu-

pied by Europeans to purchase liquor, cigarettes, and candy for his guards. While there, he manages to slip a note asking to go home to an American, whose presence in Hanoi is left unexplained.

The Vietnamese are then forced to release Garwood to the Red Cross, and he returns home only to be court martialed and convicted unfairly for collaborating with the enemy and assaulting a fellow POW.

The film ends with Garwood addressing a rally of POW-MIA activists, claiming that other Americans remain imprisoned in Vietnam, and he will not rest until they too come home.

Mr. President, to say that I was outraged by this film is a gross understatement. I hardly know where to begin in identifying the lies and distortions which comprise the entire substance of this movie. Garwood's story has already been so thoroughly discredited by his fellow POW's, that I normally wouldn't bother to respond to absurd Hollywood fantasizing about the life of—and there is no other word for him—a traitor.

Two things compel me, however, to address this outrage today. First, the film's portrayal of Garwood's fellow POW's as fools, liars, unwitting killers, and informants is one of the most despicable calumnies I have ever had the misfortune to observe. Those POW's kept faith with one another and with their country. Garwood did not. They did not betray Garwood. Garwood betrayed them. This disgusting outrage cannot stand unchallenged.

The producers, director, writers, and actors, indeed, everyone associated with this movie, including Garwood who served as a consultant, should be eternally ashamed of themselves for knowingly participating in this lowly attack on the character of the brave men who served their country faithfully under difficult circumstances, and who had the misfortune of suffering for their country in the presence of Robert Garwood. That they should have to endure this new indignity is unconscionable.

Second, it has come to my attention that Garwood intends to return to Vietnam next week where, no doubt, he will again allege that he had seen other Americans in captivity in Vietnam after the war's end. Reportedly, another ABC production, "20-20," intends to film his gallant return to Vietnam.

It is important to note, Mr. President, that Garwood never offered this information to the U.S. Government or to his own attorneys until 6 years after he returned home. Nevertheless, several investigations of Garwood's allegations were undertaken by U.S. intelligence services. None of them found any evidence to substantiate his claims. None of his live sightings have ever been corroborated by other witnesses.

Mr. President, what were the real circumstances of Robert Garwood's long residence in Vietnam? For that we must rely on the testimony provided by real heroes, the American POW's who witnessed and suffered from Garwood's betrayal.

This is what we know of Garwood's 14 years in Vietnam. On or near September 28, 1965, Pvt. Robert Garwood disappeared from Da Nang, South Vietnam. There are conflicting reports about how or when he disappeared. He was reported to have been captured in firefight with Viet Cong forces; kidnapped from a brothel; ambushed on a road outside of the Da Nang Air Force Base; got lost on a road off base and surrendered to the enemy; voluntarily joined enemy forces. We do not know, and may never know which, if any of these reports is accurate.

What we do know from the sworn testimony of returning POW's is the following: Garwood never appeared in a POW camp until several months after his disappearance; Garwood made written propaganda letters for the enemy just 3 weeks after arriving in the camp; Garwood enjoyed unexplained absences from the camp for days, weeks, and even months; he wore the uniform of the North Vietnamese Army; he accepted a lieutenant's commission in the North Vietnamese Army; he took up arms against American forces; he refused repatriation to the United States; he carried a large hunting knife; he used a bull horn to encourage American soldiers on the battlefield to surrender; and he made radio broadcasts for the enemy which were heard by my fellow POW's held in Hanoi.

We received all of this information from returning POW's who knew Garwood, including five who were returned early in 1968 and 1969, and from South Vietnamese POW's who were released from camps where Garwood was seen. The Vietnamese have corroborated their testimony, and have steadfastly maintained that Garwood was never a POW, but a willing volunteer in their cause.

Garwood and the Vietnamese admitted that he was involved in the black market and that he was able to purchase goods at the hotel frequently because he had freedom of movement. These are unlikely circumstances for a POW.

The United States received many live sighting reports about Garwood during his postwar years in Vietnam, over 300 of them. Not a one depicted him in anything approaching a captive environment.

Even giving Garwood the benefit of every doubt, showing him extraordinary charity, would leave us with a portrayal of Garwood that stands in sharp contrast to the fairy tale broadcast on ABC last night. At best, Garwood, through his own carelessness, was captured by enemy forces; he was

quickly broken by the enemy; from fear or mental delusion, he joined forces with his captors; from fear or mental delusion, he utterly broke faith with his fellow POW's and his country; he served as an instrument of repression against his fellow POW's; he refused early release from captivity in 1967, and volunteered to remain in Vietnam after the United States withdrew from that country. He then served as a mechanic for Vietnamese forces in the North, until because of personal disappointments with his life in Vietnam, chose to make his presence known to the West, and return home in 1979.

This most charitable appreciation of Garwood is still less than flattering, and, one would think, describes actions for which Garwood should be deeply ashamed. Having said this, I know how awful imprisonment in Vietnam was. All of us reached our breaking point at one time or another. To my knowledge, no one ever broke so completely as Robert Garwood. But even though the court martial, conviction, and dishonorable discharge of Garwood were more than justified, had Garwood admitted his bad faith, had he ceased to peddle a shameless, fictitious alibi for his dishonorable conduct, in time we could learn to forgive the man if not his crimes. But such is not the case.

Some say Garwood is today mentally handicapped and easily manipulated by POW/MIA activists who wish to substantiate his claims about remaining POW's despite all evidence to the contrary. I would not know. What I do know is that he continues to dishonor the service of American POW's by lying about their and his behavior in prison. He continues to contribute to the anguish of POW/MIA families by continually lying about having seen other Americans. These efforts and others constitute an enduring betrayal of his country. And anyone who may be manipulating Garwood for their own ends is a coconspirator in this betrayal.

Now, Garwood is returning to Vietnam in an effort to prove his contention that other Americans remain prisoners there. It should be noted, Mr. President, that within 10 days of his return from Vietnam, Garwood was interviewed on two separate occasions by Congressman BEN GILMAN and former Congressman Wolff. He was asked in those interviews if he had ever seen other American POW's after the war. He responded that he had never seen an American nor spoken English for 2 years.

I could care less if Garwood wants to return to Vietnam or that the Vietnamese are willing to allow him to return. What I do care about is that any taxpayers' dollars may be used to support him in any way at all during this visit. He will, no doubt, use the occasion to reissue his lies and calumnies that have done so much harm to so

many Americans. And "20-20" will be there to broadcast it.

Mr. President, I sincerely hope that anyone who witnesses that broadcast will take the time to learn the real story about Robert Garwood. Once they understand the true extent of his crimes, I hope they would take every occasion to speak out against those who would give Garwood a forum to continue his deceptions, or who would find his enduring betrayal to be appropriate material for entertainment.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator's time has expired.

Mr. McCAIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCAIN. I believe that I asked unanimous consent to address the Senate as if in morning business.

The PRESIDING OFFICER. The Senator is correct.

(The remarks of Mr. McCAIN pertaining to the introduction of S. 1172 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

CHARLESTON, SC

Mr. THURMOND. Mr. President, as the entire Nation knows, last Friday, June 25, was a dark day for Charleston, SC. Within just a few hours, Charleston lost not only a navy shipyard which is a major employer in the area, but a navy base which has been in operation for over 200 years. Even in our worst imaginings, no one from South Carolina truly believed that this proud navy town would be dealt such a blow.

Sunday, however, brought some good news to a community still reeling with shock. The Commission, showing a strong independent streak, voted to realign the Naval Electronics Command to Charleston. I have been advocating such a move for some time, in the firm belief that this command and its high-technology jobs offer the best potential for continued growth. This move will help to mitigate the job losses and associated economic impact of the base and shipyard closure, and I know the Commission will not regret its decision.

The Navy's recommendation to close all the Charleston facilities would have decimated the city. However, the Base Closure Commission demonstrated common sense and compassion which the Navy apparently does not possess.

Mr. President, as we say after Hurricane Hugo, disaster often brings out the best in people. In this instance, that is especially true. Faced with the threat of losing a major component of the Charleston economy and cutting proud historical ties with the Navy, the people of Charleston put forth a heroic effort to defend their naval facilities and prove the Navy wrong.

Hundreds of volunteers worked day and night to compile the facts and figures which show that Charleston has one of the most efficient and cost-effective shipyards and navy bases in the Nation. Hundreds more donated money—even took out personal loans—to pay expenses for the rescue effort. They traveled to Washington; they met with officials in the Pentagon; they attended every hearing the Base Closure Commission held; and they took every opportunity to show the base closure commissioners how superb our facilities are and how much the community had to lose. Finally, our entire congressional delegation—even Members from the other side of the State—worked together as one unit to do everything possible to aid in the effort.

It is my firm belief that these heroic measures saved the Navy Hospital and resulted in the Navalex consolidation, and that the lion's share of the credit goes to the people of Charleston and the many volunteers who selflessly gave their time and money to defend this great city. Their commitment to the cause was nothing less than absolute, and their efforts were not lost on the members of the Base Closure Commission. All who took part in this crusade are deserving of the highest praise, and I salute them.

I would especially like to recognize my good friend, Charleston trident Chamber of Commerce president Sis Inabinet. Her energy, creativity, and commitment were a major factor in organizing the campaign and galvanizing the volunteers. The efforts of the Charleston community were an inspiration to the entire Nation, and they have set a new standard by which other campaigns of this nature will be judged.

Mr. President, South Carolinians are strong, proud people, and I have no doubt that all those who worked so hard to save our navy facilities will now turn their efforts to responding to this tremendous loss. Just as they rebuilt after Hugo, they will work to promote tourism, retrain those who are losing jobs, and bring new enterprises into Charleston to replace that which was lost. As a matter of fact, I met with a group of workers from the shipyard just this morning. They are already making plans and looking to the future.

I have every confidence that Charleston will recover from this shock, and I pledge to do everything in my power to help overcome this blow and pave the way toward a bright future for Charleston.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I ask unanimous consent to speak in morning business.

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

BOBBY GARWOOD

Mr. SMITH. Mr. President, I rise today at this time to respond to the comments of my colleague, the Senator from Arizona, Senator MCCAIN, regarding Bobby Garwood.

I have spent the last 9 years of my life in the U.S. Congress studying the Bobby Garwood issue. For those who may not have as much knowledge on it as they might like to have, Bobby Garwood was a POW who was captured during the war, did not return in 1973 in spite of the fact the Vietnamese said all had returned. Mr. Garwood returned in 1979.

During the period of time prior to 1973, there were some charges made by some of his colleagues in the prison camps that he had collaborated with the enemy. I do not know what he did or did not do in that regard because I was not there. I am not here to defend or attack that.

What I am here to defend is the fact that this man, Bobby Garwood, is the only man in the whole Vietnam war to be charged with collaborating with the enemy and to be convicted. There were charges prepared against 10 POW's who returned, at least that I am aware of, of collaborating with the enemy. Those charges were dropped in nine cases after one charge had been brought, and that individual, unfortunately, committed suicide. It was, therefore, the position of some in the Government that it may not be a wise course to pursue collaborating with the enemy. Let us move on and get the war behind us.

Robert Garwood is the one human being, American, who spent time in Vietnam from 1973 to 1979, that we know of. He knows the prison system very well. Obviously, because he was in it. He gave a deposition to the Senate Select Committee on POW's and MIA's. It is a long deposition. I have it in my office if anyone would like to read it. It is a matter of public record.

In that deposition he indicated a lot of things, most dramatically that he saw live Americans after the war had concluded, sometime during the period of time 1973-79—approximately 1977 to be exact. Whether he did or whether he did not, anyone can form their conclusions after reviewing the information, as I have. I happen to believe Garwood, but that is a personal opinion.

He told me he saw POW's, and, after having researched this as much as I could over the past 9 years, I have concluded that Garwood is telling the truth. It does not mean he is telling the truth because I say that he is. But what I am interested in is—and, Mr. President, I want to say the word; giving Garwood a forum was mentioned in some terms of outrage—that Garwood would have a forum. Let me say I intend to be with Robert Garwood next week in Vietnam, by his side as we go through Vietnam in search of answers about our missing POW's. Frankly,

what Mr. Garwood did or did not do prior to 1973 is irrelevant to me as far as what he may or may not know about living American POW's.

That is the issue. Robert Garwood offered his services to go to Vietnam at no expense to the Government. The taxpayers are not funding his trip. They are not paying one dime of Mr. Garwood's trip. He is going to Vietnam without any expense to the taxpayers. He was invited by the Vietnamese to go. He has accepted the invitation. And he has agreed to do that and to show me, he said, where he saw living American POW's.

Some can draw their own conclusions as to whether a man would go to great lengths to do something like that if, in fact, there was not anything to it. But that is a conclusion that come will have to draw on their own.

I want to point out for the record, because the record is replete with error, Robert Garwood was never convicted of desertion. He was charged with desertion but never convicted of desertion because he was captured, shot, and wounded in the capture.

Did he collaborate with the enemy? That is the question. The court said he did and he paid the price for it. He spent 14 years in Vietnam, longer than anyone else that we know of who survived. He ate rats, snakes, caterpillars, and anything else he could to survive, and he lost 14 years of back pay was thrown out of the service with a dishonorable discharge. So I think Mr. Garwood paid for whatever he was convicted of.

But Mr. Garwood was a very cooperative witness with our committee. He spent hours in detailed deposition under oath in which he stated that he saw live Americans on a number of occasions, once along the railroad tracks in Yen Bai; another an island on Thac Ba Lake in Vietnam, northwest of Hanoi; and also a couple of other locations.

I think that it is the responsibility of our Government to check that out. It is a detail that has not been completed, as far as I am concerned. If Mr. Garwood volunteers to go and it does not cost the taxpayers a nickel for him to go, if he is willing to go and show me or anyone else in the U.S. Government where these people were that he said he saw, if he is willing to face his accusers, the Vietnamese, and look them in the eye and say, "I saw American POW's here," and to see their response, I think that is a risk well worth taking.

I might also point out that it was the recommendation at the highest echelons of the DIA a few years ago that Robert Garwood be hired as a consultant to the U.S. Government because of his direct knowledge of not only the prison system, but his knowledge of Vietnam after 1973, that period 1973 to 1979.

So I think to some extent the comments made by the Senator from Arizona were an attack on the process of the Senate select committee. It is a detail that we could not complete. There are strong feelings and strong emotions on this issue, which I understand and respect. But not to fully investigate a live sighting report, and that is one of the best live sighting reports we have—he is an American, he served in the war and he was retained from 1973 to 1979, and he said he saw live Americans.

It is interesting when you look at some of the things that have been done by the investigating authorities, the joint task force. I remember first coming to the U.S. Congress in 1985 and talking to the Defense Intelligence Agency about Garwood. They never really were debriefed by Garwood. When Robert Garwood came home in 1979, he was immediately, essentially, put under house arrest and charged with desertion and collaboration. Nobody from the U.S. Government made a conscientious, detailed, strong effort to debrief him on what he might or might not know about American POW's or about prison systems of Vietnam.

That was very interesting about the priorities that were here with Mr. Garwood. The priority was to charge him with desertion and collaboration. The priority was not to go after the information regarding the live sightings that Mr. Garwood ultimately indicated that he had made.

I think it certainly does not serve the families very well to not want to pursue the information. We cannot let the emotion and the anger of the war be so strong and rue us so well that we cannot see fit to investigate every single detail. To form a conclusion that Mr. Garwood is a liar without investigating is simply irresponsible. I think we have had many witnesses come before our committee, some with preposterous stories—some checked out, some did not—but our job was to check them out.

The bottom line is, when the Vietnamese invited Mr. Garwood, Mr. Garwood said, "I will go, I will go at nontaxpayer expense. I am willing to meet you or anyone else over there, Senator, to show you where I saw these people." He is willing to take me there. And so I think that is a very admirable goal to do, and I think it is a trip that is well worth taking.

I am just very concerned that, although the film last night offered an opinion, the statement that "20/20" was somehow involved in an invitation to Garwood is simply not accurate. If "20/20" chooses to go, that is their prerogative as a media outlet, as far as I am concerned. But the invitation came from the Vietnamese.

Garwood willingly accepted the invitation and has offered, again, to try to help us. So I do not think we ought to be discrediting that trip. The state-

ment was made that we are going to give him a forum. The only forum that Robert Garwood asked for was to go to Vietnam to show us what he saw and where he saw what he saw. He never asked for any media attention whatsoever. To the contrary, he asked that there be very little, if any, media attention. He has tried to stay out of the press as much as possible.

So speaking for myself, I am the Senator on that trip. I suppose I could be accused of, or congratulated for, depending on what your position is, the Senator who is responsible for participating in that trip. I am proud of it. I am proud to stand here on the floor of the U.S. Senate and say that I have a man who says he saw live Americans, who is willing to take me where he saw them, who gave several hours of depositions before this committee under oath in which he said he saw live Americans, in great detail. I am proud to accompany that individual on behalf of the families to Vietnam.

Whether Garwood was a war hero or whether he, in fact, collaborated with the enemy, is a very important issue in some definitions, in some areas of what we are talking about, but not when it comes to finding the truth about live Americans. He is a resource. He has information that he is willing to share. We should check it out.

I might say that I have several pages of the entire transcript of Garwood's court-martial. I will defend ABC's "20/20" for a minute. Many of the things in that story were portrayed accurately, according to the testimony of the trial. I think there may be some views—obviously, Mr. Garwood had a different view than some others. But I think, by and large, it was an accurate reflection of what Mr. Garwood went through in Vietnam. It did not even touch on the live POW issue, really, other than to say he was not the last man to leave Vietnam.

So, Mr. President, I am looking forward to the trip. Bobby Garwood, as I said before, was acquitted of desertion; he was found guilty of collaboration. He has indicated he has seen live POW's. He is willing to go to Vietnam to show us where they are. I think it is an honorable thing to do. If it turns out that he is wrong, that he is somehow not telling the truth, or he is using this to advance himself—for the life of me I cannot figure out how Mr. Garwood advances himself if he was a convicted collaborator who goes to Vietnam and then we find out everything he told us about live Americans was a lie. What does he gain by that other than more disgrace?

On the contrary, I think when a person who is willing to put himself on the line, as Mr. Garwood has done, that we ought to follow up on it, and that is all I am doing. I am very proud to follow up on it. I want to repeat that. I am honored to follow up on it, to be even

more descriptive about it, and I think it should have been done a long, long time ago.

The DIA has not done a good job in investigating this. They have not done a good job of researching Garwood. Had it been done when it was fresh in his mind—almost 20 years ago Mr. Garwood came out. Basically, the war ended in 1973, he came out in 1979 and here we are in 1993 and now Mr. Garwood is going. And I might also add that the Government denied Garwood the opportunity to go at taxpayers' expense.

So it is about time we thoroughly investigate this information; that we stop with the emotion and the innuendoes and the untruths and the half truths and thoroughly investigate this thing. That is what we started with the select committee. We ran out of time. The Senate sunsetted the committee, which is understandable. We understood that when we started that we had a time limit, but we did not get through the rest of the investigation.

So I understand also, and have talked to many about it, there is a lot of anger out there because of a lot of information about Mr. Garwood, and I also know there is some risk for myself to be associated with that. But I do not care about the risk because the most important thing here is that we investigate, thoroughly investigate every single bit of information that Mr. Garwood told us.

I wish to recount just a couple of brief things about this because I was directly involved. I was personally involved in the DIA debriefing of Mr. Garwood several years ago and personally involved in setting those debriefings up. It was interesting because I carried his phone number around in my wallet for a couple years when the DIA did not know how to reach him, even though I offered them a phone number, which is very interesting. They could not seem to find him, and they did not want to find him because of the fact there was this stigma out there about what he did or did not do during the war.

That is not what the focus of this trip is, and it is not what the focus of Garwood should be. The focus of Garwood should be what did he see? Is what he saw accurate? And we have an obligation to investigate it.

Having said that, let me cited one specific, Thac Ba Lake. Thac Ba Lake is a manmade lake made by a Soviet dam in North Vietnam. I was told personally by the DIA that, first of all, there was no lake. We then established that there was a lake. Then I was told that there were no islands in the lake. We now find out there are dozens of islands in the lake. Then I was told there was no prison compound on the lake. Then we find out there was a prison compound on the lake. Then I was told Garwood was never there. Then I find

out Garwood was there, and he was there repairing generators. Senator KERRY and I were told this point blank by the Vietnamese in a meeting last December in Vietnam, in Hanoi.

The response from the Vietnamese was that Mr. Garwood was in fact where he said he was in Thac Ba Lake, that he saw—he was repairing generators at a facility on an island in Thac Ba Lake. Now, did he see American POW's? The Vietnamese said no, he did not. He says he did. Were there prisoners there? Yes, South Vietnamese prisoners.

Amazingly, the joint task force over there doing the investigating could not find the island and could not find the prison camp, and yet when we, Senator KERRY and I, talked to the Vietnamese, one of the Vietnamese officials there said point blank, yes, there was a prison; yes, Garwood was there; yes, he was repairing generators.

I would urge anyone who really wants to know the truth to read the documents that we have now gotten finally declassified, the documents, the internal documents, the secret documents of the DIA, CIA, and everybody else involved in these investigations. They will show you conclusively that they felt Garwood was lying because Garwood was not where he said he was, there was no such location, et cetera, et cetera, et cetera.

The fact is all those things are true. The only thing that is left in the puzzle and the most important thing is whether or not he saw live American POW's. It is the number one thing, and the most important, obviously.

The question is why should we stop and refuse to allow him to go when, in fact, he can shed light on that?

Our committee concluded, all Senators present, when we wrote our final report, that the Garwood information needed to be pursued. That was in the final report. It was the conclusion of all Senators. There were no dissents in terms of that being pursued.

I have a responsibility as one member of that committee—I happened to be the vice chairman—to pursue it, and I intend to do it. I will do it in spite of the attacks. I will do it with attacks, because that kind of criticism is not even relevant as far as I am concerned.

The issue here is what did Mr. Garwood see or not see, and I intend to investigate it. I look forward to the trip. I look forward to going with Mr. Garwood. I look forward to seeing him facing the Vietnamese, looking the Vietnamese in the eye and saying, "I saw American POW's. Now, are you telling me that you didn't keep any POW's?" I wish to see the faces, I wish to look into the eye of that Vietnamese when he looks back at Mr. Garwood and says "No, Mr. Garwood, you are a liar." And then I want to look at Mr. Garwood, and I want to see him when he says, "No, you are a liar."

And then I am going to draw my conclusions, because I am going to be there when that little meeting takes place, and I am proud to be there. As I said before and I will say it again, what Mr. Garwood did or did not do is not relevant to the families of those men. If I have a brother, a dad, or a son missing, and I know somebody out there in America, whoever he or she is, has information about that person, this country has a moral responsibility, a moral responsibility to check it out. I do not care where the source is, Mr. President.

It should have been done years ago. And to trash it now when we finally are ready to do it, to trash the opportunity now to do that after we finally have done it and get the opportunity to do it is an outrage. It is an outrage. I am very sorry that it happened on the floor of the Senate.

I look forward to speaking out when I get back after the July 4 recess, and I will have a full report to the Senate on what I found or did not find when I got to Vietnam, and the Senate will hear exactly what that confrontation between Mr. Garwood and the Vietnamese was like and who said what and what we found out.

I thank the Chair and yield the floor.

ENERGY TAX POLICY

Mr. BAUCUS. Mr. President, in anticipation of the upcoming House-Senate conference on the budget reconciliation bill, I rise to address a critical element of any compromise; that is, the energy tax. When President Clinton originally proposed an energy tax as part of his deficit reduction package, he outlined a broad-based energy tax known as the Btu tax.

This tax had a number of competitive flaws. It would be very difficult to implement. For those reasons, it was dropped in the Senate. But the Btu tax has some real virtues, especially when compared to the transportation tax contained in the legislation we passed Friday morning.

The transportation tax is nothing more than a glorified gas tax. According to the Energy Information Administration, with the exemption of aviation fuel, approximately 90 percent of the total tax will be shouldered by the users of automobiles and trucks.

First, with the proper refinements, the Btu tax would be fair and balanced compared with the gas tax. Some of my colleagues point out that the Btu tax effectively includes a gas tax, and they are right. But the difference is a Btu tax would be paid by all energy users, from the largest corporations to the ordinary working Americans. It would be paid by drivers in the rural West, homeowners in the urban Northeast. It would also be paid by transportation industries, such as airlines and trucking companies, and service industries,

like restaurants and auto shops. Despite its flaws, the Btu tax and other broad-based energy taxes do have the virtue of fairness.

Unfortunately, an isolated boost in the gas tax is both unfair and regressive. As data provided by the Department of Transportation demonstrates, the gas tax falls most heavily upon rural States like Montana, Arkansas, North Dakota, and Wyoming.

I ask unanimous consent that a copy of the chart illustrating this point be printed in the RECORD.

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

Consumption ranked by State

State:	Gallons per capita
Wyoming	987
North Dakota	707
Arkansas	677
Montana	673
Georgia	670
South Dakota	669
New Mexico	668
Alabama	652
Missouri	635
Oklahoma	623
Nevada	620
Mississippi	615
Kentucky	613
Nebraska	609
South Carolina	608
Indiana	602
Vermont	595
Idaho	590
Tennessee	584
Kansas	578
Texas	578
Iowa	572
North Carolina	571
Maine	569
Delaware	559
Virginia	556
West Virginia	555
Arizona	539
Washington	534
Minnesota	530
Florida	521
U.S. average	519
Louisiana	518
Wisconsin	514
Michigan	509
New Hampshire	507
Utah	504
Ohio	494
Maryland	491
Colorado	491
New Jersey	488
Oregon	485
Alaska	482
California	479
Illinois	457
Connecticut	457
Pennsylvania	456
Massachusetts	427
Rhode Island	407
Hawaii	369
New York	348
DC	282

Cost per capita ranked by State

State:	Percent ¹
Wyoming	0.413
Arkansas .....	.320
Mississippi .....	.319
New Mexico .....	.318
North Dakota .....	.306
Montana .....	.306

	Percent ¹
South Dakota .....	.295
Alabama .....	.293
Oklahoma .....	.281
South Carolina .....	.278
Kentucky .....	.271
Georgia .....	.270
West Virginia .....	.269
Idaho .....	.268
Missouri .....	.246
Tennessee .....	.246
Indiana .....	.244
Louisiana .....	.241
Utah .....	.240
North Carolina .....	.236
Texas .....	.236
Nebraska .....	.233
Vermont .....	.231
Arizona .....	.230
Iowa .....	.228
Maine .....	.228
Nevada .....	.223
Kansas .....	.218
Wisconsin .....	.200
Virginia .....	.197
Florida .....	.196
Oregon .....	.195
Ohio .....	.194
Minnesota .....	.193
Washington .....	.191
U.S. average .....	.191
Michigan .....	.190
Delaware .....	.190
Colorado .....	.178
California .....	.164
Pennsylvania .....	.164
Alaska .....	.163
New Hampshire .....	.161
Maryland .....	.156
Illinois .....	.154
Rhode Island .....	.146
New Jersey .....	.135
Massachusetts .....	.130
Hawaii .....	.127
Connecticut .....	.124
New York .....	.108
DC .....	.078

¹ Percent of personal income.

Mr. BAUCUS. Mr. President, I believe that every American, regardless of their State, is willing to contribute to reduce the deficit. Americans will do their fair share, but we should be very careful when drafting tax proposals to ensure that no one is asked to do more than their fair share.

In coming to an agreement on the energy tax in the conference committee, it is my hope that a fairer and more balanced formula than the gas tax can be found. Second, the Btu tax and other broad-based energy taxes have the added benefit of positively impacting the environment. A broad-based energy tax will encourage conservation, and if properly structured, can encourage the use of cleaner burning fuels that result in the reduction of environmental degradation.

Such prominent environmental groups as Friends of the Earth, American Rivers, the National Wildlife Federation, Sierra Club, and National Resources Defense Council, were solid backers of the Btu tax, and expressed support for a broad-based energy tax. A leader of a major environmental organization went so far as to say that the Btu tax would have done more to promote environmental protection "than

any other single piece of environmental protection legislation."

For example, the House passed version of the Btu tax would encourage an annual reduction in greenhouse gas emissions of 25 million metric tons by the year 2000. That is the equivalent of about 20 percent of the reductions required to implement the President's commitment to return greenhouse gas emissions to 1990 levels by the end of the decade.

The gasoline tax, however, sacrifices virtually all of those environmental benefits according to the Natural Resources Defense Council. The gas tax does little to encourage conservation or fuel shifting because it has no impact on many of the largest users of energy—commercial business establishments, public institutions, and energy used for electricity generation.

Further, alternate fuels are, by and large, not available to the average driver, and the average driver generally has no other means of transportation, he or she must simply pay the tax. Again, the conservation impact is minimal.

The President originally proposed a broad-based energy tax. The House bill contains that broad-based energy tax. In conference, it is my hope that the Senate bill's transportation tax can be either replaced, made part of a broader, fairer energy tax, or abandoned entirely.

The problems with the Btu tax are real and significant. But Treasury Secretary Bentsen has proposed an alternative that deals with the primary concerns by exempting key producing sectors, such as manufacturing and agriculture.

Other concerns could be addressed by structuring a tax that is border adjustable and adopting a more easily administrable approach. I also urge that an energy tax be drafted that encourages the use of environmentally friendly fuels. It is my hope that a compromise involving these concepts can be developed in conference.

Finally, my philosophy on the energy tax is simple: Either everybody pays or nobody pays. Reduction of the deficit is so important that I do not intend to let perfection be the enemy of the good.

It is my hope that under the leadership of Chairman MOYNIHAN, Chairman ROSTENKOWSKI, and the administration, legislation in line with this philosophy will emerge from the conference.

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. DOLE. 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. DOLE. Mr. President, is leaders' time reserved.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator is correct.

Mr. DOLE. Mr. President, I have four statements on different subjects and I will use my leader's time.

BOSNIA AND HERZEGOVINA

Mr. DOLE. Mr. President, it appears certain that the United States is going to miss a real opportunity to do what is right and smart with respect to the war in Bosnia and Herzegovina.

This afternoon the U.N. Security Council is debating a resolution which would lift the arms embargo against Bosnia and allow the Bosnians to exercise their right to self-defense. Despite President Clinton's claimed preference for lifting the embargo against Bosnia and Herzegovina, the United States is not lobbying other Security Council members to gain their support for this measure.

The administration has decided not to play a leading role in the Security Council, rather it has decided to play follow the leader; and the leaders in this case are the British, French, and Russians—whose policies, diplomatic initiatives and involvement in Bosnia and Herzegovina to date have not brought Bosnia any closer to peace than it was 15 months ago when the war started.

There is little doubt that without active United States support the measure will fail because of British, French, and Russian objections.

Last Friday, I wrote a letter to the President urging him to put the full weight of American influence behind the resolution to lift the arms embargo. Not only would this allow the Bosnians to defend their civilians, but it would strengthen the Bosnian Government's ever weakening negotiating position, thereby increasing the likelihood of a genuine negotiated settlement to the conflict. Ironically, denying the Bosnians arms makes it more likely that the conflict will continue and eventually spread to Kosova and elsewhere.

Mr. President, I ask unanimous consent that my letter to the President be printed in the RECORD.

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

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, June 25, 1993.

The PRESIDENT,
The White House, Washington.

DEAR MR. PRESIDENT: It is my understanding that the U.N. Security Council has begun debating a resolution to lift the arms embargo against the Republic of Bosnia-Herzegovina, and that a vote is expected later today or tomorrow. As you know, I have advocated taking such action for some time now, and have strongly and publicly supported your preferred 'lift and strike' option. In my view, this Security Council resolution can only pass if the United States puts on a full-court press to persuade the

British, French and Russians not to object. Without active U.S. support I fear the measure will fail. Therefore, I would urge that you and your foreign policy team take the actions necessary to ensure passage of this resolution.

The debate and vote on this resolution is an opportunity to do not only what is right, but what is smart. The facts are clear: (1) The current arms embargo violates Bosnia-Herzegovina's right to self-defense and has guaranteed the overwhelming advantage of Serb forces, thereby creating an environment of cost-free aggression; (2) Europe has failed in its efforts to end the war and instead of reversing course, its leaders are trying to disguise their acquiescence to aggression by giving diplomatic cover to the cannibalization of Bosnia; (3) In the absence of effective international diplomatic support and without military power, the Bosnian government is left without negotiating leverage. However, if the Bosnian government were armed it would not only be able to extend its authority and restore some measure of order to its lands, it would also be in a position to create a military stalemate that would provide the basis for a genuine negotiation.

Mr. President, this is a defining moment in U.S. history—the Bosnian crisis is a critical test of American global leadership in the post-Cold War era. Will the United States stand by the principles that form the basis of the international order, such as the territorial integrity of internationally recognized borders? Or will the United States retreat from its traditional global role and relinquish its responsibilities to multilateral organizations which have proven time and time again to be incapable of decisive and effective action without U.S. leadership?

Failure to act decisively now will all but guarantee the spread of disorder not only in the Balkans, but elsewhere around the globe.

Sincerely,

BOB DOLE,
U.S. Senate.

Mr. DOLE. Nevertheless, the administration seems content with quietly voting yes and letting the resolution fail regardless of the consequences.

Let us face it, the Bosnians are losing at the negotiating table because they are militarily weak, and now it looks like we're going to make sure they stay that way. And, we are going to use the NATO Alliance as an excuse for this timid diplomacy.

Sure, NATO is important, but NATO's success in the past was based on U.S. leadership, not on American acquiescence to ill-conceived policies. NATO has no future if it becomes a vehicle for policies that reflect the lowest common denominator among our allies, as opposed to sound judgment.

By missing this opportunity, the United States is writing off Bosnia. But, the Bosnians will not be the only ones who will pay the price. Failure to confront aggression in Bosnia sets a terrible precedent. It is an invitation to would-be predator States and a warning to weak States to arm themselves.

Moreover, the failure of the United States to stand firmly behind international principles, will serve to erode U.S. credibility around the globe.

Mr. President, the stakes in Bosnia are high and the consequences will be felt over the long term. I fear, however, that the United States has taken a very short-term view.

TRIBUTE TO WALTER ANNENBERG

Mr. DOLE. Mr. President, the Reverend Billy Graham once said that "We are not cisterns made for hoarding, we are channels made for sharing."

Throughout our history, the American people have taken these words to heart.

From the pioneer days when barnraisings became community projects until the present, when new heights in money and hours donated to charities are reached every year, the spirit of neighbor helping neighbor has remained alive and well here in America.

The innate generosity of the American people can be seen in many places and in many places across America, but I believe that it can most clearly be seen in the life of Walter Annenberg.

Last week, Ambassador Annenberg added new meaning to the word philanthropist when he made the largest one-time gift to private education in history.

Under the terms of this gift, the University of Southern California and the University of Pennsylvania will each receive \$120 million, Harvard University will receive \$25 million, and the Peddie Preparatory School will receive \$100 million.

This display of generosity is not new to Walter Annenberg. Previously, he and his wife, Leonore, have provided key support to literally thousands of educational institutions, museums, and charities.

In recent years, he has given his entire collection of French Impressionist and Post-Impressionist art—valued at \$1 billion—to the Metropolitan Museum of Art, and he made a \$50 million contribution to the United Negro College Fund.

Ambassador Annenberg said that the reason for last week's historic gift was simply that—and I quote—"I'm interested in the young people, because the character of our country will be shaped by young people in the days ahead."

From his days as one of America's most successful businessmen, to his service as Ambassador to the Court of St. James, to his role as adviser and confidante to world leaders, to his status as America's leading philanthropist, Walter Annenberg, himself, has done his share of shaping the character of our country.

I have no doubt that America is a better place to live because of the leadership and generosity of Walter and Leonore Annenberg. I am proud to call them my friends.

I note since the statement was put together that last week ABC named

Mr. Annenberg the Person of the Week, which I think is another fitting tribute and recognition of his great generosity.

TENTH MOUNTAIN DIVISION SCHOLARSHIP AT SIENA COLLEGE

Mr. DOLE. Mr. President, I rise today to recognize an act of generosity by the men of the 10th Mountain Division. I recently received a letter from Siena College in Loudonville, NY, regarding the establishment of the company I, 85th regiment, 10th Mountain Division endowed scholarship.

The 10th Mountain Division was the first ski troop of its kind in the U.S. military. Modeled after units in the Finnish army, the 10th was an unusual collection of forest rangers, cowboys, Ivy Leaguers, and Olympic skiers. The division's first operation was to lead an assault against German fortifications in the Apennine Mountains and break into the Po Valley near Bologna in 1945. This resulted in the 190 men of company I, 85th regiment, being involved in some of the heaviest fighting of the war. The German fortifications and terrain were such that it took the 10th 6 months to go 56 miles. During those 6 months, the men of the 10th Mountain Division fought with determination and valor. By the end of the war, the 10th Mountain Division was one of the most decorated in U.S. history, and deservedly so.

These men have again distinguished themselves by endowing a scholarship at Siena College. Money was raised by raffling military memorabilia and through individual donations by company members. Families of company members also gave gifts in memory of their loved ones. Siena College was chosen to receive the scholarship as a result of its being the alma mater of two men in the company, James Branche and the late James Looby. The endowment will provide an annual scholarship to be awarded by the college, with preference given to the grandchildren of 10th Mountain Division members.

I am proud to recognize this act of generosity on the part of company I, 85th regiment, 10th Mountain Division. In 1945, as a young lieutenant from Russell KS, I had the privilege of serving with company I, 85th regiment in Italy. The friendships I made there have, and will always hold, a special place in my heart.

Mr. President, these distinguished men, who fought for a brighter future for all Americans, are once again showing the selflessness of their character. Their act of generosity will not only give today's young men and women a chance to realize their dreams, but will also honor those men who fought so bravely five decades ago in the hills and mountains of Italy.

LAWRENCE CENTRAL JUNIOR HIGH
RUSSIAN EXCHANGE

Mr. DOLE. Mr. President, today, I rise to recognize the accomplishments of a special group of students and teachers from Central Junior High School in Lawrence, KS.

On May 12, Dr. Pat Boyd and 15 honor students from Central Junior High, left the plains of Kansas for Izheusk, Russia. These students are only the second group of American citizens to visit this region of Russia, which, for the past 60 years, has been used for the production of military weapons.

Dr. Boyd and her students have established Peace House Exchange, an exchange program that will educate both American and Russian students to the importance of international awareness and education.

While in Russia, these young ambassadors have been living with Russian families, attending school with their Russian counterparts, and forming lifelong friendships. In October, Central Junior High students and their families will return the favor to their Russian friends by hosting them in Kansas for a 3-week stay.

Mr. President, these young people have taken it upon themselves to promote international goodwill, and strengthen the ties between our two countries.

I wish to commend these students and Dr. Boyd for their part in educating the Russian people and spreading America's message of goodwill.

Mr. President, I yield the floor.

EXECUTIVE SESSION

NOMINATION OF ASHTON B.
CARTER, OF MASSACHUSETTS,
TO BE AN ASSISTANT SEC-
RETARY OF DEFENSE

The Senate continued with the consideration of the nomination.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate is considering the nomination of Ashton B. Carter.

Mr. SMITH. Mr. President, I would like to move back onto the pending business of the Senate, which is the nomination of Ashton Carter.

I want to recap a little bit for some who may have missed the debate earlier today as to where we are in regard to this nomination. Mr. Carter, as we know, has had some problems. For those of my colleagues who may have missed the discussion before lunch, allow me to recap.

I first want to say for the record that I had to interrupt my schedule today quite substantially, and miss a hearing which I was supposed to participate in, because of the so-called urgency to

have this nomination brought up around 11 o'clock. We were going to debate it thoroughly and then we were going to vote.

Although I did not ask for specific assurances, I was led to believe we would go back to that nomination right after lunch. That did not occur. We are still here, now coming back to it at this late hour. Meantime, I had to miss a very important hearing.

So be it. That is one of the reasons we get criticized around here, justifiably so, for the way we do business. I do not mind being on record saying it. I think it is just simply wrong to inconvenience Members in this regard. People who stayed around do not know whether there is going to be a vote tonight. As you know I requested a recorded vote on this nomination. I did that early, as soon as I took the floor this morning, to let all my colleagues know that was my intention. I anticipated at the time I requested a vote we would have the vote probably somewhere in the vicinity of 3 o'clock. It is now after 5 o'clock. I do not know how much longer the debate will go on or how many other people want to speak.

At this point it is certainly out of my hands as to what time there may be a vote. However I intend to take the time that I need to make the rest of the points I want to make regarding this nomination because I feel it is important to get them on the Senate RECORD. Just so my colleagues will know where I stand. The only thing I am going to be firm on is that at the conclusion of my remarks we will vote. The vote will not be put off until tomorrow.

If the leader determines that the vote be vitiated until tomorrow, then I want to be able to have the opportunity to speak for 15 minutes prior to that vote taking place. I intend to be firm on that since I have been inconvenienced all day. I intend to be firm on that.

Allow me to recap some of the very important aspects of the Carter nomination.

On March 9, 1993, Defense Secretary Aspin issued regulations governing the conduct of nominees prior to formal confirmation. These regulations directed that nominees should act in a manner consistent with the role of an adviser preparing for additional duties, and avoid acting or appearing as if confirmed.

I have already submitted for the RECORD those regulations and documents.

Again, nominees must act in a manner consistent with the role of an adviser preparing for additional duties, and avoiding acting or appearing as if confirmed.

As I have indicated, this is not the case of a passive participant here who had innocently signed a document, or maybe signed a document stepping over the bounds. This is an active par-

ticipant, a person who is thoroughly engaged in the business of directing policy in the Pentagon, before he was confirmed. That is the issue here.

It would be the issue if it was President Bush. It is the issue with President Clinton. Because I think the issue here is not who is President or who the nominee is. The issue is constitutional advice and consent; a very strong constitutional provision that was drafted by the Founding Fathers and has been commented on extensively by Senator BYRD in his tremendous book. Chapter 2 goes into great detail about the significance and importance of the advice-and-consent role of the Senate. That is really what the issue here is today. Not Ashton Carter, but constitutional advice and consent.

I say to my colleagues, if you care about the constitutional process of advice and consent you ought to oppose this nomination to send that signal. If you are not confirmed by the U.S. Senate you ought not to be doing business in the executive branch. I do not care who is President or what the job is. You have to be confirmed by the Senate.

Mr. Carter was not, is not, has not been confirmed by the Senate. Let me go back to the Aspin regulations.

Secretary Aspin issued the regulations and stated very clearly what the conduct of nominees should be. By doing so, Secretary Aspin agreed with and was very strong in his defense of the advice and consent role of the Senate. He demonstrated this in a memorandum on March 9, to all prospective nominees. Specifically, the regulations state that nominees should not serve as the official Department representative in meetings, should not serve as an official on travel, foreign travel, and are not to sign any documents that give the appearance of having assumed official duties.

This, signing documents would certainly be a violation. But it goes even further, saying even giving the appearance of having assumed official duties. I think the testimony that was given this morning by myself and others substantiates that in fact this did happen.

In response to reports of widespread noncompliance with these regulations, Senators NUNN and THURMOND sent a letter to Secretary Aspin on April 22 requesting that he issue guidance and take steps to ensure that the activities of nominees comply with the concerns of the Armed Services Committee.

Therefore, we have a memorandum from the Defense Secretary that says you should not act as if confirmed, or undertake any activity that would give that indication. In spite of that, there are rumors flying around and information being brought to the committee that this is going on. So Senators NUNN and THURMOND wrote a letter to the Secretary reminding him about these guidelines and asking to ensure the activities of nominees comply.

Secretary Aspin responded to that letter in a letter 7 days later, dated the 29th of April. In that letter he reaffirmed the existing guidelines and he emphasized that each nominee received an extensive briefing from the Department's office of standards and conduct, to ensure that their behavior was legal and that all the administrative requirements were met. Secretary Aspin stated:

I give this clear directive to all prospective nominees to ensure that no one here in DOD would presume any authority that can come only from the Senate's confirmation.

So, Secretary Aspin to his credit, having been a Member of Congress, understands the advise-and-consent role. And he put it in writing to those who would be nominees in the future, and those who were pending nominees. In other words: Do not do anything that would even give a hint of acting officially because you are not yet confirmed.

On May 25, Dr. Carter appeared before the Armed Services Committee and he testified that he had not made any authoritative decisions nor had he provided authoritative guidance. In addition, Dr. Carter stated he had not assumed any duties or undertaken any actions that would appear to presume the outcome of the confirmation process.

That question was asked of him by Senator NUNN, the chairman of the Armed Services Committee. His response was that he had not done those things.

Since then, it has been determined that Dr. Carter did in fact make authoritative decisions, provide authoritative guidance, and act in a manner which gives the appearance of presuming confirmation. In private meetings with some members of the committee, including myself and the chairman, he admitted one case, and apologized for it.

The question is, Was that the only case? And the answer is, As far as I am concerned based on the facts, no; it was not.

I have a memo dated May 17, 1993, signed by Dr. Carter, which directs the transfer of Nunn-Lugar funding for defense and military contracts with the former Soviet Union. I might add that this document was approved and initialed by a Dr. Graham Allison, another nonconfirmed consultant evidently involved in policymaking.

So we now have one individual who is up for a nomination who says he did not sign any documents that would give the appearance of presuming confirmation. We then find out that he has signed a document. Then we find there is another name on that document, a Dr. Allison, who is not confirmed, who also approved the document. And that document is in the record. I will call my colleagues' attention to the record.

The document says "approved by" Dr. Allison.

I have a memo dated April 5, 1993, which is authored by Dr. Carter regarding the Cooperative Threat Reduction Program. In the memo, Carter states that he has not yet approved—not yet approved—the legislative affairs and public affairs plans for this important program, indicating that he is the deciding authority.

When you are supposed to be acting in an advisory role learning the process, and you have guidelines and letters circulating from the chairman and ranking member of the Armed Services Committee and the Secretary of Defense, and you put that kind of language in a memorandum that I have not yet approved something, that does not sound like a person who is a passive participant. It sounds like someone engaged in policymaking and decisionmaking. To be very blunt about it, I do not believe that Dr. Carter was a passive participant.

I have a memo dated April 20, initialed by Dr. Carter, which recommends approval of the Defense Department to procure four Russian TOPAZ nuclear reactors. Four Russian TOPAZ nuclear reactors were recommended for procurement by Dr. Carter.

I would say to my colleagues, these documents indicate a clear participant—not an inactive participant, not a passive participant—in Defense Department activities. He is someone who is involved in all phases of policy formulation and implementation. I might add, based on some of the other names that seem to appear that have not yet been approved, this problem is widespread.

To the chairman's credit, Chairman NUNN, I think this practice has subsided somewhat—but up until that point, this was going on throughout the Defense Department.

So after a series of meetings in which members of the committee met with Dr. Carter and other DOD officials, I prepared a series of questions that I felt needed to be answered by Dr. Carter before I could remove my hold on the nomination.

My intention was not to unnecessarily delay the nomination. I think the votes are there to send Dr. Carter to his position. But I think the Senate, frankly, is making an error not to defend the advice-and-consent responsibility that it has and bring the administration up short on this one. I think there are others that probably have done the same thing. But Dr. Carter is the pending nomination.

I forwarded to him a series of questions, and I want to read them because they further the case that I am making. I think it is important that you hear the answers to those questions. They were very forthright, very specific questions. There was nothing catchy in them. I simply wanted answers, and DOD responded very quickly, I might add, to their credit.

In a letter, I indicated that I felt that these issues were very serious and ought to be answered prior to Senate floor consideration of the nomination. I have been prepared ever since those response on June 11 to debate this matter on the floor. I never intended to delay it but rather to debate it fully. And I made that affirmation to the chairman.

Unfortunately, the responses that I received from Dr. Carter, in my opinion, were not accurate, and I am going to be specific. In certain cases, I think the responses were vague, somewhat ambiguous, and downright misleading. Let me give examples.

Here is one question that I asked:

Dr. Carter, have you ever officially represented DOD at White House interagency meetings?

Answer:

Interagency working group meetings on issues in the general area of nuclear security and counterproliferation took place at a rate, I would estimate, of about five to seven per week. I attended about one-fourth or one-third of such meetings. Invitations for me to attend such meetings were extended by the Acting Assistant Secretary of Defense for International Security Policy, by the Under Secretary for acquisition or the Under Secretary-designate for policy, and/or by the White House staff. I understood my role in such meetings to be to familiarize myself with the issue and with the personalities and the views of other Government agencies, and not to represent the Department of Defense.

In other words, he said: I was there to consult, not to represent. That is his answer.

Continuing:

I did, on occasion, voice my opinion, but I did not do so as the Department's official representative. On several occasions, I noted that I was not a confirmed official of DOD and could not speak for it. I understood the above-described activities to be consistent with my role as a consultant to the Department and within guidelines of potential nominees.

That was the answer, a pretty straightforward answer, I would say, in that case. He said he was there to consult, and did not make any decisions and did not act like a confirmed official. That is essentially what he said.

Let me go into that a bit. Dr. Carter states that invitations to these interagency meetings were provided by the Acting Assistant Secretary of Defense for International Security Policy, the Under Secretary for acquisition or the Under Secretary-designate for policy who, like Dr. Carter, is not a confirmed nominee.

So Dr. Carter insists he did not formally represent the Defense Department in these meetings. Well, who did? I have copies of Dr. Carter's schedule and the schedules of other principals which indicate that Dr. Carter alone was representing DOD at certain interagency meetings. There was no one who had been confirmed who represented DOD at those meetings.

I have the documents, Mr. President, and I ask unanimous consent that at

the end of my remarks, the copies of the schedules of Dr. Carter and other officials be printed in the RECORD.

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

(See Exhibit 1.)

Mr. SMITH. Mr. President, for instance, on March 30, at 9:30 in the morning, Dr. Carter attended an interagency working group meeting at the White House concerning the ABM Treaty and the Standing Consultative Commission. This meeting is not on the schedule of Bill Inglee, who is the Acting Assistant Secretary for International Security Policy, who would be the principal player on this issue. So it is not on his schedule. So if it is on Carter's schedule and not on Inglee's schedule, who is the official representative?

Moreover, that same day at 12 o'clock, Dr. Carter had a meeting scheduled on the highly enriched uranium agreement with the National Security Council but, again, Mr. Inglee was not a scheduled participant. If there is some proof out there that Inglee attended and it was not on his schedule, then I need to see that; but I have not seen it.

On March 31, at 12 o'clock, there was another meeting with the NSC concerning the highly enriched uranium agreement. Again, Mr. Inglee was not a scheduled participant.

Later that day, at 2 o'clock, Dr. Carter met with the NSC regarding Iran and, again, the Acting Assistant Secretary for International Security Policy was not a scheduled participant, even though this issue clearly fell in his area of responsibility.

On April 13, at 1 o'clock, Dr. Carter attended an interagency working group meeting on Presidential decision directive No. 3. Again, this sounds an awful lot like policymaking, yet no Mr. Inglee. He was not a scheduled participant. Who was the policymaker present at those meetings, Mr. President?

On April 15, at 3:45, Dr. Carter was driven to the White House for a 4 o'clock meeting on Ukrainian nuclear issues, and yet, again, Mr. Inglee was not a scheduled participant even though this issue falls squarely, directly under his area of responsibility.

We have an individual who is an adviser, who is not confirmed, who says he is not engaged, and he is being driven to meetings and participating in meetings, making decisions in meetings where the people who are confirmed, who are supposed to be the policymakers are not even on the schedule. That does stretch the bounds of truth, Mr. President.

On April 23, at 2 o'clock, Dr. Carter attended another meeting with Strobe Talbott on the implementation of the Vancouver aid package for Russia. Yet, again, the key decisionmaker, Mr. Inglee, was not a scheduled participant.

Let me say to my colleagues if Dr. Carter was not representing the Defense Department at these meetings, who was? Who was? If anyone has that information, I wish they would provide it.

It is my understanding that the majority leader would like recognition. I would be more than happy to yield to the majority leader at this time.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that my remarks appear in the RECORD so as not to interrupt the remarks of the Senator from New Hampshire.

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

Mr. MITCHELL. I thank my colleague for his courtesy.

Mr. President, my understanding is that on this matter, it having been thoroughly explored, there is no objection to a vote occurring shortly. Therefore, I now ask unanimous consent that the vote on the pending nomination of Ashton Carter to be Assistant Secretary of Defense occur at 6 p.m. today, and that the time between now and then be distributed—in what manner would my colleagues like that time distributed?

Mr. SMITH. Under the circumstances, at this point I would have to object to 6 o'clock because there is at least one other Member who wishes to speak, I am told. I do not want to be unreasonable. I am willing to grant a reasonable time for the convenience of Members. I am almost finished here, but there is at least one other Senator on our side, so I would not want to share that time at this point.

Mr. MITCHELL. Mr. President, would my colleague be agreeable that that gives us 25 minutes, if the time were divided 5 minutes to Senator NUNN and 20 minutes under the control of the Senator from New Hampshire?

Mr. SMITH. Would the leader agree to 6:15? I think Senator NUNN should have time. In 20 minutes, I can complete my remarks and Senator NUNN can have 15 minutes or yield back if he wishes. I need about 20 minutes.

Mr. NUNN. If the Senator will yield, could I suggest to the majority leader we say the vote occur no later than 6:15? And perhaps we could make it earlier.

Mr. MITCHELL. That is fine so long as Senators understand that.

Then, Mr. President, I modify my request to ask unanimous consent that a vote on the pending nomination occur no later than 6:15 p.m. today, and that the time between now and then be divided 15 minutes under the control of Senator NUNN and 25 minutes under the control of Senator SMITH.

Mr. SMITH. No objection.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH. No objection.

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

Mr. MITCHELL. Mr. President, all Senators should understand that there is no guarantee that the vote will occur at 6:15. It may occur before that. Senator NUNN has already indicated he does not intend to use all the time he has. So we expect that time will be yielded back.

Then it is my hope, following this vote, to proceed to the next nomination on the list, to which I earlier referred. So Senators should be aware of that. It has taken, for a variety of reasons, somewhat longer to get to this vote than we had anticipated initially, so we will proceed in that fashion, and this vote will occur no later than 6:15 and we hope sometime before that.

Mr. WARNER. Mr. President, will the majority leader kindly indicate, is there likely to be a second vote on the second nomination?

Mr. MITCHELL. I do not know about the vote because I have not had a chance to find out what our colleagues' time requirements are on that, but I certainly intend to proceed to the second nomination right after this. If we can get a vote, I would like to do that. If not, I would like to discuss how best to proceed on that.

Mr. WARNER. Mr. President, I thank the distinguished leader.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I would like to say to my colleagues, if Dr. Carter was not representing the Defense Department at these meetings, who was? I have asked that question on a number of occasions to a number of people both on the floor and to other individuals, and I have not received an answer to that question. Clearly not the civilian charged with responsibility for these important issues.

The Acting Assistant Secretary for International Security Policy was not scheduled to attend a single one of these policy and interagency meetings. I think that is very significant, Mr. President. He was not scheduled to attend any of them. It is one thing to not attend. That happens frequently. We get many events on our schedule cards that we cannot keep from time to time and send subordinates occasionally, but in this case he was not even scheduled, and he is the chief policymaker. I think, to be very candid, he was not scheduled because he felt he had a representative there, and it was Dr. Carter.

On May 12, at 11:30, Dr. Carter attended a meeting with a Mr. Vos, of the Standards and Conduct Office, and this must be the formal briefing the Defense Secretary alluded to in his letter to Senators NUNN and THURMOND where nominees were briefed on how to behave prior to confirmation. But apparently this meeting occurred a little bit

late because Dr. Carter had been actively representing the Defense Department in policy meetings for some 2 months by this time, in direct violation of the Secretary's regulation.

So, Mr. President, again the Defense Secretary alludes in his letter to Senators NUNN and THURMOND where nominees were briefed on how to behave prior to confirmation. This meeting occurred late because Dr. Carter had been actively representing the Defense Department in policy meetings for 2 months by this time. Mr. Carter simply did not make an accurate representation of the facts.

Another question I asked Dr. Carter:

Have you participated in any discussions or decisions regarding an arrangement between the Russian Federation or any other former Soviet state and the U.S. involving the sale of highly enriched uranium to the United States?

That question was posed in writing. Dr. Carter responded in writing:

The HEU agreement with the Russian Federation was the topic of numerous meetings and discussions that I attended. Though DOD did not have lead responsibility for this issue within the U.S. Government, the Secretary viewed it as an important aspect of facilitating nuclear weapons dismantlement in the former Soviet Union. The Secretary and other DOD officials asked me for my advice on this issue in view of my familiarity with issues relating to nuclear power technology and with nuclear dismantlement in the former Soviet Union. My role was advisory and not decisionmaking.

That was the response from Dr. Carter to my question. He said, "My role was advisory and not decisionmaking." But then, in question 7, which was the following question, when asked to elaborate on his involvement in the HEU deal, Dr. Carter stated, "I have limited personal knowledge of this matter because my involvement was limited."

That is not what he said in the previous question. He said in the previous question,

The Secretary and other DOD officials asked me for my advice on this issue in view of my familiarity with issues relating to nuclear power technology and with nuclear dismantlement in the former Soviet Union.

These are less than candid responses to very serious questions, Mr. President. And I do not, frankly, think that they are the types of answers we should accept in our advise and consent role.

Which is it? In question 6, Dr. Carter indicated the HEU agreement was the topic of numerous meetings and discussions that he attended and that the Defense Secretary asked him for advice on the issue. Yet, in question 7, he says his knowledge on this issue is limited because his involvement is limited. These statements are a direct contradiction and, frankly, are blatantly evasive. If Dr. Carter knew enough on this issue to advise the Defense Secretary, I daresay he knew enough to answer my question, yet he pleaded ignorance, and I do not appreciate it and

I do not think the answer was forthright and truthful.

I wish to repeat a statement that I made earlier. As Senator BYRD so aptly pointed out in his book in chapter 2, the advise-and-consent role of the Senate is very critical and ought to be taken very seriously by Senators.

That is why this issue is so important to the Senate today. I am debating this issue today in an effort to preserve the integrity of the advise and consent role of the U.S. Senate.

I asked Dr. Carter another question.

Have you taken steps or issued policy guidance or directives regarding any of the following: nuclear weapons targeting or the SIOP; START I and/or START II compliance; force structure levels or weapons deactivation under those treaties; removal of any launch-essential components or capabilities of either Trident, SLBM's or ICBM's?

He said:

I did not issue authoritative policy guidance or policy directives. Consistent with my role as a consultant, I provided advice and analysis as requested. On occasion that advice was in writing. On occasion, I also reported to others positions advocated by the Secretary. I understood this to be proper and consistent with my stated role.

I cannot recall doing analysis or giving advice regarding nuclear weapons targeting or the SIOP, though these topics fall within the general areas upon which Secretary Aspin asked me to advise. I did advise Secretary Aspin on the related issue of how the U.S. could respond to Russian President Boris Yeltsin's detargeting proposal at the Vancouver summit.

He also said:

I cannot recall doing analysis or giving advice on START I or START II compliance, though these topics fall within the general areas upon which Secretary Aspin asked me to advise.

He said again:

I do not recall. I did advise Secretary Aspin on the issue of what steps the United States could take to ensure that Russia, Ukraine, Kazakhstan, and Belarus carried out their obligations under the START agreements.

I cannot recall doing analysis or giving advice on force structure levels on weapons deactivation regarding U.S. forces, though these topics fall within the general areas upon which Secretary Aspin asked me to advise.

The Secretary asked him to advise on these, but he cannot recall giving advice. I really find that hard to believe, to be blunt about it. He said:

I gave advice on means that the U.S. could take to ensure and hasten deactivation of Russian/CIS forces.

I attended briefings and provided Secretary Aspin with advice regarding whether and how the U.S. should respond to Russian "detargeting" and "strategic disengagement" proposals. A number of options were analyzed and those details are classified.

He cannot recall doing analysis or giving advice? He cannot recall that on issues as important as nuclear weapons targeting; or START I and START II; or force structure levels; or removal of launch-essential components of Trident, SLBM's, or ICBM's? He cannot

recall sitting in a meeting and giving advice to the Secretary of Defense on those matters?

Mr. President, with all due respect, that is an insult to the U.S. Senate to get an answer like that. If he said I did not do it, whether we believe it or not is up to us. He says that he cannot recall doing that. That is an insult.

He admits that is why he was there in the first place. He said he was there to give advice on those matters and says he cannot recall giving the advice. At the very least this misrepresents Dr. Carter's involvement and his knowledge level.

Mr. President, I do not often quote Senator BYRD. But I have done it quite a bit today.

In Senator BYRD's book, he quotes a man that many of us know, Tom Korologos. And Korologos said of his advice to nominees for confirmation hearings:

If I could put the prospective nominees through a mock hearing, to prepare them for the Senate, I would fire the most rottenest, most insulting questions in the world at them.

Well, I did not fire rotten, insulting questions at Dr. Carter. I asked honest, straightforward questions. And I got "I do not recall" giving advice even though I was asked to go there to give advice on such things as strategic arms reductions and the other things I mentioned.

Korologos goes on to say, according to Senator BYRD—I will repeat them, because I think they apply to what we are talking about. No. 1, he says with respect to a nominee:

Model yourself after a bridegroom at a wedding. Be on time, stay out of the way, and keep your mouth shut.

No. 2:

Between the day of nomination and the day of confirmation, give no speeches, write no letters, make no public appearances. Senators don't like to read about the grand plans of an unconfirmed nominee.

No. 3:

You may have been a brilliant victor in the corporate world or some other field of endeavor, but the Senate expects you to be suitably humble and deferential, not cocky.

No. 4:

There is no subject on Earth that the Senate is not free to probe. But ready with polite, and persuasive answers.

They might have been polite, Mr. President, to my questions. But they sure as heck were not persuasive. I think they were evasive.

I am going to conclude, Mr. President, by making one thing very clear. My opposition to Dr. Carter's nomination is not partisan and it is not ideological, even though I disagree with him on much of the background information that I have read in terms of policy. My disagreement concerns the integrity of the advise and consent process of the U.S. Senate.

This is a man who clearly is evasive in the responses that he has given to

our committee, and to the U.S. Senate. My objection to his nomination stems from the fact that I believe he knowingly and repeatedly violated Defense Department regulations governing the actions of nominees. He admitted doing that, in at least one case. He did not admit doing it in other cases, although the evidence indicates that he did.

Have other people done similar things? Yes, other people have done similar things. Is it a major crime? No. But it is a violation that denigrates the integrity of the process that the Constitution asks us to uphold; the advise and consent role.

It is not a matter which the Senate should take lightly. Some may rationalize Dr. Carter's action by saying his case is not unique, everybody does it. I say to my colleagues that is precisely the problem. Everybody is doing it. That is the problem.

That is why this nomination should not be confirmed. If nominees are allowed to dictate policy in our Government, there is no accountability to the American taxpayer. Where is the accountability for an unconfirmed nominee to be dictating policy and then not responding accurately to questions asked by U.S. Senators. It obviates the constitutional separation of powers, which is fundamental to our democracy.

Without checks and balances, such as the Senate's advise and consent, American Government becomes illegitimate and vulnerable to corruption and conflict of interest.

Dr. Carter had three jobs at the time he was directing policy. He was being paid by Mitre Corp., Harvard University, and the Defense Department, all at once while awaiting confirmation. At the same time he was engaging in policy level decisionmaking on extremely sensitive strategic nuclear issues in direct violation of Defense Department regulations as outlined by the Secretary of Defense, and reiterated by Senators NUNN and THURMOND. And he still violated them. And when he came to the Senate for his confirmation hearing, he said he did not do it, but then later said he did and apologized.

That is what bothers me the most, Mr. President; the fact that he misrepresented his actions in testimony before the Armed Services Committee, when the chairman asked the question. He said he had not made any authoritative decisions or provided authoritative guidance and as I have illustrated, this was simply not the case. Mr. Carter did. He knows he did. He admitted he did. The question is the degree that he did it.

Dr. Carter has actively and repeatedly engaged in policy formulation and implementation and the facts support that conclusion.

He has represented the Defense Department in interagency meetings,

signed documents repeatedly, and provided authoritative guidance on a broad range of issues. Most disturbingly, he misrepresented his activity to the U.S. Senate and does not deserve to be confirmed. I do not care how knowledgeable he is. If he was President Bush's appointee, I would be standing here saying the same thing.

As a result, I have strong reservations over his credibility and ability to deal in a forthright nature with the Armed Services Committee and the Senate. I think it was an act of disrespect, frankly, to the chairman of the Armed Services Committee, who, again, in an effort to give him the opportunity to correct the record, asked him the question, and he still said no. Although he did confirm that later and apologized, the point is that he misrepresented the facts publicly on the record.

I urge my colleagues to carefully consider this nomination. The integrity of the advise and consent process of the U.S. Senate is at stake. A lot of words are thrown around here, and many times they are empty. We ought not to be throwing empty words around about the integrity of the Constitution of the United States. I came here to uphold the Constitution. It is a heck of a lot more important than one individual. It is more important than me, Ashton Carter, or even the President of the United States. The Constitution must prevail. In every crisis we have had, from Watergate to Irangate, the Constitution has prevailed. The system worked.

But our failure to appropriately execute the advise and consent obligation on this nomination threatens to stain the integrity of this institution. I ask my colleagues to, before the vote, look at the facts, study them, and make a decision based on what is appropriate to preserve the integrity of the process of advise and consent in the Constitution, not on the basis of politics or an individual who is far less important.

I yield the floor.

DR. CARTER'S SCHEDULE, WEDNESDAY, 17 FEBRUARY (REV NO. 1)

0800—Wisner Staff Meeting.
0945—LTGEN Teddy Allen, Dir, Defense Security Assistance Agency (courtesy call).
1000—LTGEN Ed Leland, Dir, J-5, Strategic Plans and Policy (courtesy call).
1100—Scooter Libby.
1300—POAC.
1300—Working Lunch [trays] w/Mr. Miller [et al], Prep for Interagency Group Meeting (Thurs, 18 Feb, 0900).
1500—Dr. Deutch, 3E 1006.
1530—VADM Dick Macke, Dir, Command & Control, Joint Staff (courtesy call).
1700—Meeting at National Academy of Science, Main Bldg.
1900—German Marshall Fund Dinner, Nora's Restaurant.

MR. INGLEE'S SCHEDULE, WEDNESDAY, 17 FEB 93
0830—Morning Brief.
1100—SecDef Mtg w/GE MOD Ruehe.
1300—Closure of NATO Site 43.

DR. CARTER'S SCHEDULE, TUESDAY, 30 MARCH
8:00—Policy Video Conf.

9:00—(CCC).
9:30—IWG Mtg @ NSC.
11:00—(Re: ABM/SCC).
11:15—Lunch w/D. Poneman.
12:00—Mtg w/D. Poneman & T. Graham.
12:45—(Re: HEU, Rm. 208).
1:00—Brussels Debrief w/F. Wisner.
1:45—(DepSecDef's Ofc).
3:00—Mtg w/F. Miller & M. Schneider.
4:00—(Re: Ballistic Missile Defense).
4:30—Mtg w/B. Auster & S. Strednansky.
5:00—(Re: Proliferation Interview).
MR. INGLEE'S SCHEDULE, TUESDAY, 30 MAR 93
0830—Morning Brief.
1000—Mtg w/German Parliamentarians (W. Wimmer, W. Kolbow & Col. Mueller).
Re: CSCE.
1400—USD(P) Staff Mtg.
SCHEDULE FOR MR. LOCHER, SENIOR CIVILIAN OFFICIAL—USD(P) WEDNESDAY, MAR. 31, 1993
0800—Mr. Wisner Staff Mtg.
0900—Mtg w/Gen Joulwan and Mr. Wisner.
1400—Briefing by DSAA to Mr. Wisner.
1500—SO/LIC Staff Mtg.

DR. CARTER'S SCHEDULE, WEDNESDAY, 31 MARCH (REV#1)

8:00—Policy Staff Meeting.
8:45—Coordinating Staff Meeting.
9:30—Dr. Perry and Dr. Deutch rm 3E944.
10:30—SDI Brfg on International.
10:45—rm 3E 1006.
12:00—Poneman Mtg on HEU, rm 208.
1:00—Prof Paul Doty.
2:00—Poneman Mtg on Iran, rm 208.
3:00—SDI Brfg On Weapons Lethality.
4:00—Mr. Wisner/Mr. Miller.
4:15—Mitchell Wallerstein.

MR. INGLEE'S SCHEDULE: WEDNESDAY, 31 MAR 93

0845—Coordinating Staff Mtg.
1000—Mtg w/D. Cooke.
1400—Mtg w/T. Parker.
SCHEDULE FOR MR. LOCHER, SENIOR CIVILIAN OFFICIAL—USD(P) WEDNESDAY, APR. 7, 1993
0800-0830—Wisner staff meeting.
0900-1000—Interview with Col. Pearce.
1100-1330—Appointment with Dr. Litman.
1400-1500—SF briefing W/LTC Davis, BG Dubia, BG Taylor & Mr. Dominguez.
1500-1600—SO/LIC staff meeting.
1600-1630—Bottom-up review of strategy, forces and programs W/PD, DASDS & Dr. Lamb.

DR. CARTER'S SCHEDULE, WEDNESDAY, 7 APRIL

8:00—Policy Staff Meeting.
9:30—Coordinating Staff Meeting.
10:00—Gen Klugh.
11:00—Pantex Brfg.
12:00—"Try" POAC.
1:45—Courier to OEOB.
2:00—Toby Gati, Amb Goodby, Eric Edelman OEOB 368.
3:30—Jim Hinds, SecDef Rep for Forum Security Cooperation.
4:15—Courier to State Department.
4:30—Amb Winston Lord, State 5205.
5:30—Courier to Pentagon.
6:00—RAND Working Reception, 2100 M Street, NW.

MR. INGLEE'S SCHEDULE: WEDNESDAY, 7 APR 93

00845—Morning Brief (4E838).
0930—Coordinating Mtg
1000—Mtg w/Cal Vos, SOCO
1100—Pantex Briefing by Steve Guidice & George West Re: Dismantlement Ops

DR. CARTER'S SCHEDULE, TUESDAY, 13 APRIL

8:00—Policy Video Conf, CCC
8:30—Mtg w/ Messrs. Wisner & Freeman
8:45—Re: Korea
9:30—Coordinating Staff Meeting
10:30—Charles Kelley, RAND

11:00—Tom Parker, Interview
 11:30—Amb Ted McNamara, Ass't to Gallucci
 11:45—Courier to OEOB
 12:00—lunch w/Dan Poneman, OEOB 380
 1:00—IWG on PDD±3, OEOB 208
 2:30—Poneman Brainstorming session on COCCOM and ExportControls OEOB 380.
 4:00—Courier to Pentagon.
 [4:00—W/T Topics due].

MR. INGLEE'S SCHEDULE: TUESDAY, 13 APR 93
 1000—Mtg w/Mr. Scher.
 DR. CARTER'S SCHEDULE, THURSDAY, 15 APRIL
 7:30—Breakfast w/Dr. Perry, 3E944.
 [8:00—Policy Staff Meeting.]
 9:00—Slocombe Mtg on Contingency Plan/Bastion Paper, 4E829.
 11:00—FARR Brfg.
 12:30—POAC.
 2:30—Ken Flamm.
 3:00—Dorothy Zinberg.
 3:45—Courier to OEOB.
 4:00—IWG on Ukraine Nuc Issues OEOB 208.
 4:45—Courier to Pentagon.
 5:00—Swearing-In Ceremony/Reception iho Dr. Deutch, 3E869/912.

MR. INGLEE'S SCHEDULE, (THURSDAY, 15 APR. 93)
 0930—Coordinating Staff Mtg.
 1700—Swearing-in Ceremony for John Deutch (3E869).

DR. CARTER'S SCHEDULE, FRIDAY, 16 APRIL
 8:30—Policy Staff Meeting.
 9:30—Coordinating Staff Meeting.
 (T) 11:45—Larry Smith, 3E 856.
 (2:00—Steering group meeting, Russia, Ukraine, New Independent States, State 7516).

2:00—Courier to Residence/AP.
 Reminders: Lisa Burdick, Inglee/Joseph (prebrf).

MR. INGLEE'S SCHEDULE, (FRIDAY, APR. 93)
 1215—Lunch w/Mr. Hadley (Blue Room).
 1400—HASC Briefing (Rayburn Bldg.).
 DR. CARTER'S SCHEDULE, FRIDAY, 23, APRIL 93
 8:30—Policy Staff Meeting.
 9:00—Michael May.
 9:30—Dr. Perry w/Michael May, 3E944.
 10:00—Coordinating staff meeting.
 11:30—"TRY" POAC.
 2:00—Talbot Mtg on Implementation of Vancouver Package for Russia, State 7516.
 4:00—Jim Miller.
 7:00—JASON Reception., JW Marriott Hotel, Capitol Ballroom., Pennsylvania Ave.

MR. INGLEE'S SCHEDULE, FRIDAY, 23 APR 93
 No schedule.

MR. WISNER'S SCHEDULE—WEDNESDAY, MAY 12
 0730—Breakfast with Roland Evans, Metropolitan Club.
 0900—Appt. with Dr. Kossack, 1634 Eye Street., N.W., Suite 406.
 1000—50th Anniversary Ceremony of the Pentagon, River Entrance, followed by SecDef's private reception in Room 3E912.
 1100—Courtesy call by Lt. Gen. Mike Ryan (replacing McCaffrey).
 1200—Luncheon w/Liz Drew, Metropolitan Club.

1330—Amb. Charles Thomas (Hungary).
 1400—Meeting with Gordon Adams, Assoc. Dir for Natl. Security & Intrntl. Affairs OMB, w/Halperin and Locher.
 1500—Gen. David Ivry, DirGen Israeli Defense Ministry.

1600—Briefing by Commander Ingram on Special Access Programs
 1800—Mr. Francisco Villa, Secy Gen. Political Affairs, Spanish MFA.

1930—Reception/Dinner Speech, Defense Science Board, Army Navy Club, Farragut Square, N.W.

MR. SLOCOMBE, WED. 12 MAY 93
 0900-0930—Policy Bfg to SecDef.
 0945-1000—D. Johnson/Prbrf Teleconf.
 100-1100—Teleconf, COC.
 1130-1200—Lt Gen Mike Ryan, USAF, Asst to CJCS/CC (Here).

1600-1630—Wisner's Ofc/Special Program Briefing.
 1815-1900—Defense Gp Mtg Chrd by Dr. Deutch, 3E928.

1930—Personal Engagement/Roslyn.
 SCHEDULE FOR GRAHAM ALLISON, WEDNESDAY, MAY 12, 1993, AS OF 5/11, 1830

10:00—River Entrance-Ceremony re 50th Anniversary of Pentagon (Reception follows in Rm 3E912)

12:40—Depart River Entrance
 13:30—Mtg w/Nick Burns re: Kokoshin Visit, Rm 368 OEOB
 1400—Return car.
 1500—General Leland (15 mins) Farewell call.

DR. CARTER'S SCHEDULE, WEDNESDAY, 12 MAY
 8:30—DSB Spring Meeting 3E869
 9:30—Coordinating Staff Meeting
 10:00—Ceremony/Reception iho Pentagon 50th Anniversary Hb SecDef, River Entrance/3E912.

11:30—Mr. Vos, Standards of Conduct Ofc
 12:00—Lunch w/DSB
 1:30—Blue Rm
 1:30—Bruce Burton
 2:00—North Korea Working Group
 4:00—Messrs. Rostow and Knapp.
 4:20—re Update on Conf on Disarmament.
 7:00-8:00—DSB Spring Dinner (Cocktails).
 8:00-9:00—Dinner.
 9:00-10:00—Speaker.
 Army/Navy Club, 901 17th St., NW.

MR. INGLEE'S SCHEDULE, WEDNESDAY, 12 MAY 93
 0845—ISP Morning Brief.

Mr. NUNN addressed the Chair.
 The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I would like to inquire of my friend from New Hampshire whether there are other speakers coming that he knows of. The majority leader, I am sure, would like to go ahead on the vote whenever we can. I am prepared to yield back my time after a few concluding remarks.

Mr. SMITH. Mr. President, there are no other speakers that I am aware of. I have completed my remarks, and I am prepared to yield back any time—in fact, I will yield any time that I have.

Mr. NUNN. Mr. President, I want to make sure the majority leader understands that we are prepared to go to a rollcall vote at this point. Let me conclude by saying that we have gone into this matter very thoroughly in the Armed Services Committee.

A mistake was made; there is no doubt about that. I think it was an innocent mistake by Dr. Carter. Knowing him as I do, I am confident it was an innocent mistake. He exceeded the guidelines of the Secretary of Defense and the committee. I believe the underlying reason is because we are getting into more and more problems in the executive branch with more and more delay. People are being put in a position of spending months and months and months in limbo, so to speak, hav-

ing in most cases given up their own positions and gone on to what they hoped would be an executive branch position. Yet, the process goes on and on and takes longer and longer.

So this was a mistake. I think it was inadvertent. I believe Dr. Carter is superbly qualified for this job.

I understand the points being made by the Senator from New Hampshire, and I understand the dedication he and the Senator from Idaho have to the confirmation process. I share that, but I believe the Senate should confirm this nomination.

I urge my colleagues to vote for this nomination. I also would like to say that Senator THURMOND, the ranking Republican member, supports this nomination and has so indicated earlier in the day. So I hope we will have very strong bipartisan support for this nominee.

Mr. President, I yield the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. 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. LOTT. Mr. President, I agree with my colleague from New Hampshire. The issue here is not will Ashton Carter do a good job. The issue is: Has Mr. Carter exceeded his authority as a consultant to the Department of Defense while he awaits confirmation.

The rules are clear on this issue. The Office of Personnel Management, the Office of Management and Budget, the Secretary of Defense, and the Department of Defense general counsel have all clearly stated that consultants are prohibited from performing as officers of the U.S. Government.

During Mr. Carter's confirmation hearing on May 25, 1993, Mr. Carter clearly, stated—in response to a question from the chairman—that he had not made any "authoritative decisions or provided authoritative guidance while serving as a consultant.

According to a May 17, 1993, Internal DOD memo, Mr. Carter directed the transfer of funds from the Nunn-Lugar account to the Defense Nuclear Agency [DNA]. This decision memorandum, signed by Mr. Carter, clearly violates the guidance of OPM, OMB, the Secretary of Defense, and the DOD general counsel—not to mention the legitimate authority of consultants to the U.S. Government.

At the same time Mr. Carter was on three different payrolls. He was being paid by the Mitre Corp., a defense contractor. He was being paid by Harvard University—another recipient of large amounts of Defense Department funds. Mr. Carter was also being paid directly

by DOD as a consultant. All while awaiting confirmation.

In a June 1, 1993, letter to Secretary Aspin, Mr. Carter acknowledged his violation of these rules for consultants and apologized for his indiscretion. I applaud his forthright attitude, but I do not believe his apology is sufficient to waive the principle at stake.

I want to emphasize two specific points:

First, Mr. Carter is fully qualified for this position. His background is extensive and accomplished in this area. He is capable of doing the job.

Second, there is a clear precedent for objections to any nomination for improper activities of nominees prior to confirmation.

In fact, the Democrats helped establish this precedent in 1981. One Member from the other party challenged a nominee of President Reagan to the Department of Energy.

He raised many issues of concern, but he particularly stressed the legal restrictions which face consultants.

I also remember a former staff person from the Senate Appropriations Committee, Mr. Sean O'Keefe, was challenged by the Senate Armed Services Committee. Why was he challenged? Because Secretary Cheney asked him—prior to his confirmation to the position of comptroller—to brief him on unauthorized appropriations.

Mr. President, Sean O'Keefe was not an employee of any defense contractor. He was a staff person from the Senate Armed Services Committee.

Mr. O'Keefe was properly confirmed as comptroller of DOD—he did not do anything wrong. But the Senate Armed Services Committee still voiced concern about his activities prior to confirmation. So, it is important to understand that the Members from the other party has helped establish the precedent of questioning nominees about their activities prior to confirmation.

If the Senate confirms Mr. Carter, we are changing the rules and making an exception where one should not be made.

I want to ask my colleagues, if we confirm any nominee who violates the rules, why do we bother confirming nominees at all? Is it the intention of the Senate to allow any nominee to serve in any capacity prior to confirmation? I hope not.

Are we witnessing the application of unequal rules in the pursuit of this nomination? Mr. President, we must apply the rules to all nominees at all times. It is inappropriate to apply one set of rules to Democrat nominees and another set to Republican nominees.

For these reasons, I oppose the nomination.

Mr. WARNER. Mr. President, I would like to add my voice in support for the nominee, Mr. Carter. I have known him and worked with him for many years. I am confident he will do a very credible

job in this new position if confirmed by the Senate.

Mr. NUNN. Mr. President, I believe the yeas and nays have been ordered. I urge my colleagues to support the nomination.

The PRESIDING OFFICER. The question is on the confirmation of Ashton B. Carter.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAU], the Senator from Connecticut [Mr. LIEBERMAN] is necessarily absent.

I also announce that the Senator from Washington [Mrs. MURRAY] is absent because of illness.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY], the Senator from Connecticut [Mr. LIEBERMAN] would vote "yea."

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. GREGG], and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I also announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 18, as follows:

[Rollcall Vote No. 191 Ex.]

YEAS—76

Akaka	Faircloth	McCain
Baucus	Feingold	Metzenbaum
Bennett	Feinstein	Mikulski
Biden	Ford	Mitchell
Bingaman	Glenn	Moseley-Braun
Bond	Gorton	Moynihan
Boren	Graham	Nunn
Boxer	Harkin	Packwood
Bradley	Hatch	Pell
Bryan	Hatfield	Pryor
Bumpers	Hefflin	Reid
Byrd	Hollings	Riegle
Campbell	Hutchinson	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Sasser
D'Amato	Kennedy	Shelby
Danforth	Kerrey	Simon
Daschle	Kerry	Simpson
DeConcini	Kohl	Thurmond
Dodd	Lautenberg	Warner
Domenici	Leahy	Wellstone
Dorgan	Levin	Wofford
Durenberger	Lugar	
Exon	Mathews	

NAYS—18

Brown	Gramm	McConnell
Burns	Grassley	Nickles
Cochran	Helms	Pressler
Coverdell	Kempthorne	Smith
Craig	Lott	Stevens
Dole	Mack	Wallop

NOT VOTING—6

Breaux	Lieberman	Murray
Gregg	Murkowski	Specter

So the nomination was confirmed.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, has action been taken on the motion to table?

The PRESIDING OFFICER. It has been agreed to.

Mr. NUNN. I thank the Chair.

Mr. President, I ask the President be notified of the Senate's consent to the nomination of Ashton Carter.

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

NOMINATION OF GEORGE T. FRAMPTON, JR., TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to Executive Calendar No. 229, the nomination of George T. Frampton, Jr., to be Assistant Secretary for Fish and Wildlife of the Department of the Interior.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of George T. Frampton, Jr., of the District of Columbia, to be Assistant Secretary for Fish and Wildlife.

There being no objection, the Senate proceeded to consider the nomination.

Mr. CRAIG. Mr. President, for the next few moments I will speak in opposition to the nomination of George Frampton. It is my understanding this debate will be carried over into the session tomorrow.

But let me be very clear this evening.

Mr. President, George Frampton has been nominated by President Clinton to serve as Assistant Secretary for Fish, Wildlife and Parks. And the Committee on Energy and Natural Resources reviewed this gentleman's qualifications and circumstances around his nomination. It is in those reviews that my concern has grown.

Let me be very clear that my opposition to Mr. Frampton is not because we believe, or many of us who serve on that committee believe, that he has violated the commitment he has as a consultant to serve this administration without taking strong directive and managerial activity during that period.

Many of us who examined Mr. Frampton's background and some of the documents that he signed off on believe that, in fact, he did take action serving, if you will, as that Assistant Secretary directing certain mandates that our President had proposed through the Secretary of Interior as it relates to the U.S. Fish and Wildlife Service. And in that, we do believe that he violated his relationship as a consultant.

But beyond that, I have had the opportunity to work with Mr. Frampton over the years on a variety of issues, during which time he served as president of the Wilderness Society. I can tell you that anything I might say this

evening or tomorrow about Mr. Frampton is in no way a reflection of the man as a person or his individual qualifications. I have all due respect for Mr. Frampton as an individual.

What I am strongly concerned about, as a Senator representing a western public lands State, is the authority and the responsibility that George Frampton will have serving as Assistant Secretary of Fish, Wildlife and Parks, especially as it relates to the implementation of the Endangered Species Act.

Clearly, as president of the Wilderness Society over the years, Mr. Frampton has taken controversial positions, did so appropriately representing the constituency of his organization in a very outspoken way, has filed lawsuits, has strongly been the advocate of the environment as seen through the eyes of the policies of the Wilderness Society.

Although I disagree with many of those positions, I cannot argue that solely as it relates to Mr. Frampton, but what I am concerned about is that the improper implementation, the imbalance that could occur in the implementation of the Endangered Species Act could create great havoc in my State and in other western public lands States. For example, I and many others in the Senate feel that the handling of the spotted owl issue in the States of Oregon, Washington, and northern California was done in a way that could have been avoided, and the loss of some 27,000 jobs in the forest products industry could well have been avoided if he had not viewed the Endangered Species Act in an absolute, closed environment kind of an approach. It is that concern that I have, looking at the background of Mr. Frampton and his experience with the Wilderness Society that concerns me a great deal.

We are now experiencing in the watersheds of the Snake and Columbia River systems, which take in the entire States of Idaho, large portions of Oregon and Washington, and part of Montana, an endangered species, of course, known as the famous salmon that migrates through those watersheds and up into the high reaches of Idaho and other States for the purposes of spawning and reproduction.

It has been determined that one of those species is endangered, the others are threatened and that a plan of mitigation must come about. Obviously, Mr. Frampton will be deeply involved in effecting the plan and how it will be ultimately implemented on the ground. Although National Marine Fisheries is the lead agency, certainly U.S. Fish and Wildlife Parks Assistant Secretary will have a great deal to say, and it is with that concern that I speak in opposition to the nomination of this gentleman.

I will have a good deal more to say tomorrow as the discussion continues

on Mr. Frampton, but in opening this debate this evening, I wanted it to be understood that there were a good many of us who would speak in opposition to that.

With those brief comments in mind, I yield the floor.

Mr. WALLOP. Mr. President, I will vote in opposition to the nomination of George Frampton, Jr., to be Assistant Secretary for Fish, Wildlife and Parks. The Committee on Energy and Natural Resources reviewed certain documents related to Mr. Frampton's activities as a consultant while awaiting Senate confirmation.

Notwithstanding the formal opinions we received stating that these activities violated no law, regulation, guideline, or ethical standard, my view is that those conclusions are in part wrong, and the scope of their interpretation quite narrow. For example, I find it incredible that the OPM guidelines on consultants can be rendered meaningless, merely if a consultant is directed to take a prohibited action by a departmental official such as the Secretary's Chief of Staff did in the case of Mr. Frampton. In addition, I believe the opinions rendered totally ignored the fact that Mr. Frampton signed a contract which specifically provided that his services were to be advisory only.

More importantly, I believe Mr. Frampton's activities, coupled with other actions by this administration, demonstrate a cavalier attitude with respect to the rule of law, the spirit of the law, and for ethical guidance. In part, it is this pattern which I am also protesting here today.

For example, this administration has proposed a nominee for director of the Fish and Wildlife Service who may not meet the statutory qualifications set by Congress. This administration has made the Secretary of Energy the acting nuclear waste negotiator, in clear violation of the intent of the law. And, this administration has condoned activities, that we know about, by nominees such as Ashton Carter at Defense, and George Frampton at Interior, which cross the line for advice to action.

This pattern of conduct by this administration strikes at, and interferes with, our constitutional duty to consent to nominees of the President prior to those individuals assuming official duties. Consultants, such as Mr. Frampton, are only hired into that status because they are awaiting confirmation. That special status has a twofold purpose. First, it allows the nominees to distance themselves from their previous employment and second, it allows them to learn about the position for which they seek Senate approval. I emphasize, learn not act. I submit that this administration appears to not understand or appreciate that important distinction.

To be fair, I will state that the last response by the Department of the Interior demonstrates the first scintilla of contrition on the part of the Department on this matter. Moreover, Mr. Frampton, in a private meeting with me recently, in a very forthright manner, gave me his explanation of the matter. I appreciate and credit them both for those efforts.

Nevertheless, I believe this administration must be sent a strong message that the type of conduct by unconfirmed individuals, evidenced by Mr. Frampton's activities, is unacceptable to this Senator and to the Senate. I know of no more effective way to send that message than by voting "no" on this nomination.

I ask unanimous consent that certain nonconfidential documents provided to me and the committee be printed at this point in the RECORD.

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

DOCUMENTS TO BE SUBMITTED FOR THE RECORD

1. June 14, 1993 letter from Tom Collier to Senator Wallop.
2. June 9, 1993 letter from Senator Wallop to Secretary Babbitt.
3. June 7, 1993 letter from OPM Director King to Senator Wallop.
4. June 4, 1993 letter from Secretary Babbitt to Senator Wallop.
5. June 4, 1993 memorandum from DOI Solicitor Leshy to Secretary Babbitt.
6. June 4, 1993 memorandum from DOI Personnel Officer Eller to DOI Assistant Secretary, Policy, Management and Budget, Cohen.
7. June 1, 1993 memorandum from DOI Deputy Agency Ethics and Audit Coordination Official Paone to Secretary Babbitt.
8. May 28, 1993 letter from Senator Wallop to Secretary Babbitt.
9. May 26, 1993 memorandum from DOI Chief of Staff Collier to Gary Ellsworth.
10. March 1, 1993 contract between DOI and George Frampton.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
June 14, 1993.

HON. MALCOLM WALLOP,
U.S. Senate,
Russell Senate Office Building, Washington,
DC.

DEAR SENATOR WALLOP: Secretary Babbitt asked that I respond to your recent letter regarding George Frampton, the nominee for Assistant Secretary for Fish, Wildlife and Parks.

Before I do so, however, I would like to apologize to you for the way we have handled this entire matter since the time you originally raised it. Instead of firing off a memo to you and seeking opinions from our Personnel Office, the Solicitor's Office, and the Office of Personnel Management, we should have simply sought an opportunity to meet with you to discuss your concerns, and followed up the meeting with the written documentation you requested.

I would also like to explain to you the steps we have taken to try to ensure we avoid having one of our consultants cross over the line from "advice" to "action." I have met with each consultant as they have come on board, and discussed with them in some detail the importance of not "acting"

in any official capacity until they have been confirmed by the Senate. We took pains to make sure we located each consultant in an office outside of the area housing employees which they would supervise once confirmed; we discussed at length the need to avoid issuing directions to employees in their area, and the need to avoid being a decisionmaker. Instead, we looked to consultants to provide advice to the Secretary or to me according to specific requests from us.

I have had the privilege of serving in government before; in addition, much of my law practice over the past dozen years has dealt with government ethics issues. For these reasons, I am quite sensitive to the concerns you have expressed in your letter. I want to assure you that we have attempted to take appropriate steps to conduct ourselves within the existing constraints.

With respect to the particular memo which you raised in your June 9 letter, I made an oral request to George that he arrange the meeting. I looked to George as one of several consultants who provided advice to me and to the Secretary on how best to move the Secretary's new National Biological Survey initiative forward. On occasion, I asked George to arrange meetings to flesh out some of our strategy options. It was not my intention to have George in a position of making decisions or determining what instructions should be issued to the Fish and Wildlife staff. Obviously, it appears to you that we have come too close to the line with respect to this matter. Although, respectfully, I may not agree with that assessment, it is my intention that we stay far enough within the lines that we will not cause you to raise these questions with us. I am committed to making certain that we conduct our business that way in the future. I look forward to working with you and your staff.

Please let me know if you have any additional questions.

Sincerely,

TOM COLLIER.

U.S. SENATE, COMMITTEE ON ENERGY
AND NATURAL RESOURCES,

Washington, DC, June 9, 1993.

Hon. BRUCE BABBITT,
Secretary, U.S. Department of the Interior,
Washington, DC.

DEAR MR. SECRETARY: Thank you for providing the information which Senator Johnston and I requested on behalf of the Committee regarding Mr. Frampton's activities.

In the confidential material which you submitted for our review, there is an April 29, 1993 memorandum which Mr. Frampton wrote regarding the National Biological Survey. In my view, this document also demonstrates a crossing of the line from advice to action. Did Mr. Collier or any other official of the Department direct Mr. Frampton to send this memo as well? Was that direction in writing or once again orally given? If in writing, please provide me and the Committee with a copy of the document. If orally, please provide me with the name of the official giving the direction and the approximate time and circumstances under which it occurred.

Thank you again for your cooperation in this matter.

Sincerely,

MALCOLM WALLOP,
Ranking Republican Member.

U.S. OFFICE OF PERSONNEL MANAGEMENT,
OFFICE OF THE
DIRECTOR

Washington, DC, June 7, 1993.

Senator MALCOLM WALLOP,
Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: This is in response to your request to Secretary Babbitt that he obtain comments from the Office of Personnel Management on his explanation of certain activities of George Frampton, Jr., which occurred during Mr. Frampton's service as a consultant to the Department of Interior. Our comments, which follow, are based solely on documents provided by the Department.

(1) Mr. Frampton's appointment as a consultant to the Department under 5 U.S.C. 3109 appears to be in order.

(2) There are no Governmentwide regulations defining the appropriate uses of consultants. The Office of Personnel Management has issued guidance to agencies on this matter, which reflects case determinations made by the Comptroller General, through the Federal Personnel Manual (Chapter 304).

(3) Mr. Frampton's memorandum of May 18, 1993, could give the appearance that he was acting in a supervisory or managerial, rather than an advisory capacity, and thus, in contravention of OPM's guidance. In light of the Chief of Staff's letter to Minority Counsel Ellsworth, however, we cannot conclude that this was the case. While he neglected to so inform the addresses, Mr. Frampton's memo apparently only communicated a plan of action that he had recommended and the Chief of Staff had approved.

(4) We find nothing in the documents provided to demonstrate any violation of ethical standards.

A similar letter is being sent to Chairman Johnston.

Sincerely,

JAMES B. KING,
Director.

THE SECRETARY OF THE INTERIOR,

Washington, DC, June 4, 1993.

Senator MALCOLM WALLOP,
Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR SENATOR: In response to your letter of May 27, 1993, I have asked the Solicitor and representatives from the Division of Personnel Services and the Ethics and Audit Liaison Staff to review the legality and appropriateness of actions taken by Mr. George Frampton to determine if they violate the law, regulations, or ethical standards governing his work as a Consultant to the Department of the Interior (DOI).

As a result of this review, I am advised that there was no violation of applicable laws, regulations or ethical standards. Attached are the opinion papers which explain the applicable statutes, regulations, and policies governing the employment of, and performance of official functions by consultants hired by the DOI, as well as copies of all such applicable provisions. As requested, copies of all other Departmental correspondence and memoranda executed by Mr. Frampton during his service as a consultant are enclosed. Also enclosed are documents you requested in your May 28, 1993 letter.

A similar letter is being sent to Senator Johnston.

Sincerely,

BRUCE BABBITT.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, DC, June 4, 1993.

To: Secretary.

From: Solicitor.

Subject: May 27, 1993 Letter from Senators Johnston and Wallop Concerning George Frampton.

In a May 27, 1993 letter Senators Johnston and Wallop of the Senate Committee on Energy and Natural Resources state that allegations have been made that Mr. George Frampton's actions in his capacity as a consultant have violated "the law, regulations, or ethical standards" governing his work as a consultant. The allegedly improper activity to which they refer is a May 18, 1993 memorandum in which Mr. Frampton makes various assignments to Departmental employees concerning planning for the structure of the National Biological Survey (NBS). The Senators asked you for a written explanation of the legality and appropriateness of his issuance of the memorandum. You have asked me to examine whether Mr. Frampton has acted within legal requirements. I conclude he has acted legally.

Mr. Frampton was appointed as a consultant on March 1, 1993, under the authority of 5 U.S.C. §3109, which provides for the employment of experts and consultants where authorized by an appropriation or other statute. Section 104 of the Department's FY 1993 Appropriation Act, Pub. L. 102-381, October 5, 1992, makes the Department's appropriations available, in total amount not to exceed \$500,000, for services as authorized by 5 U.S.C. 3109. I have no reason to doubt the propriety of Mr. Frampton's appointment under §3109.

Section 3109 does not define the term "consultant". However, guidance from the Office of Personnel Management (OPM) in 304 FPM 1-2(1) (the subchapter governing the employment of consultants), provides a definition. It states:

Consultant means a person who serves primarily as an adviser to an officer or instrumentality of the Government, as distinguished from an officer or employee who carries out the agency's duties and responsibilities. A consultant provides views or opinions on problems or questions presented by the agency, but neither performs nor supervises performance of operating functions (23 Comp. Gen. 497).

Mr. Frampton's "Approval of Expert or Consultant Employment Request" (Form DI-370), states that he will consult "on matters dealing with technical policy evaluation regarding issues and procedures under current review by the incoming administration on the multiple-use management of public lands under the jurisdiction of the Department." The May 26, 1993 memorandum from the Chief of Staff to Gary Ellsworth, Minority Counsel, Senate Energy and Natural Resources Committee, describes the nature of Mr. Frampton's activities regarding the NBS. It explains that Mr. Frampton has participated in meetings and discussions of the NBS Implementation Team, and that he has offered advice and reviewed written documents. It also states that Mr. Frampton drafted and sent the May 18, 1993 memorandum, which made the various assignments to the NBS Implementation Team members, as the Chief of Staff's request.

I believe Mr. Frampton's actions are consistent with his status as a consultant. The fact that the May 18 memorandum he signed made assignments regarding NBS planning does not constitute "performance" or "supervision" of "operating functions." First, there are no "operating functions" of the

NBS, as it has not yet been established. Second, it is wholly consistent with the OPM's definition of consultant for Mr. Frampton to make the kinds of assignments set forth in the May 18 memorandum. All of the assignments related to how the NBS should be organized or how the process of establishing the NBS should be carried out. These assignments would generate the kinds of information Mr. Frampton would need to advise the Secretary on NBS matters. Finally, even if there were some question about whether the content of the May 18 memorandum was consistent with consultant status, the Chief of Staff's May 26 memorandum shows that Mr. Frampton was specifically acting at his direction, to relay Mr. Collier's wishes in planning the work of the NBS Implementation Team.

Accordingly, I believe Mr. Frampton's actions have been fully consistent with legal requirements.

JOHN D. LESHY.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,

Washington, DC, June 4, 1993.

To: Bonnie R. Cohen, Assistant Secretary—
Policy Management and Budget.
From: Sharon D. Eller, Personnel Officer.
Subject: Opinion regarding Consultant Ap-
pointment—George Frampton.

I am providing the following information in response to questions raised to the Secretary by Senators Johnston and Wallop.

Effective March 3, 1993 (Attachment 1), in accordance with 5 United States Code 3109 (Attachment 2), and the Interior Appropriations Act (Attachment 3), Mr. Frampton was hired as a Consultant in the Secretary's Immediate Office to work with technical policy evaluation regarding issues and procedures under current review by the Clinton Administration on the multiple-use management of public lands under the jurisdiction of the Department.

In accordance with the Federal Personnel Manual, Chapter 304-3, Subchapter 1, (Attachment 4), and 23 Comp. Gen. 497 (Attachment 5), a Consultant is a person who serves primarily as an adviser to an officer or instrumentality of the Government, and is distinguished from an officer or employee, who carries out the agency's duties and responsibilities. A Consultant provides views or opinions on problems or questions presented by the agency, but does not perform or supervise the performance of operating functions. Therefore, it is appropriately within an advisor's duties to establish a working outline for assisting in developing of new agency organizations.

As a Consultant, Mr. Frampton has been providing advisory services to the Secretary of the Interior on a variety of issues and procedures under current review by the Clinton Administration. With the creation of the National Biological Survey (NBS), and since Mr. Frampton is a renown environmentalist with significant experience in the management of the Wilderness Society, a national non-profit environmental membership organization whose primary emphasis is the preservation and protection of the Nation's wilderness and wildlife, and fostering of land use ethics, the Secretary of the Interior designated Mr. Frampton as his senior adviser to provide the Secretariat with feedback on current issues and procedures under review by the NBS Steering Committee and the Implementation Team. There is no chairman for the Steering Committee. The Implementation Team is co-chaired by career employees who conduct all meetings.

The May 18, 1993, NBS memorandum (Attachment 6), signed by Mr. Frampton made assignments, at the direction of the Chief of Staff. These assignments were made to assist in developing recommendations regarding the creation of the NBS. He was neither performing nor supervising the performance of operating functions. See the May 26, 1993, memorandum from the Chief of Staff to Gary Ellsworth, Minority Counsel, Senate Energy and Natural Resources Committee (Attachment 7).

"Consultant" as defined in the 23 Comp. Gen. 499, is "one who serves in an advisory capacity to an administrative officer of the Government, as distinguished from one who serves as an administrative officer or employee in the performance of the duties and responsibilities imposed by law upon the agency in which employed." That is to say, a consultant is one who expresses his views or gives his opinion regarding a problem or question presented to him by the administrative officers, but he does not perform, or supervise to the performance of, the duties and responsibilities imposed by law upon the agency. The operating functions for the NBS have not been developed; it has no budget, resources, or duties. Mr. Frampton merely has acted to assemble information to make recommendations to the Secretary on these matters.

In fact, in addition to requesting Mr. Frampton to use his expertise and that of career employees to make recommendations, the Department solicited the National Academy of Sciences' National Research Council to offer advice and assistance on the long-term mission and activities of the NBS. The Council, selected by the Academy, is headed by Dr. Peter Raven, Director of the Missouri Botanical Garden, and a longtime advocate of a national survey and inventory effort.

Further, scientific experts, representatives from environmental organizations, industry, and individuals familiar with the workings of both state and federal government also are included on the Council. Additionally, Dr. Thomas E. Lovejoy, Assistant Secretary for External Affairs for the Smithsonian Institution is serving as Science Advisor to the Secretary of the Interior to coordinate the program with other science activities.

Enclosed is a May 1993 NBS update (Attachment 8) which outlines the NBS's proposed mission, scientific community support, and questions and answers, etc. Most importantly, in the update, there is a section asking Interior employees for opinions in order to help develop plans for the NBS and its implementation team. All comments received will be reviewed by Mr. Frampton and the Council in order that recommendations can be made to the Secretary for implementation.

I conclude, based on the above information, that Mr. Frampton did not violate any personnel law, rule, or policy.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,

Washington, DC, June 1, 1993.

To: Secretary.

From: Gabriele J. Paone, Deputy Agency
Ethics and Audit Coordination Official.

Subject: Ethics Portion of Response To Sen-
ate Committee May 27, 1993 Letter Re-
garding Mr. Frampton.

The Department Ethics Office has reviewed the May 18, 1993 memorandum initiated by Mr. Frampton and has determined that his action of issuing the memorandum is in compliance with the ethics provisions that apply to him in his consultant position.

The pertinent ethics provisions are the regulatory standards of 43 CFR 20.735-6(b) which require Department employees to avoid any action or actions which may result in, or create the appearance of:

- (i) Using public office for private gain;
- (ii) Giving preferential treatment to any person, except as authorized by law;
- (iii) Impeding Government efficiency or economy;
- (iv) Losing independence or impartiality;
- (v) Making a Government decision outside official channels; or
- (vi) Affecting adversely the confidence of the public in the integrity of the Government.

It is the opinion of the Department's Ethics Office that: 1. Mr. Frampton's actions have been taken within proper official channels; 2. the directives he issued in the May 18 memorandum were made based on proper consultation with his supervisors, and 3. Mr. Frampton's performance actions are in compliance with his assigned duties and made in the interest of the Department. Consequently, the Department Ethics Office found no real or apparent conflicts of interest in Mr. Frampton's actions.

U.S. SENATE, COMMITTEE ON ENERGY
AND NATURAL RESOURCES,

Washington, DC, May 28, 1993.

DEAR SECRETARY BABBITT: I have recently reviewed the memo sent by your Chief of Staff, Tom Collier, to Gary Ellsworth, regarding George Frampton's role as a consultant. Frankly, I was shocked by Mr. Collier's explanation.

For example, Mr. Collier states "... we have told those who have been nominated for Interior post, but who have not yet been confirmed by the Senate, that they can advise, but not act." Yet in the very next paragraph, Mr. Collier admits that he "asked George to send that memo to the relevant parties, which he did." The memo, under Mr. Frampton's name, clearly directs people to take actions. It is therefore admitted that Mr. Collier is directing at least one consultant to undertake activities which he has been counseled not to do.

I was also struck by the inconsistency, in the statement in Mr. Collier's memo which says that the organization for the National Biological Survey "is being developed under the guidance of the National Biological Survey Implementation Team, which is chaired by two career employees" and the fact that Mr. Frampton in his memo, assigns tasks and deadlines to the co-chairpersons just as if they were any other member of the team. That is indeed a strange view of chairmanship.

I am sufficiently troubled by the unethical and potentially illegal conduct evidenced by both Mr. Frampton and Mr. Collier's memos, that in addition to the request made by Senator Johnston and myself on May 27, 1993, regarding this matter, I am further requesting that you provide me and the Committee with copies of any written correspondence Mr. Collier has sent to any consultants of the Department of the Interior while he has been Chief of Staff.

Thank you for your cooperation in this request.

Sincerely,

MALCOLM WALLOP.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,

Washington, DC.

To: Gary Ellsworth, Minority Counsel, Senate Energy and Natural Resources Committee.

From: Tom Collier, Chief of Staff.

Date: May 26, 1993.

Re: Role of Consultants, George T. Frampton, Jr.

I understand that some questions have been raised regarding George Frampton's role as a consultant to the Secretary and in the development of the National Biological Survey.

George is working with the Department on a consulting basis. The agreement, drafted in consultation with the Department's Office of Government Ethics, is similar to the agreement signed by other nominees for assistant secretary. A copy of his consulting agreement with the Department is attached.

Generally, we have told those who have been nominated for Interior posts, but who have not yet been confirmed by the Senate, that they can advise, but not act. That is precisely what George has done. He has provided substantial advice on a number of issues, but has not assumed line authority in the Department. He does not occupy the office assigned to the Assistant Secretary for Fish, Wildlife and Parks; he instead works on a different floor in a different wing. Staff in the relevant bureaus do not report to him; they instead report to the Acting Assistant Secretary, who is ultimately responsible in these areas.

As part of his assignment, George has helped in our planning for the National Biological Survey. This organization is being developed under the guidance of the National Biological Survey Implementation Team, which is chaired by two career employees and which reported to me before we had a number of Assistant Secretaries confirmed and sworn in last week. In his role as a consultant, I asked George to help with planning; this includes participating in meetings and discussions, offering advice and reviewing written documents. He also drafted a memo at my request, which made assignments to people working on the Implementation Team. I asked George to send that memo to the relevant parties, which he did.

George has done a superb job as a consultant here at the Department. We look forward to his Senate confirmation, so that he can play a much larger role in the development of reasonable policies here at the Department.

NOTIFICATION OF PERSONNEL ACTION

Name: Frampton, George T., Jr.

Nature of Action: Exc Appt Nte 07-30-93.

Position Title: Consultant.

Remarks: Ineligible for health benefits. Ineligible for leave. You are subject to regulations governing conduct and responsibilities of special Government employees. Appointment affidavit executed 03/11/93. Reason needed: To work on issues and procedures under current review by the incoming administration. Consultant appointment entitlements incumbent to holiday pay.

U.S. DEPARTMENT OF THE INTERIOR—APPROVAL OF EXPERT OR CONSULTANT EMPLOYMENT REQUEST

1. Name of expert or consultant: Frampton, George T., Jr.

2. Bureau: Office of the Secretary.

3. Nature of appointment and C.S. or other authority: Consultant—5 USC 3109 and Interior Appropriations Act.

4. Rate of pay: \$331.92 per day.

5. Duty Station: Washington, D.C.

6. Regular employment (position, company, and location): The Wilderness Society, 900 17th Street, N.W., Washington, D.C. 20006

7. Home address (City, State, and zip code): 3411 36th Street, N.W., Washington, D.C. 10016.

8. Describe clearly services to be performed (see 370 DM 304, 1.11, attachment A for instructions): Consultation on matters dealing with technical policy evaluation regarding issues and procedures under current review by the incoming Administration on the multiple-use management of public lands under the jurisdiction of the Department.

9. Special qualifications of expert or consultant (list only qualification which relate specifically to services to be performed): Mr. Frampton is a renown environmentalist with significant experience in the management of The Wilderness Society, a national nonprofit environmental membership organization whose primary emphasis is the preservation and protection of the Nation's wilderness and wildlife, and fostering of land use ethics. Mr. Frampton also practiced law for approximately 8 years specializing in litigation. He has an outstanding education having attended Yale, the London School of Economics and Harvard Law School.

10. Indicate total period for which availability is desired. Estimate number of days individual is expected to perform services for the Government: It is estimated that the incumbent will perform service for the Secretary from 03/01/93 to 07/30/93 (approximately 120 work days).

11. Estimated cost of services, status of allocated funds, etc. (for Budget and Finance purpose): Total estimated cost is \$39,830. The Office of the Secretary will request sufficient consultant funds to cover this request. Subject to the availability of funds in Fiscal Year 93 budget.

STATEMENT ON THE NOMINATION OF GEORGE FRAMPTON

Mr. BRADLEY. Mr. President, I would like to take this opportunity to speak out briefly on the nomination of George Frampton to serve at the Department of the Interior. Mr. Frampton is, foremost, a professional. For many years, he has labored assiduously to protect and preserve our national heritage. His record—indeed, his values—are well known and well respected. You might disagree with him, but you won't dismiss him.

The President won the election and the right to appoint men and women to the administration that reflect his views and goals. By nominating George Frampton whose life's purpose has been so public, President Clinton is simply asserting his right. It is safe to say that the President knew who he was nominating and why his contributions were needed.

We, in the Senate, need to review those nominations seriously. Without a doubt, George Frampton can successfully handle the responsibilities which he will have if confirmed. Without a doubt, George Frampton will uphold the laws we make it Congress to the best of his ability. Obviously, he will continue to be an advocate for the environment—that is who he is. That is why President Clinton nominated him

in the first place. Without a doubt, the Senate should vote now to confirm George Frampton. I urge my colleagues to support and wish him well.

STATEMENT ON THE NOMINATION OF GEORGE FRAMPTON

Mr. JOHNSTON. Mr. President, I rise in support of President Clinton's nomination of George Frampton to be Assistant Secretary for Fish, Wildlife and Parks at the Department of the Interior. Mr. Frampton is, in my view, well qualified to serve in this capacity. He brings a diverse and distinguished record of public and private service to the Department. He has an extensive background in and knowledge of natural resource issues in general and those related to the National Park Service, and Fish and Wildlife Service in particular.

As he has demonstrated during the last 7 years as president of the Wilderness Society, I believe that Mr. Frampton will be a strong and effective advocate for the protection of national parks, recreation areas, wildlife refuges, fisheries, wild and scenic rivers and other natural and historic resources at the Department of the Interior. At the same time, he has pledged that in formulating and making recommendations to the Secretary of the Interior, he will balance competing interests and concerns and take into account the views of many different constituencies. I think he will honor that pledge and deserves to be confirmed.

I am aware that some members of the committee have expressed concerns regarding actions taken by Mr. Frampton in his capacity as a consultant at the Department during the last few months. I have reviewed the materials submitted by the Department in connection with this matter and am satisfied that neither Mr. Frampton nor anyone else at the Department violated any applicable guideline or rule in this regard. I should note that both the Solicitor of the Department of the Interior and the Office of Personnel Management have also concluded that Mr. Frampton's activities as a consultant violated no law, regulation, guideline, or ethical standard.

Mr. President, the nomination of George Frampton enjoys bipartisan support. His nomination was reported favorably from the Energy and Natural Resources Committee by a vote of 13-5. The Environment and Public Works Committee, to which his nomination was also referred, reported him favorably by voice vote on May 27.

Mr. President, I urge my colleagues to join with me in voting to confirm George Frampton as the Assistant Secretary for Fish, Wildlife and Parks for the Department of the Interior.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

A BUMBLED CASE

Mr. GRASSLEY. Mr. President, I wonder how many of my colleagues have seen the movie, probably a relatively old movie now, the "Ghostbusters"?

In that movie, the stereotype of a moronic EPA official is obsessed about closing down the facility that stores all the ghosts captured by the Ghostbusters.

When they reject his obnoxious entreaties, the EPA official then goes out and gets a court order. The Ghostbusters warn this EPA official that that is not very smart; that if he does that, all heck will break loose if the facility is shut down. This EPA official was gripped by his own self-importance, and he went ahead and shut down the facility anyway. The result then, as you remember from the movie, is that New York is besieged by demons rampaging on the loose, terrorizing the entire city.

One might be tempted to believe that such arrogance, such bumbling on the part of an EPA official might exist only in the movies. Well, Mr. President, let me tell you, not so, as a story that I am about to relate to you will confirm and it is a real-life story as well.

In this real-life story, innocent victims are easy prey for an overzealous EPA official and for agents who bumbled a case and ended up with egg on their faces. To this day, as the ordeal has just come to an end, personal scars and unjustified hardships have resulted for the victims involved. These victims are constituents of mine.

In relating this real-life story, it is my hope that America might learn about this occurrence and that the EPA will learn from it.

It happened one summer day, almost 2 years ago now, on August 23, 1991. It was outside a little town in the northwest corner of Iowa, a little town called Akron. It was kind of business as usual that day at the Higman Gravel Co. Harold Higman, the owner, was outside topping off his pickup truck at the gas pump on his property. Mavis Hansen, who was a trusted employee of 20 years, was inside the office tending to the books, as she regularly does. Every other employee—and there were others—went about their normal business that early morning, 9 o'clock, August 1991. You might say the morning routine had just begun.

Suddenly, in a violent breach of the morning's routine, 10 unmarked cars roared onto the premises, into that yard at that business. They screeched to a halt in cadence. Forty agents poured from the cars and surrounded Mr. Higman, cocking their guns in unison.

One agent, clad in a bullet-proof vest, leveled his shotgun at Higman. He pumped the gun once to load it. As Mr. Higman gulped and his knees quivered, the agent fumbled for his badge, and as Higman groped for words and he voiced a demand for an explanation, the agent responded with a "shut up," a "shut up" right in the face of Higman.

Meanwhile, another agent stormed the office. There he found this trusted employee of 20 years, Mavis Hansen, at her desk tending the books. The agent stormed in there with his gun and said, "Freeze," with his gun cocked and left it aimed right at the head of this bookkeeper.

Poor Mavis Hansen sat frozen with shock, with fear, with bewilderment. To this day, she still has nightmares and she still has bouts of nervousness about what happened that August morning in 1991.

Obviously, there must be something up: 40 agents come to the scene, shoving their shotguns down the throats of the owner and the bookkeeper.

Well, what the agents were looking for, Mr. President, were toxic chemicals, toxic chemicals that were allegedly stored on the Higman Gravel Co. grounds buried in barrels.

Now, this is what they had been told by a paid informant. But it turns out, Mr. President, that this paid informant was also a disgruntled former employee of the Higman Gravel Co. He had given the EPA a bum steer, and after 15 months of misery and ordeal, a jury in a criminal case finally decided in Higman's favor. Higman and others were acquitted of charges that he had knowingly stored illegal toxic chemicals on his property.

That decision and the 15 months of that ordeal cost Mr. Higman \$200,000 in legal fees, not to mention lost business or to mention what is even more important in my State, a damaged reputation for a very responsible business person.

It also cost the bookkeeper, Ms. Hansen, 2 months of leave due to a nervous disorder that persists to this day.

Mr. President, the moral of the story must be prefaced with a poignant question, how in the world does EPA justify such outrageous behavior?

They acted, as I have said, on rumor and innuendo, and when the rumors did not pan out, they pressed ahead anyway, costing innocent citizens financial and psychological fortunes.

I am not going to go into all the details and the facts in the case, Mr. President. But I think it behooves us as a society to take a broad view of

this case and see what lessons we can learn.

To begin with, the EPA used a force of 40 men comprised of Feds and local agents. They used a force equipped to attack a mountain when it was only a molehill.

Second, their advanced scouting of the situation was poor, very poor, indeed. They charged ahead with full force, though uninformed about the facts. They looked before they leapt.

All too often, Mr. President, I hear of such overzealous and heavy-handed enforcement of our Nation's environmental laws. Yet, there is rarely accountability. This situation cannot stand. A presumption of guilt is formed. It is a foreign concept in our land. It should be a foreign practice as well.

The objectives of EPA officials are certainly commendable. They ostensibly protect the Nation from environmental pollutants and toxins. They work to make our water clean and our air pure, and there is nobody who can argue with that or is trying to argue with that. But these heavy-handed tactics are inconsistent with EPA's worthy objectives. In fact, such objectives erode whatever moral authority the EPA may hope to have to detect and deter pollution and polluters. Their image in the public's mind will only suffer and the public's confidence in the EPA's fairness will be shaken.

We certainly hope, Mr. President, that the EPA does not harbor a "we" versus "they" mentality with respect to American business. American business certainly shares the goal of a clean environment at reasonable costs and with a fair and rational oversight by our Government. Most, if not all, businesses want to comply with environmental laws and regulations.

I have been encouraged by the testimony of the new EPA Administrator, Carol Browner. During her confirmation hearings, Ms. Browner held out a hand of reconciliation to the business community. She says she will work to end the Agency's adversarial relationship with business. This is a very good sign, Mr. President. As we can see from this real life story that happened in Iowa, this reconciliation is long overdue. It does not only happen in remote places like Akron, IA; it happens everywhere.

Ms. Browner also says that she favors policies that encourage business compliance with the law, not by using threats but by offering incentives.

Mr. President, that, too, is a welcome change of policy at EPA. It is my hope, and indeed a worthy social objective, that business and Government will begin to foster an era of reconciliation and cooperation. That, of course, would obviate the need for heavy-handed tactics and threats against innocent citizens like Mr. Higman and the Higman Gravel Co. and Ms. Hansen, his bookkeeper, in Akron, IA. And it would,

hopefully, make extinct in the real world those stereotypical Government officials whose only place in life should be in the movies. The movie "Ghostbusters" is a perfect example of that EPA activity.

I thank the Chair. I yield the floor.

IN MEMORY OF REUBEN A. SNAKE, JR.

Mr. INOUE. Mr. President, I rise today to mourn the passing of a great Indian leader, Mr. Reuben Snake, Jr.

Throughout his 40 years of service as a leader of the Winnebago Tribe of Nebraska, Reuben was driven by one fundamental goal. That goal was to improve the lives of all human beings through cultural awareness and respect for the divine gifts provided by the creator.

As a lifelong member of the native American Church, Reuben Snake utilized his faith to guide him in promoting tribal sovereignty, advocating for indigenous rights, and educating others about the valuable contributions made by our country's first Americans.

In 1954, Reuben joined the U.S. Army as a Green Beret under the Berlin Command. Upon receiving his honorable discharge in 1959, Reuben Snake pursued an education at a time when many universities were turning away young native Americans.

Reuben Snake attended college at Northwestern College in Orange City, IA, at the University of Nebraska, Omaha, NE, and at the Peru State College, in Peru, NE. Eventually, Reuben was awarded an honorary degree, doctorate of humanities by the Nebraska Indian Community College in 1989. The coursework that Reuben completed enabled him to fill a variety of positions which advanced the social conditions affecting American Indian people.

Early in Reuben Snake's career, he gave more than 100 percent of himself to fight the war on poverty afflicting American Indian people. With very little funding, Reuben Snake worked in community action programs in the Northern Plains region to assist Indian youth and their families achieve self-sufficiency. As a director of the national Indian education training project, Reuben was instrumental in training Indian parent groups, tribal governments, and Indian communities to acquire Federal funding to advance the education of native people in 27 States. These positions, as well as other service-related responsibilities, gave Reuben the knowledge and skills to assist nearly every American Indian and Alaska native in grassroots development.

Reuben may be best remembered for his decade of service as chairman of the Winnebago Nation of Nebraska. His major accomplishment was to bring the tribal government out of debt and financial ruin to a thriving and re-

sourceful multimillion-dollar enterprise. This accomplishment was driven by his desire to make tribal government responsive to community needs. Reuben worked diligently to build continuity in economic, educational, and social programs so important to his people. As a spokesman for the Winnebago people, Reuben was responsible for fostering intergovernmental liaison with other governmental entities at the Federal, State, and local levels.

Due in large part to his success within his own tribal community, Reuben was elected as president of the National Congress of American Indians. Over 130 tribal governments were active during Reuben's tenure in the Nation's oldest and largest Indian organization. The development and enactment of native cultural rights legislation such as the American Indian Religious Freedom Act, the National Museum of the American Indian, the Native American Graves Protection and Repatriation Act, and the Native American Language Act can be attributed to Reuben's advocacy. This advocacy was recognized by the Congress in 1976, when Reuben Snake was appointed chairman of Task Force XI of the American Indian Policy Review Commission, the Task Force on Drug and Alcohol Abuse. Later in 1989, my colleague and friend from Nebraska, Senator ROBERT KERREY, hired Reuben to serve as a legislative assistant with responsibilities involving all native American affairs—a position which Reuben enjoyed because he loved his fellow Nebraskans with great compassion.

In 1972, Reuben was nationally recognized for his book, "Being Indian Is * * *", which captured in small part, his humor and in large part, his understanding of Indian life. For example: "Being Indian Is * * * tough; Being Indian Is * * * owning land and not being able to rent, lease, sell, or even farm it yourself without BIA approval; and Being Indian Is * * * never giving up the struggle for survival." It is highly likely, that every Indian baby-boomer working in high-level positions within the Federal Government was influenced by Reuben's wit and essays on what life is like for Indian people. In response to the Columbus Quincentenary in 1992, Reuben reconstructed his works as "Being Indian Is * * * and Isn't." While the foundation for this work was developed by Reuben, unfortunately, his illness precluded its final release. Reuben Snake stated in his essay that, "For 500 years, we have had 99 percent of what is written about Indians slanted with a Eurocentric bias. Now we are in the process of writing about ourselves, and our truth may be disconcerting to those who have had only their truth to read about until now."

Many in Indian country are probably reflecting on his views today, since

Reuben had the gift to lend humor to the everyday challenges affecting Indian people. He used his God-given capacity to make people laugh.

Most recently, Reuben served as the dean for the Center for Research and Cultural Exchange at the Institute of American Indian Arts in Santa Fe, NM. Much of this work focused on American Indian history, comparative cultures, native cultures, native religions and practices, cultural rights and tribal government. It was Reuben's ambition to foster a leadership role in shaping national and international perceptions regarding American Indian and Alaska Native cultures. Reuben perfected his skills as a great orator regarding cultural resources and indigenous rights while traveling extensively throughout the United States and internationally on behalf of the Institute of American Indian Arts. More importantly, this humble dean was widely respected by students, faculty, and native people for his spiritual inspiration. Every week he would conduct Sunrise Services to foster greater understanding of the God-given blessings that everyone on Earth should enjoy. In this regard, Reuben inspired others to the extent that the Sikhs religion, an international religious group with more than 60 million members, awarded Reuben Snake the World Peace Award for his humanitarian efforts.

His multifaceted understanding and concern was appreciated by those board members with whom he served in the following organizations: The National Congress of American Indians, the First Nations Development Institute, the Native Research and Policy Institute, the Seventh Generation Fund, the American Indian Law Resource Center, the American Indians for Opportunity, the International Circle of Indian Elders and Youth, the 1992 Alliance, the American Indian Ritual Object Repatriation Foundation, and the Native American religious freedom project. Reuben Snake also served on the U.N. Committee on Human Rights.

Probably, no one will miss Reuben Snake more than his wife, Cathy Snake and his six children. It seemed to many in Indian country that when Reuben gave of himself, there was so much to give because of the love that was shared by his family. This love was obvious when Reuben, Cathy, and many of his children and grandchildren drove all the way from Nebraska to conduct a prayer service on behalf of the Native American Church of North America here in Washington, DC. Over 20 members of Reuben's family worked closely with the native American religious freedom project to inform the decisionmakers here in Washington of the violation of religious freedom rights resulting from the 1990 Supreme Court ruling in the Oregon versus Smith case. Reuben's family hosted an all night prayer service to promote

peace in the midst of religious prosecution affecting American Indians.

In Reuben Snake's final days, worked tirelessly to advocate the introduction of legislation to protect the religious freedom rights to native Americans. Reuben testified at the committee's first oversight hearing in Portland, OR, on March 7, 1992, which laid the groundwork for introduction of legislation. In large part, due to Reuben's efforts, the committee recently introduced S. 1021, the Native American Free Exercise of Religion Act of 1993. I am dedicated to securing passage of this vital legislation to complete the work which Reuben Snake helped to foster.

Mr. President, as a tribute to Reuben Snake, Jr., his family and the Winnebago Nation of Nebraska, I ask unanimous consent that a speech which Reuben Snake delivered at the future site of the National Museum of the American Indian on the Mall here in Washington, DC, be made a part of the CONGRESSIONAL RECORD following this statement. As a statesman for the Indian people, Reuben Snake will be remembered for his humor, his kindness, and his love of his fellow people. Personally, I like the thought he had that "Being Indian Is * * * having compassion, respect, and honor for your fellowman, regardless of color."

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

STATEMENT OF REUBEN A. SNAKE, JR., COORDINATOR, NATIVE AMERICAN RELIGIOUS FREEDOM PROJECT

Senator Inouye, church president Emerson Jackson, honored guest, as an American it is inspiring to stand here at the foot of the U.S. Capitol to exercise two of our basic American rights, the freedom of speech, and the right to petition the Government for a redress of grievances.

Native Americans have been associated with the liberty of the American people since the founding of the Nation. In 1773, at the Boston Tea Party, the early protestors against British royal tyranny dressed as Mohawks because Indians, in England and in Europe, were a symbol of American liberty. Indians, and our way of life, were the very symbol of American liberty adopted by the earliest American revolutionaries.

But four or five centuries before that dramatic event, even before Christopher Columbus sailed from Spain, the five Nations of the Iroquois Confederacy formed a government under a constitution called the Great Law of Peace. Consider some of the enlightened features of that government—parliamentary-type government, separation of politics and religion, separation of civil and military government, the concept of checks and balances, veto, referendum, and so forth. Those governmental concepts were so remarkable, books were written about them in the European languages. These concepts became known to John Locke and Jean-Jacques Rousseau, European political philosophers whose writings are cited in identifying the resources of the U.S. Constitution.

The free exercise of religion was among the many features of that great Native American government, and the freedom of religion is

one which many of us take for granted today.

On September 15, 1620, English subjects sailed from Plymouth, England, to seek refuge from religious persecution. The story of the Puritan Pilgrims landing at Plymouth Rock in Massachusetts to achieve religious freedom is one of the best known stories in American history.

It is tragic to say however, that we are now in a situation in the United States of America where we can no longer take such a fundamental right, the free exercise of religion, for granted.

As venerable as the heritage of religious liberty has been in America, religious liberty is now in jeopardy for all minority religions.

Last April, in the case of Oregon v. Smith, a case involving native American religious liberty, the U.S. Supreme Court threw out its longstanding precedents and declared that no longer does the Government have to show that laws which burden and restrict religious liberty must be justified by a compelling Government interest. Even very large religious organizations issued protests and sought a rehearing in the Court. The Baptists, the Methodists, Jewish groups, dozens of religious groups, and over 50 of America's most distinguished constitutional law professors sought a rehearing of the Court's decision.

But consider the implications of this case from our perspective. The U.S. Supreme Court reversed a long line of settled cases in order to rule that the use of the sacrament of native American worship, the holy medicine, peyote, is not protected under the first amendment of the constitution. They said, in our case, our religious exercises, our form of worship, the use of our holy sacrament, is not protected by the Constitution. The Court said that native Americans, who have enjoyed religious liberty on this land since before the Pilgrims fled here, are no longer entitled to religious liberty.

This trampling of native American religious liberty is intolerable.

Our people have been using the holy medicine, peyote, for thousands of years, thousands of years.

For the last twenty years, the American people have been suffering an epidemic of abuse of refined chemical drugs like cocaine, heroin, amphetamines, PCP, and so forth. American cities are crawling with violence and crime. This is a terrible tragedy, and this kind of drug abuse is also a problem for some Indian youth.

But there is no peyote drug problem. I defy the justices of the Supreme Court to find newspaper reports of drive-by shootings in connection with the holy medicine. I challenge anyone concerned about the problem of drug abuse to find examples of dope peddlers selling the holy medicine in America's school yards and play grounds. The idea is preposterous. We don't have a peyote abuse problem in this Nation.

Yet the widespread fear, bordering on panic, about the tragedy of drug abuse has clouded the minds of the Justices. In the name of the war on drugs, our use of our holy medicine is restricted. In the name of the war on drugs, our guarantee of free exercise of religion has been violated. In the name of the war on drugs, the religious freedom of every American has been placed in jeopardy.

The consequences are outrageous. For decades native Americans have endured the harassment and persecution of law enforcement authorities ignorant of, or indifferent to, our ancient ways of worship. The law reports are filled with tragic cases of our men and

women dragged from worship, or from their homes, to jail cells and to courtrooms, forced to defend themselves, to justify themselves to the ignorant and the callous. But in those degrading circumstances, we could always point, confidently, to the first amendment's guarantees of free exercise of religion, and know that ultimately we would prevail. Now, unbelievably, we are no longer assured that we will prevail.

This has been intolerable to us, this is intolerable to us, and it is intolerable to every American who treasures their right to worship God without Government interference.

In the Native American Church every day is a holy day, but today is special. In the Hebrew calendar, today is Yom Kippur, the day of atonement, the most solemn day of Jewish worship. Many Jewish friends of native Americans invited to join us this morning explained that they could not worship with us here, for they would be in their own temples in prayer.

For many of the 5741 years of the Hebrew calendar, the Jewish people have suffered oppression on account of their religion. Today, 199 years after the American Bill of Rights was adopted, we are thankful that the Jewish people feel free to worship without fearing Government harassment.

But ladies and gentlemen, today the 250,000 members of the Native American Church are not free to worship God without fear of Government harassment. Church president Emerson Jackson has declared tomorrow a day of prayer for peace. Today, hundreds of our people are preparing for a night-long Native American Church service and prayer for peace. But many of our elders, who have traveled thousands of miles to be here to worship in our Nation's capital, who have experienced the indignities of religious persecution, expressed to the organizers of this worship service a great fear—will we be arrested? Will we be arrested?

We have had to call law enforcement authorities—attorneys general, prosecutors, assistant State's attorneys, narcotics units—around the region to assure ourselves that our worship will proceed undisturbed by the hideous specter of a police raid.

I ask my brothers and sisters who are Christians, my brothers and sisters who are Moslem, my brothers and sisters who are Hindus, my brothers and sisters who are Buddhists, my brothers and sisters who are Jewish, do any of you worry that your worship services will be raided by the police? Do any of you feel it necessary to call the police in order to set up a worship service? Do any of you have to explain to law enforcement officers that you have a right to worship your God in your own manner?

I ask my brothers and sisters who are Christians, do you need permission from your State alcoholic beverage control commission to give sacramental wine to communicants under the age of 21? Do your priests need licenses from the Government to perform a mass? Of course not, but under the Smith decision, that shocking possibility may yet come to pass.

I ask my brothers and sisters, when they tell their children about their religious rites, do they have to warn their little ones about the police? Do they have to explain that they should not be ashamed because of the special police "interest" in their worship?

I ask the American people, does this sound like the religious life we expect to live in the United States of America?

Well, my brothers and sisters, this unbelievable condition burdens our worship. This relic of prejudice burdens our worship. This

Government involvement in our religion burdens our worship, and it is intolerable.

Today, at the highest point in Washington, overlooking our little press conference, the National Cathedral is being dedicated. Today the last stone is being placed in that beautiful monument to the central importance of God and prayer in American life.

It is profoundly ironic that just as that glorious cathedral is being completed and dedicated in our Nation's Capital, the U.S. Supreme Court has jeopardized the status of every minority religion, and it has done so in a case involving Native American Church members using the holy sacrament of our church.

We are here today with one simple message—we demand that our use of our sacrament, the holy medicine peyote, be fully protected by law without qualification. We ask no more, we expect no more, and we are entitled to nothing less!

Why must we stand here and defend our religion? Why must we tell you that our church is a good church? Why must we tell you that we do not tolerate drug abusers or alcoholics in our church?

We are reduced to this posture because of laws passed and enforced in an atmosphere of almost total ignorance about native Americans. Perhaps we should not be surprised. Like most Americans we like to go about our business quietly and without drawing attention to ourselves. One of the central teachings of our church is humility.

We have never held a press conference before. We have never drawn attention to ourselves before. We are uncomfortable this morning, but to protect ourselves, we have a duty. We are here today to tell the American people that our worship is sacred, it is legitimate, it is profound, it is good, it is wonderful in the eyes of God, it is wonderful for our people, and we must, we must pray the way God has taught us.

Americans, you have taken much from us. You have benefited from us in many ways. You have left us little land, you have taken away our traditional livelihoods. Do not allow the Government to take our religious freedom away.

We urge you to join us in supporting the "Religious Freedom Restoration Act of 1990," H.R. 5377. But this is only a first step. The bill does not go far enough. It does not specifically protect our worship, the one that the Supreme Court chose to disregard and deny protection. We urge that the bill be amended to specifically protect native American religion freedom.

That is not too much to ask. Soon we will be returning to our homes across America and to our children and grandchildren. We will say we engaged in the political process, we spoke to the American people and to the national news media. We went to Washington, and we told our story.

Can we tell our children, "We succeeded, you are now safe" can we tell our children, "we have brought back for you the security, the safety, the certainty that you, our children, and your children can worship God as we have been taught"?

It is our prayer that we can!

THE FUTURE OF PUBLIC POWER IN AMERICA

Mr. HATFIELD. Mr. President, perhaps no one organization has played a more major role in bringing energy to our Nation than public power. In fact, public power, once known as the

"electrifier of America," can be credited with bringing electricity to virtually every rural area of the United States. I recently had the privilege of speaking at the American Public Power Association's annual conference in Anaheim, CA, on June 14, 1993. The executive director of APPA, Mr. Larry Hobart, made some very inspiring remarks regarding the current state of public power in America and the course it should be following as it enters the twenty-first century. I would like to share those remarks with my colleagues at this time.

I ask unanimous consent that Mr. Hobart's "Executive Director's Report" be printed in the RECORD following my remarks.

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

EXECUTIVE DIRECTOR'S REPORT (Remarks of Larry Hobart, Executive Director)

The new math for measuring public power progress in the 1990s is summarized in an equation:

Economic well-being + environmental enhancement = energy efficiency.

How do you solve this problem?

The solution has three parts:

1. Emphasis on end-use improvements through demand-side management, slotted into an integrated resource plan, with the aim of satisfying the dual interests of consumers in their price of power and their quality of life.

2. Promotion of existing and new electrotechnologies that cut costs and reduce adverse environmental effects of burning fossil fuels to perform the same task.

3. Advancement of techniques allowing electric utilities to acquire power in ways that are cost-effective and that minimize potential pollution compared to present practices.

I want to talk to you for a few minutes about factors that affect these three objectives.

We hear a lot these days about electric utilities and the environment. There is absolutely no doubt that the public expects utilities to be socially responsible in carrying out the task of supplying needed electricity, including protecting public health and safety, preserving esthetic benefits, and ensuring a sustainable society. Specific responsibilities of utilities are outlined in statutes, regulations, and codes of conduct. It is not a duty you can duck, and it calls for a positive commitment.

But when we talk electricity, we need to think also about how this energy source affects peoples' pocketbooks.

Remember the 1992 presidential campaign? Remember the sign posted in candidate Clinton's campaign headquarters? "It's the economy, stupid." It was a humorous reminder of an important fact: many American families have economic problems.

Think about these numbers:

The average American worker is putting in more time on the job for less pay than at any time since the start of the 1980s, and the income deterioration is spreading to the white-collar work force. The share of the population living on a middle income has declined, and the portion living below the poverty line has increased. Last year, nearly 1 in 10 Americans depended on food stamps to make ends meet.

While there has been an expansion of jobs in the economy during the 1980s, a significant portion of the growth has been in lower-paying service industries, while the number of traditionally higher-paying manufacturing jobs has been shrinking.

"Downsizing" has eliminated a number of jobs, and there has been an expansion of the number of part-time workers, and "contingent" employees who work full-time for specified contract periods but have no health benefits, vacation rights, overtime protections, or pension payments.

Today many shoppers think of price first when they buy. Spurred by the recession, structural changes in the economy, and altered demographics, consumers have been shifting their focus in the past two years to discounters, generic brands, and low-price retailers. Polls show that price beats out selection, location, quality, and service. Store owners say they are looking for ways to operate more inexpensively and offer more competitive prices.

Consumers are looking at the price of electricity, also.

Public power protects pocketbooks of consumers. Listen to these numbers:

Residential customers of investor-owned utilities paid average rates that were 28 percent above those paid by customers of publicly owned systems during 1990, the last year for which we have comparative statistics, and average rates for commercial and industrial customers were also lower by 15% and 4%, respectively.

At the same time, public systems made contributions to state and local governments in the form of taxes, payments-in-lieu-of-taxes, and services which were the equivalent of taxes paid by IOUs.

Managerial costs of public power systems remain below comparable costs of private power companies, indicating greater efficiency of management among public power systems. Administrative and general expenses of investor-owned systems were 27% above those of public systems. Average customer accounts expenses for private systems are 18% above those of public systems.

Private power companies today are the beneficiaries of a new regulatory concept called "decoupling." It means dropping cost-of-service analysis for setting rates and substituting agreed-upon performance goals. Such agreements are sometimes arrived at through so-called "collaboratives"—negotiations including the IOU, a regulatory agency, and environmental activists—which are considered a substitute for a litigated proceeding with a fact-finding public hearing.

One of the by-products is an electric rate which is designed to ensure that the IOU loses no revenues as the result of demand-side management activities it seeks to implement—regardless of the fact that company costs may actually be reduced. California offers an example of the "incentive rates" technique.

Through the use of "balancing accounts" and "rate adjustment mechanisms," the California Public Utility Commission has carried out an "interventionist" policy with IOUs. One of the results is reported in a PUC study published in February: "... despite forecasts projecting stable electricity prices, average rates for California's IOUs ranged from approximately 9 to 10.5 cents per kWh in 1991, thirty to fifty percent above the national average" (emphasis supplied).

Public power systems are dedicated to improved end-use energy efficiency, but they are not beneficiaries of "decoupling." They look for cost-effective solutions that have bottom-line justifications.

Listen to this: The U.S. Department of Energy reports that from 1989 to 1991, consumer-owned utilities spent only 60% of investor-owned utilities' expenditures on demand-side management, yet saved 13% more energy and cut 37% more system peak. In other words, DSM programs of consumer-owned utilities did more for less; they were more cost-effective and efficient than private power companies.

APPA surveys show that there are nearly 800 public power systems with DSM programs representing 62% of total retail sales by publicly owned electric utilities. If you're not involved, you should think about it. It can be a way to cut costs for your customers.

DSM is an important tool for consumer cost-cutting, but it is also true that one of the best ways in which we can help hold down customer bills and enhance the environment is to use more—not less—electricity.

For instance, freeze concentration of milk instead of using heat-driven evaporation needs only half as much energy—even including the power plant's energy conversion losses.

Recent laboratory studies show that applying ultrasound to textile dyebaths can triple uptake while cutting dyeing time in half and significantly cutting costs.

New electrotechnologies can destroy infectious wastes from hospitals or disinfect it and reduce its volume, thus permitting disposal in municipal landfills.

Electric cars, buses, and trains can cut considerably emissions which cause air pollution, even taking into account power plant releases, and may be the only practical substitute for a transportation system based on internal combustion engines.

As an APPA member, you are now receiving monthly the newsletter *Electrotechnology Report* published as a collaboration with the Edison Electric Institute. It will give you clues as to these approaches to using electricity for economic and environmental advantage.

New technologies for producing and transmitting electricity are also potentially important for consumer cost control and environmental protection.

More efficient gas turbines, refined fluidized bed combustion, creation of commercially viable fuel cells, solar panels, and wind machines are desirable objectives pursued by public power.

Development of a flexible AC transmission system with electronic controls substituting for mechanical closure, could help us deal with the problems of parallel flow, and double the carrying capacity of existing lines at an incremental investment less than embedded cost.

How do we advance the trioka of ideas that I listed at the beginning of my remarks—end-use efficiency, effective employment of electricity, and improved bulk power technologies?

We do it by pooling our power—our brain power, our organizational power, and our political power.

Public power systems need to make periodic "reality checks."

They need to examine their operations as compared to other public power systems. That's why APPA collects data from you and publishes performance ratios and encourages "bench marks" for measurement.

Why not use our collective intelligence and organize to make the best individual ideas and information available to everyone?

That's what APPA does with its information services. Pick up a brochure at the

APPA information desk and find out how it works.

Do people in your town talk about possible health effects of electric and magnetic fields? Most of them will turn to you for answers. That's why APPA produced a slide show to explain what we do and do not know, commissioned a monthly information service to keep you advised of new developments, and supported congressional enactment of a \$65 million, five-year federal and nonfederal financed research program.

That national EMF research effort is the result of the political process. That's the way a lot of things get decided in America—politically.

Think about these other examples:

Last year, APPA joined with NRECA and other organizations to provide the Federal Energy Regulatory Commission with workable authority to order transmission services.

Our goal was to secure equitable and effective access to the grid for public power systems seeking to benefit from a competitive bulk power supply market. We were successful.

Now we need to make the law work. What we are looking for are nondiscriminatory tariffs which treat all utilities alike—IOW and public power, generators and non-generators, large and small. If a "most favored nation" approach is available to China, what can be wrong with applying the principle at home?

A simple, systematic, standardized approach recommends itself. Otherwise, we run the risk of jamming the regulatory machinery by cramming IOU corporate lawyers into every cog. That could be the result if public power doesn't intervene.

Some in the Senate are thinking about deleting the thermal discharge waiver provision in the Clean Water Act which allows use of once-through cooling where there is no environmental damage. Removal of the provision would require a more than \$40 billion investment in cooling towers and generating equipment—with no demonstrated environmental gain. APPA has joined with NRECA and EEI to block this unreasonable expense.

Global climate change brought about by greenhouse gas emissions is the subject of continuing public policy debate. The science is uncertain as to environmental effects, and the economics are speculative as to the cost of feasible fixes. But things are happening. President Clinton has said he seeks to return CO₂ emissions to 1990 levels by the year 2000. Last year, representatives of two APPA member systems—Waverly, Iowa, and the Department of Water and Power in Los Angeles—participated in a White House-called conference in Washington to make a public power contribution to how this can be accomplished in a cost-effective manner.

We can reduce CO₂ emissions by microwaving a meal, faxing a document, mowing with an electric machine, using a heat pump, drying clothes and paint with microwaves, and melting glass electrically. We can help reach our "greenhouse gases" goal by advancing Tree Power, APPA's program to plant one tree for every public power customer in the United States.

But none of these ideas will influence global warming debates unless we tell politicians about them.

Last month, the APPA Executive Committee met for an hour with Hazel O'Leary, the Secretary of the Department of Energy, to talk about public power ideas. We told her of the tests APPA believed a Btu tax must pass, urged her support for retention of reasonable

rates for the federal power marketing agencies, and expressed support for development of renewable resources—including the greatest one of them all, hydropower.

The broad-based Btu tax advanced by President Clinton and passed by the House of Representatives may be dead, but now there's talk about an electricity tax. This is a discriminatory levy which hits the most popular form of energy in this country, and gives a discriminatory boost to competing natural gas. It hurts the environment because it discourages clean electricity in favor of combustion of a fossil fuel. APPA wrote the Senate Finance Committee Friday about an electricity tax. The message: kill it.

Rural electric cooperatives are attempting to enact a federal law preempting the laws of the 50 states, preventing municipal electric utilities from serving co-op customers in annexed areas, barring the issuance of a franchise to another competing utility, and denying a city the opportunity to require a co-op to secure any license or permit. The proposal would block consumers from receiving lower rates offered by other utilities, lock co-ops into urban areas which receive other city services, and even prevent a community from imposing any conditions on co-op operations. It is actively opposed by APPA, EEI, the National League of Cities, and the National Association of Regulatory Utility Commissioners.

Ideas are a vital ingredient in the political process. "Ideas shape civilization," John Maynard Keynes said—and it's true.

All American politicians seek ideas that will advance their concerns. Endorsement or rejection of ideas is how politicians define themselves. It is the means by which policy positions are sorted and selected—the filter through which legislation passes.

Public power personnel are a source of ideas about power issues—fairness in setting rates, consumer protection in approving mergers, equity in applying environmental regulations.

Consumer-owned electric utilities are the product of an idea that took root more than 100 years ago at the birth of the electric utility industry—the idea that a community can farm out this function to a private party or that it can perform it as a public enterprise.

Public power's ability to understand and use the political process for the benefit of consumers can be as important as technical skills, administrative success, or money management.

There are some things about politics that are different than other aspects of running a consumer-owned electric utility. It's a group activity. Numbers count. The more phone calls, letters, or visits, the greater the effort. Politics is a "contact sport." Multiple brains are required. Two heads are better than one. Coordination of implementation and reporting of findings is a prerequisite if you are going to be effective. Coalitions of individuals and organizations with like interests help get the job done.

It's nonlinear. The way things happen is not necessarily A to B, but A to B through C.

It's necessary to plan and package a program. You cannot realize a major political objective without analyzing the issue, organizing the arguments, preparing the rebuttals, and selecting the themes.

It's nonstop. Politics is not a one-time operation. Passage of a bill does not mean the subject will not be up again. And you must cultivate your contacts over time so when you ask for help, politicians know who you are and why they should respond. You cannot make a friend when you need one.

It's public. There are no secrets in politics. Ultimately, the press, public, and politicians will know everything you do, so you might as well be up-front at the beginning.

It's labor-intensive. This is one job you can't consign to the computer.

Public power officials can be good at politics because they are "real people for real politics" with special attributes. They have:

No special-interest axe to grind, only the public interest.

No personal financial gain in success.

A structure that includes elected officials—representatives of the electorate with demonstrated voting support and persons to whom other elected officials are likely to listen.

Credibility with consumers because of a record of low rates, service, and energy efficiency.

Ability to make changes and practice innovation without the handicap of the private bureaucracy maintained by big IOUs.

There's lots of philosophy to talk about in weighing political involvement. But the message these days is really simple: just do it.

And remember this:

Electricity drives our economy.

Electricity can enhance our environment.

Electricity is becoming the preferred form of energy in America.

Electricity is delivered by public power at less cost than IOUs to the benefit of customers of all categories.

You in this room make public power work. I salute you for the contribution you make to your customers, your community, and your country.

TRIBUTE TO LOUISE McNEILL PEASE

Mr. ROCKEFELLER. Mr. President, I rise today with great pride to celebrate the life and work of my friend Louise McNeill Pease, who passed away this month at the age of 82. For more than 60 years Louise graciously chronicled the true-life experiences of the people of Appalachia as well as served West Virginia as poet laureate for more than 10 years.

My friendship, respect, and admiration for Louise began when we met in 1977. I was Governor of West Virginia at that time and she and I were chosen West Virginia's "Daughter and Son of the Year" by the West Virginia Society here in Washington. On our journey to accept the honors bestowed upon us, Louise and I became fast friends. So, in 1979, when the position of poet laureate became available it was with great pride that I nominated Louise.

Louise began writing poetry as a teenager in the hills of Pocahontas County, WV. She sold short poems to the Saturday Evening Post for a mere \$5 per line. Poetry was Louise's first love, her second was education. For more than 30 years, Louise educated West Virginia students. Her beginnings as a teacher began in the humble surroundings of a one-room schoolhouse, but her desire and vision for each of her students reached far beyond.

Poetry was more than a gifted talent for Louise—it was an outlet. Her entire life Louise felt the beauty and the

hardships of her fellow West Virginian's lives and expressed those feelings in verse. She raised the voice of Appalachia high over the hills for all to hear and understand but kept the realism of our country dialect. She created images so vivid and so colorful that any person could imagine the sight of our grand mountains and struggle with the hardships and dreams of our coal miners and mountain people. Louise challenged what others dared not. She took on those who had blatant disregard for the destruction of the pure Appalachian hills and waters and its obvious degradation of West Virginia's people.

Louise's eloquent diction soothed our bruised spirits and reminded us of our incredible history. Her book, "Elderberry Flood," written and published in 1979, chronicles the history, lore, and land of West Virginia in verse. This book, although it appears to be a collection of poems, is such a simple and accurate account of West Virginia history that it is used to educate and stimulate the desire to learn history by younger West Virginia students. The title of this book is an extension of an old logger tale that an actual flood comes every year when the elderbloom is white and the white pine logs can be driven down the river to the mill. Her reasons for choosing this title were that Louise felt that history and life as well, could too be called "The Elderberry Flood" sweeping onward year by year down the changeless and everchanging "River of Time."

Louise McNeill Pease's poetry reminded the people of Appalachia and enlightened foreigners about the beauty and individuality of West Virginia. She mocked our State's unique shape and satirized those who stopped in, on their way to other more exotic places.

In her life, Louise published six books: "Gauley Mountain" (1932); "Time Is Our House" (1942); "Paradox Hill" (1972); and "Elderberry Flood" (1979); her memoirs "The Milkweed Ladies" (1988); and her last collection of verse "Hill Daughter: New & Selected Poems" (1991) covers most of the 60 years of her writing.

A modest and honest woman, Louise credited most of her success to her husband Roger. She noted that Roger was her critic and his hand was not always merciful when he took a red pencil to the pages of her verse. When she bore her son Douglas, her poetry focused on the risk of health-care in childbirth as well as her dreams for him and his discovery of Appalachian life. Louise welcomed a world where children are the priority above and beyond all else and she was appalled by needless destruction of anything. When big business companies began littering and destroying our streams, Louise screamed out opposition. She witnessed and felt everything that the Appalachian earth did and protested against its being harmed uselessly.

Louise McNeill Pease was a true daughter of the Mountain State from her birth in the Appalachian hills to her rise as the voice of Appalachian people. She scrimped and saved to keep her family in a home, regardless of its leaky roof. She felt the fears and frustration as a true mountain daughter and expressed it in terms to which each of us could relate. With her words, Louise McNeill Pease nourished our spirits, confronted our doubts, rhymed out our concerns and assured us of our heritage of all with her simple Appalachian verse. She truly embodied all that is beautiful about West Virginia and I will miss her.

In conclusion Mr. President, I feel that this tribute to my friend Louise McNeill Pease would be incomplete without the inclusion of her verse, so that I may share with everyone, West Virginia as only Louise could describe it. I ask that you print this verse in the RECORD following my remarks.

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

WEST VIRGINIA

Where the mountain river flows
And the rhododendron grows
Is the land of all the lands
That I touch with tender hands;
Loved and treasured, earth and star,
By my father's fathers far—
Deep-earth, black-earth, of-the-lime
From the ancient oceans' time.
Plow-land, fern-land, woodland shade,
Grave-land where my kin are laid,
West Virginia's hill to bless—
Leafy songs of wilderness;
Dear land, near land, here at home—
Where the rocks are honeycomb,
And the rhododendrons . . .
Where the mountain river runs.

Louise McNeill Pease, January 11, 1911–June 17, 1993, West Virginia's True Daughter.

MESSAGES FROM THE PRESIDENT

Messages from the President were communicated to the Senate by Mr. Thomas, 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, and a treaty.

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

MESSAGES FROM THE HOUSE

At 4:05 p.m. a message from the House of Representatives was delivered by Mr. Hays, one of its reading clerks, announcing that the House disagrees to the amendments of the Senate to the bill (H.R. 2118) making supplemental appropriations for the fiscal year ending September 30, 1993, and for other

purposes, it agrees to the conference asked by the Senate disagreeing votes of the two Houses thereon, and appoints Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. STOKES, Mr. BEVILL, Mr. MURTHA, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. HOYER, Mr. CARR, Mr. DURBIN, Mr. MCDADE, Mr. MYERS of Indiana, Mr. REGULA, Mr. LEWIS of California, Mr. PORTER, Mr. ROGERS, Mr. WOLF, and Mr. LIGHTFOOT as the managers of the conference on the part of the House.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 168. An act to designate the Federal building to be constructed between Gay and Market Streets and Cumberland and Church Avenues in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Court Courthouse".

H.R. 877. An act to authorize the establishment of the National African-American Museum within the Smithsonian Institution.

H.R. 2333. An act to authorize the appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

H.R. 2445. An act making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2446. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2517. An act to establish certain programs and demonstrations to assist States and communities in efforts to relieve homelessness, assist local community development organizations, and provide affordable rental housing for low-income families, and for other purposes.

H.R. 2531. An act to extend certain programs relating to housing and community development, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times, by unanimous consent and referred as indicated:

H.R. 168. An act to designate the Federal building to be constructed between Gay and Market Streets and Cumberland and Church Avenues in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Court Courthouse"; to the Committee on Environment and Public Works;

H.R. 877. An act to authorize the establishment of the National African-American Museum within the Smithsonian Institution; to the Committee on Rules and Administration;

H.R. 2333. An act to authorize the appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes; to the Committee on Foreign Relations;

H.R. 2445. An act making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes; to the Committee on Appropriations;

H.R. 2446. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes; to the Committee on Appropriations;

H.R. 2517. An act to establish certain programs and demonstrations to assist States

and communities in efforts to relieve homelessness, assist local community development organizations, and provide affordable rental housing for low-income families, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs; and

H.R. 2531. An act to extend certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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-964. A communication from the President of the United States, transmitting, a report, consistent with the War Powers Act, on U.S. naval forces launching a Tomahawk cruise missile strike on the Iraqi Intelligence Service's (IIS) principal command and control complex in Baghdad (received and referred in the Senate on June 28, 1993); to the Committee on Foreign Relations.

EC-965. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report of a certification relative to the Board of International Broadcasting; to the Committee on Appropriations.

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-168. A joint resolution adopted by the Legislature of the State of Nevada, to the Committee on Armed Services.

"SENATE JOINT RESOLUTION NO. 19

"Whereas, the Nevada Test Site is a national asset with a unique infrastructure of facilities, equipment and personnel unequaled anywhere in the nation; and

"Whereas, a significant number of southern Nevada residents are employed at the Nevada Test Site; and

"Whereas, the employment of those persons contributes millions of dollars to the economy of southern Nevada; and

"Whereas, recent federal legislation provides for a program that limits underground nuclear testing for 3 years, culminating in a comprehensive ban on testing nuclear weapons in 1996; and

"Whereas, that legislation prescribes certain conditions of readiness that must occur at the Nevada Test Site to resume the testing of nuclear weapons; and

"Whereas, because of its unique infrastructure, the Nevada Test Site is suitable for a wide range of other purposes which would put to use its unique capabilities and resources and which are compatible with its basic function of testing nuclear weapons; and

"Whereas, a comprehensive ban on testing nuclear weapons will result in a substantial reduction in the workforce at the Nevada Test Site and have a severe adverse economic impact on the economy of Nevada; and

"Whereas, a new program of cooperative research has been developed which will pro-

vide for the transfer of technology between laboratories of the United States Department of Energy and universities and private industries; and

"Whereas, as part of President Clinton's plans to carry out the program, \$94,000,000 will be spent on the program during the federal fiscal year 1993; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, jointly, That, even though the primary purpose of the Nevada Test Site is to ensure that the nation's needs for testing nuclear weapons continue to be met, Congress is hereby urged to develop an alternative use for the site that most effectively utilizes the facilities, equipment and personnel that are available at the site by making it the nation's center for testing and demonstrating geographically demanding technologies; and be it further

Resolved, That Congress is hereby urged to develop contingency plans for alternative employment of the workers at the Nevada Test Site; and be it further

Resolved, That if contingency plans for alternative employment are developed, Congress is urged to include in those plans the use of any money which may be available from President Clinton's program for the transfer of governmental technology to universities and private industries; and be it further

Resolved, That a copy of this resolution be transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval."

POM-169. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION 8

"Whereas, rape, domestic violence, spouse abuse, assault, robbery, and other violent crimes against women are well-documented as serious social problems of society; and

"Whereas, these pervasive and serious social problems have gained increased national and local attention as these violent occurrences are reported daily by the media; and

"Whereas, while the victims of these violent crimes are often women, these violent crimes place extreme stress and undue burden on all members of society, and particularly on those individuals who are related to the victim; and

"Whereas, from the home, to the workplace, to the neighborhood, rape, abuse, and assault are great community concerns; and

"Whereas, to reduce these incidences of violence from occurring and recurring and to help the victims of these violent crimes, comprehensive community-based support and services need to be made available to both the victims and perpetrators of these crimes; and

"Whereas, these services would include counseling, education, resource materials, and rehabilitation, referral, and outreach programs; and

"Whereas, additionally, social service, health, and criminal justice systems must work together to provide community-based support and expertise, and provide education that:

"(1) Encourages healthy relationships that are non-violent and respectful;

"(2) Promotes more open communication between men and women;

"(3) Informs individuals of the non-violent options that are available to deal with problems; and

"(4) Raises the consciousness of all members of society of the influences that may lead to or provoke sexual assault, rape, and other violent crimes; now, therefore, be it

Resolved by the House of Representatives of the Seventeenth legislature of the State of Hawaii, Regular Session of 1993, the Senate concurring, That the U.S. Congress and the Hawaii State Legislature enact effective legislation that addresses the escalating problem of violence against women in the nation so that women are assured of equal protection under law and are assured of their human rights; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States; the President of the U.S. Senate; the Speaker of the U.S. House of Representatives; the members of Hawaii's Congressional delegation; the Hawaii State Commission on the Status of Women; the University of Hawaii Women's Center; the Chief Justice of the State of Hawaii; the Director of the Department of Human Services; and the Director of the Department of Health."

POM-170. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on the Judiciary.

"HOUSE JOINT MEMORIAL NO. 5

"Whereas, the business of insurance is currently regulated almost entirely by the states; and

"Whereas, under existing state and federal law the Director of the Idaho Department of Insurance has the responsibility regulating the activities of insurance companies conducting business in Idaho, as well as the activities of agents and brokers; and

"Whereas, those regulatory responsibilities include fraud prevention, fiscal examinations, licensing, investigation of complaints and enforcement against violators; and

"Whereas, this system of state regulation of the insurance industry has proven to be an effective protection for the public, especially when compared to federal efforts at the regulation of financial institutions, such as the savings and loan industry; and

"Whereas, the Federal McCarran-Ferguson Act delegates responsibility for insurance regulation to the states, so long as they provide consumer protection from price fixing and other unfair business practices which Idaho law currently provides; and

"Whereas, H.R. 9, which is being considered by the Congress of the United States, would be unnecessary, duplicative and possibly conflicting as it relates to insurers doing business in Idaho; and

"Whereas, H.R. 9 would prohibit certain practices which insurers now use to control insurance costs; and

"Whereas, H.R. 9 would result in federal bureaucracies usurping much of the authority of the Director of the Idaho Department of Insurance and the Legislature of the State of Idaho: "Now, therefore, be it

Resolved by the members of the First Regular Sessions of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the President and the Congress of the United States to reject H.R. 9 and any similar legislation which would infringe on the authority of Idaho and each other state to be the principal regulator of insurers: Be it further *Resolved,* That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of Congress, and

the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-171. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 5006

"Whereas, the Flag of the United States is the most recognized and cherished symbol of a grateful nation and no other American symbol has been as universally honored as the American Flag; and

"Whereas, the United States remains the destination for millions of immigrants attracted by the freedoms of liberty, equality and expression; and

"Whereas, while the right of expression is a principal freedom provided by the United States Constitution, very carefully drawn limits of expression in specific instances have long been recognized as legitimate means in maintaining public safety and decency, as well as providing order and value to public debate; and

"Whereas, certain actions, while related to an individual's right to free expression, nevertheless raises issues concerning public decency, peace, rights of expression and the values of others; and

"Whereas, the law as interpreted by the United States Supreme Court no longer accords the Flag the reverence, respect and dignity befitting the banner of that 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 Flag of a proper station under law and decency; and

"Whereas, More than 500 Kansas veteran, fraternal and civic organizations have joined many city and county bodies of Government in signing resolutions calling upon the Kansas legislature to approve a resolution petitioning the Congress of the United States to propose a Constitutional Amendment to allow states the authority to pass laws prohibiting the physical desecration of the Flag of the United States; and

"Whereas, Kansans believe the right to express displeasure with government is a cherished right protected by the First Amendment, however, Kansans also believe that the desecration of the American Flag is an atrocious act which should be prohibited: Now, therefore, be it

Resolved by the House of Representatives of the State of Kansas, the Senate concurring therein, That the Legislature petition the Congress of the United States to submit an amendment to the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit the physical desecration of the Flag of the United States; 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 Representative, the President of the United States Senate and all members of the congressional delegation from the State of Kansas."

POM-172. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 172

"Whereas, on Sunday, February 28, 1993, nearly one hundred agents of the Bureau of Alcohol, Tobacco and Firearms moved against the Branch Davidian compound located outside Waco, Texas, where more than

one hundred members of a religious organization lived, such move being in response to suspected firearms violations in which the members of the Branch Davidian organization were accused of altering firearms illegally; and

"Whereas, during the initial actions taken by the Bureau of Alcohol, Tobacco and Firearms, four ATF agents were killed, fifteen agents were wounded, and a number of Branch Davidian members were reported to have been killed or wounded; and

"Whereas, after the initial action taken by the Bureau of Alcohol, Tobacco and Firearms, there ensued a standoff between the federal government, represented by ATF and the Federal Bureau of Investigation, and the leader of the Branch Davidians, David Koresh, such standoff involving the cutting off of utilities to Ranch Apocalypse where the Branch Davidians lived, hours of loud music and Tibetan chants directed by the FBI toward Ranch Apocalypse, sermons, promises, and tauntings by David Koresh, and not much action toward a resolution of the standoff; and

"Whereas, on the morning of April 19, 1993, the FBI and ATF, based on decisions that had been made over the few days previous to that morning, again moved on Ranch Apocalypse, tearing holes in the walls of the compound with armored vehicles which then pumped tear gas into the compound in an attempt to drive the Branch Davidians out of the compound, the FBI believing that such actions would end the standoff; and

"Whereas, the actions taken by the FBI on April 19, 1993, did indeed end the standoff but in a manner not anticipated by the FBI and in a manner viewed in horror by the FBI and the rest of the country; and

"Whereas, the attorney general of the United States and the FBI feel that based on reports of severe child abuse and the originally suspected firearms violations, and the opinions that rumors of mass suicide attempts were likely exaggerated, their actions were justified and the proper course of action to force a peaceful end to the standoff; and

"Whereas, when scores of citizens of this country lose their lives in a situation such as that which took place at Ranch Apocalypse, it is incumbent upon congress, as representatives of the people, to closely examine the actions and decisionmaking processes involved by representatives of the federal government in order to reassure the citizens of this country that our government is functioning properly: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize congress and particularly the Louisiana Congressional Delegation to ensure that a thorough and complete investigation is conducted into the events which transpired at Ranch Apocalypse: Be it further

Resolved, That a copy of this Resolution be forwarded to each member of the Louisiana Congressional Delegation and to the presiding officials of both houses of congress."

POM-173. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION NO. 119

"Whereas, beginning a school day with a moment of silence or other meditation time gives both students and faculty the opportunity to begin the day with reflection and with a thoughtful note of goodwill; and

"Whereas, a moment of silence or other meditation time fosters a sense of universal brotherhood and sisterhood, a mind set that

would greatly improve the quality of the environment in many schools; and

"Whereas, providing for more peaceful and harmonious feelings toward one another could only enhance the opportunities for learning; and

"Whereas, the concepts focused during moments of silence or other meditation times offer a positive alternative to the negative lifestyles that many school children live with daily; and

"Whereas, moments of silence or other meditation times raises aspirations, imbues students and teachers with determination to reach higher, and a sense of duty; and

"Whereas, this nation was created as "one nation under God with liberty and justice for all"; and

"Whereas, the liberty to seek the truth and learn from the ultimate teacher should not be abridged; and

"Whereas, determinations about the appropriateness of moments of silence or other meditation times in schools when measured against the constitutional separation of church and state have left many confused frustrated, and unsure of the nature of public education: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States of America to propose and submit to the several states an amendment to the Constitution of the United States of America to authorize daily or other regularly scheduled times for students to enjoy a moment of silence or other meditation time in public schools: Be it further

Resolved, That a copy of this resolution be transmitted to each member of the Louisiana delegation to the United States Congress, and to the secretary of the United States Senate and the clerk of the United States House of Representatives."

POM-174. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 60

"Whereas, beginning a school day with prayer gives both students and faculty the opportunity to begin the day with reflection and with a thoughtful note of goodwill; and

"Whereas, prayer fosters a sense of universal brotherhood and sisterhood, a mind set that would greatly improve the quality of the environment in many schools; and

"Whereas, providing for more peaceful and harmonious feelings toward one another could only enhance the opportunities for learning; and

"Whereas, the concepts included in prayer offer a positive alternative to the negative lifestyles that many school children live with daily; and

"Whereas, prayer raises aspirations, imbues students and teachers with determination to reach higher, and a sense of duty; and

"Whereas, this nation was created as "one nation under God with liberty and justice for all"; and

"Whereas, the liberty to seek the truth and learn from the ultimate teacher should not be abridged; and

"Whereas, determinations about the appropriateness of prayer in schools when measured against the constitutional separation of church and state have left many confused, frustrated, and unsure of the nature of public education: Therefore, Be it

Resolved, that the Legislature of Louisiana memorializes the Congress of the United States of America to propose and submit to the several states an amendment to the Constitution of the United States of America to

authorize prayer in public schools: Be it further

Resolved, That a copy of this Resolution be transmitted to each member of the Louisiana delegation to the United States Congress, and to the secretary of the United States Senate and the clerk of the United States House of Representatives."

POM-175. A concurrent resolution adopted by the Legislature of the State of Missouri; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 9

"Whereas, an amendment to the United States Constitution previously introduced in Congress, the text of which reads: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes," seeks properly to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes: Now, therefore, be it

Resolved by the Senate of the Eighty-seventh General Assembly, First Regular Session, "the House of Representatives concurring therein, That the Missouri General Assembly strongly urges the Congress of the United States to pass this constitutional amendment, and that the Congress prepare and submit to the several states before January 1, 1994, this amendment to the Constitution of the United States; and be it further

Resolved, That if, by January 1, 1994, the Congress has not proposed and submitted to the several states such an amendment, this body respectfully makes application to the Congress of the United States for a convention to be called under Article V of the Constitution of the United States for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to prevent the federal judiciary from imposing taxes against the will of the people; and be it further

Resolved, That effective January 1, 1994, this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made similar applications pursuant to Article V; but if the Congress proposes an amendment to the Constitution identical in subject matter and intent to that contained in this resolution, to wit no taxation without legislative concurrence, then this application and petition for a constitutional convention shall no longer be of any force or effect; and be it further

Resolved, That this body also proposes that the legislatures of each of the several states comprising the United States which have not yet made similar applications apply to the Congress requesting enactment of an appropriate amendment to the United States Constitution, and apply to the Congress to call a constitutional convention for the purpose of proposing such an amendment to the United States Constitution; and be it further

Resolved, That copies of this resolution be sent by the Secretary of the Senate and the Chief Clerk of the House of Representatives to each member of the Congress representing Missouri; and be it further

Resolved, That the Secretary of the Senate and the Chief Clerk of the House of Representatives of this state be directed to send copies of this resolution to the Secretary of State and the presiding officer in each house of the legislature in each of the other states in the Union, the Clerk of the United States House of Representatives and the Secretary of the United States Senate."

POM-176. A concurrent resolution adopted by the General Assembly of the State of Missouri; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION 7

"Whereas, Presidential authority for a line-item veto is a badly needed fiscal tool that will provide a valuable means to reduce and restrain excessive appropriations; and

"Whereas, the line-item veto would establish a new element of Presidential accountability for correcting abuses of the budget process; and

"Whereas, the line-item veto would reestablish the constitutionally provided system of checks and balances; and

"Whereas, in this century, the Congress of the United States has granted line-item authority in organic laws to the territorial Governors of Hawaii, Alaska, the Philippine Islands, Puerto Rico, Guam, and the Virgin Islands; and

"Whereas, at least forty-three state Governors have used line-item veto authority to eliminate unnecessary expenditure, delete legislative riders, and to prevent pork-barrel appropriations; and

"Whereas, the fiscal policy of our nation is in critical need of strong disciplinary action; and

"Whereas, line-item veto proposals send a clear message to the American people that Congress is making a serious effort to get our nation's fiscal house in order; Now, therefore, be it

Resolved, That the Senate of the Eighty-Seventh General Assembly of the State of Missouri, the House of Representatives concurring therein, hereby urge the Missouri Congressional delegation and their fellow Congressmen to propose and support an amendment to the United States Constitution authorizing the President to disapprove an item of appropriations; and be it further

Resolved, That the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, for the President of the United States Senate, for the Speaker of the United States House of Representatives, and for each member of the Missouri Congressional delegation."

POM-177. A resolution adopted by the Bradley County Bar Association, Cleveland, Tennessee relative to the Federal Judiciary for the Eastern District of Tennessee Southern Division; to the Committee on the Judiciary.

POM-178. A resolution adopted by the Legislature of the State of Florida; to the Committee on Labor and Human Resources.

SENATE MEMORIAL NO. 4-B

"Whereas, under the Fair Labor Standards Act of 1938, the definition of the term 'employee' does not specifically include any inmate of a penal or correctional institution, and

"Whereas, a number of federal lawsuits are underway which argue that prisoners working in correctional work programs are employees under the Fair Labor Standards Act of 1938: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is urged to amend the Fair Labor Standards Act of 1938 to provide that an inmate who is participating in a correctional work program sanctioned by a state or federal corrections agency or administered by a nonprofit corporation authorized by state law to conduct a correctional work program on behalf of the state is not considered an employee for the purposes of that act: be it further

"Resolved, That copies of this memorial 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-179. A resolution adopted by the Legislature of the State of Hawaii relative to the Healthy Families America Initiative; to the Committee on Labor and Human Resources.

"SENATE RESOLUTION NO. 108

"Whereas, the childhood social and health problems our country faces—increasing rates of teen pregnancies, child abuse and neglect, high infant mortality and low immunization rates, and troublesome school readiness issues—continue to plague us although they are preventable; and

"Whereas, intensive home visitor services for at-risk new parents are of significant value; and

"Whereas, Hawaii's statewide intensive home visitation program, Healthy Start, reached over 1,200 families in a two-year period at an estimated cost of \$2,200 to \$2,500 per family and consistently documented no physical abuse or neglect for over ninety-nine per cent of the high risk families served; and

"Whereas, strategically, it makes sense to focus upon strengthening families from the beginning, when a child is born, building parenting capacity, assuring healthy development and preventing child abuse and neglect and because of its success in doing all these things, Hawaii's Healthy Start program has provided the foundation for a new nationwide initiative which was launched in 1992—Healthy Families America (HFA); and

"Whereas, HFA is an exciting, innovative new initiative designed to establish intensive home visitor services for all new parents and aimed at significantly reducing rates of the interrelated problems of childhood including abuse and neglect, poor child health, and lack of school readiness; and

"Whereas, the key features of the HFA include:

"(1) Universal assessment of all families of newborns around the time of birth;

"(2) In-home support for high risk parents to meet basic family needs for five years or until the child enters a school program;

"(3) Help with parenting to enhance the child's development and readiness for school;

"(4) Linkage with a "medical home" to assure continuity of child health care (timely immunizations, well-baby visits, and the like);

"(5) Linkages to community resources such as the Women, Infants, and Children (WIC) program, Head Start, and substance abuse treatment services to enhance family functioning; and

"(6) Screening to identify development delays and to assure linkage to developmental services; and

"Whereas, for example, in a study of 400 women at risk for poor pregnancy and child health outcomes, there was an eighty per cent reduction in the incidence of verified cases of child abuse among poor unmarried teenagers who received nurse visitation during the first two years after delivery of the first child and low-income women who were visited by nurses used \$3,300 less in other government services during the first four years after delivery than those who were not visited; and

"Whereas, in a future example, low-income parents who received health care services,

home visits, and day care services following the birth of their first child ten years later reported higher education levels, greater financial independence, and better school performance than parents of children who had not received early intervention services and who reportedly incurred an additional \$40,000 in welfare costs and school services in those ten years; and

"Whereas, longitudinal studies cited by the United States General Accounting Office (GAO) showed that visited families exhibited lasting positive effects, including less welfare dependency, and the GAO further reported that home-visited clients had fewer low-birthweight babies and cases of child abuse and neglect, higher rates of child immunizations, and more age appropriate development; and

"Whereas, the National Center for Children in Poverty, Children's Defense Fund, Child Welfare League of America, American Academy of Pediatrics, American Hospital Association, American Nurses Association, American Public Welfare Association, National Commission on Children, and the Cooperative Extension Service of the United States Department of Agriculture have all voiced strong support for intensive home visitation programs; and

"Whereas, although forty-six states are committed to this effort, a major constraint in moving forward has been a lack of federal funding—there are no existing funding streams for such early intervention programs; and

"Whereas, President Clinton's plan for the national economy includes a proposal to invest in children by specifically increasing spending for Head Start, the WIC program, immunization, and parenting and family support; and

"Whereas, under the Clinton plan, discretionary funds of \$60 million in fiscal year 1993-1994 (\$1.1 billion over fiscal years 1994-1997) would be set aside to respond to issues in parenting and family support, including activities to help disadvantaged parents work with their children at home; Now, therefore, be it

"Resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, That the President of the United States is urged to support and provide funding for the Healthy Families America Initiative to significantly reduce rates of the interrelated problems of childhood including abuse and neglect, poor child health, and lack of school readiness as part of the long-term national economic recovery program; and be it further

"Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's congressional delegation."

POM-180. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia relative to the drug manufacturer Roussel-Uclaf; to the Committee on Labor and Human Resources.

"HOUSE JOINT RESOLUTION NO. 585

"Whereas, the drug Mifepristone (RU 486) represents a medical breakthrough of broad applicability; and

"Whereas, because RU 486 acts to block the normal action of the hormone progesterone and acts as an anti-glucocorticoid, the international medical community has identified RU 486 as a promising treatment for medical purposes; and

"Whereas, articles published in the Journal of the American Medical Association and elsewhere, report that RU 486 has beneficial uses in the treatment of endometriosis and prostate and breast cancer; and

"Whereas, the drug also has been used in initial stages of the research for the treatment of several other conditions including Cushing's Syndrome and adrenal cancer; and

"Whereas, after extensive worldwide clinical testing and research, RU 486 was approved and has been available in France since November of 1988 for termination of early pregnancy; and

"Whereas, a new study published in October 1992 in the New England Journal of Medicine concludes that RU 486 is also a highly effective postcoital contraceptive that, according to the authors, "if used more widely, could help reduce the number of unplanned and unwanted pregnancies"; and

"Whereas, a hostile political climate has discouraged Roussel-Uclaf, the French manufacturer of RU 486, from seeking a license to market the compound in the United States; and

"Whereas, other beneficial drugs which happen to induce abortion have nonetheless been approved, including methotrexate, which several decades ago proved to cure cancer (choriocarcinoma) and became the first effective cancer chemotherapy, and likewise the newly marketed drug Accutane acts as an abortifacient; and

"Whereas, the American Medical Association, the American Public Health Association, the American College of Obstetricians and Gynecologists, the American Association for the Advancement of Science, the American Medical Women's Association and hundreds of other medical professionals and interested organizations have formally recognized the importance of RU 486 and support the testing of RU 486 in the United States; and

"Whereas, the legislatures of Hawaii, Maine, California and New Hampshire have joined the call to bring RU 486 to the United States; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the General Assembly request the President and Congress of the United States to call upon the drug manufacturer Roussel-Uclaf to make RU 486 available for research and development in the United States; and, be it

"Resolved further, That copies of this resolution be sent by the Clerk of the House of Delegates to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Virginia's Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia."

POM-181. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION NO. 247

"Whereas, the Louisiana Department of Social Services can ill afford to lose four hundred thousand dollars in federal grant funds for child abuse prevention and treatment under the Child Abuse Prevention and Treatment Act (CAPTA); and

"Whereas, several Christian denominations, including Christian Science, regularly and successfully use spiritual treatment in lieu of medical treatment for themselves and their children; and

"Whereas, this practice of spiritual healing has been considered safe and legal in Louisiana for over one hundred years; and

"Whereas, the practice of spiritual healing has proven for those who use it to be generally as safe as medical treatment, with the rate of serious illness and death now averaging less than half that of the normal population; and

"Whereas, under CAPTA since 1974, most states were permitted to provide that spiritual treatment for children in lieu of medical treatment shall not in and of itself be considered child neglect or maltreatment; and

"Whereas, most states, like Louisiana, have statutes such as the Children's Code in Article 603(14), which state that providing spiritual treatment for children in lieu of medical treatment shall not be considered child neglect nor maltreatment; and

"Whereas, until November 4, 1992, HHS has considered Louisiana's statutes on this subject to be 'in compliance' and therefore eligible for grant funds under CAPTA, which grant funds have in Louisiana amounted to approximately four hundred thousand dollars per year; and

"Whereas, the children of Louisiana would be severely impacted if HHS discontinued the grant of four hundred thousand dollars per year given to Louisiana for child abuse prevention and treatment; and

"Whereas, the change that HHS is now calling for in Louisiana law would alter the definition of neglect in such a way that parents who are Christian Scientists or members of various other Christian churches could be defined as negligent if they prayed for their children in lieu of medical treatment; and

"Whereas, this would clearly prohibit the free exercise of religion as protected by the First Amendment of the United States Constitution; and

"Whereas, when HHS threatened the state of California with this exact same loss of grant funds, the attorney general of California brought suit in federal district court against HHS and won his case on February 9, 1993; and

"Whereas, in that case the federal district judge found that HHS 'acted capriciously and arbitrarily in denying California a Part I grant on the basis of an allegedly non-complying religious exemption provision' and he further called it a most glaring example of abuse of discretion; and

"Whereas, CAPTA is due for congressional reauthorization in 1994, and several members of congress have promised to address this question with more specific language to guide the department in their granting of funds for child protection. Therefore, be it

Resolved That the Legislature of Louisiana does hereby urge and request Secretary Donna Shalala of the United States Department of Health and Human Services to immediately suspend the demands mentioned in the letter dated November 4, 1992, from Region VI of HHS, and repeated in her letter of April 27, 1993, to Congressman William Jefferson, which find the Louisiana statutes 'not in compliance' regarding their wording in the Children's Code, and that this suspension continue at least until after the 1994 reauthorization of CAPTA by congress. Be it further

Resolved, That the Louisiana Legislature urges Secretary Donna Shalala and her staff to meet as soon as possible in Washington, D.C. with the Christian Science Committee on Publication, and other interested parties, to work out an understanding on this question. Be it further

Resolved, That the Louisiana Legislature intends that Secretary Donna Shalala and

her staff at HHS recognize the great importance that the Louisiana Legislature places on the carefully chosen wording of our definition of 'neglect' in the Children's Code, because the Louisiana Legislature desires to establish in its statutes that it is not negligent for a sincere parent to use 'a well recognized religious method of healing with a reasonable proven record of success', in lieu of medical treatment. Be it further

Resolved, That the Louisiana Legislature does hereby memorialize the Congress of the United States, and particularly the members of the Louisiana congressional delegation, to take all appropriate action to encourage Secretary Shalala to suspend these actions of her department relative to the reduction of grants funds under the Child Abuse Prevention and Treatment Act of 1974: Be it further

Resolved, That copies of this Resolution be transmitted to Donna Shalala, secretary of the United States Department of Health and Human Services, to the clerk of the United States House of Representatives, to the secretary of the United States Senate, and to each member of the Louisiana congressional delegation."

POM-182. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION NO. 302

"Whereas, a bill entitled by its sponsors the "Freedom of Choice Act", or FOCA, now being considered by the Congress of the United States, would purport to invalidate most Louisiana laws on abortion, many of which have never been enjoined from enforcement, and would purport to prevent Louisiana from enacting meaningful limits on abortions, even late-term abortions; and

"Whereas, the FOCA would purport to prohibit Louisiana from enacting any enforceable limitations on late-term abortions, since it provides that 'a state may not restrict the right of a woman to choose to terminate a pregnancy' for any reason 'before viability', including during the fourth, fifth, and sixth months of pregnancy, or 'at any time, if such termination is necessary to protect the life or health of the woman', and since the 1992 Senate Labor and Human Services Committee Report makes clear that 'health' must be interpreted as encompassing 'all factors—physical, emotional, familial, and the woman's age—relevant to the well-being' of the woman, meaning that even after viability abortion must in practice be permitted essentially on demand; and furthermore the bill does not define 'viability' while the committee report states that only the doctor may define it, precluding legally binding limits; and

"Whereas, the FOCA does not define 'viability'; and

"Whereas, the FOCA would purport to invalidate R.S. 40:1299.35.2(A), the Louisiana requirement that only licensed physicians may perform abortions, since the 1992 U.S. Senate Labor and Human Resources Committee Report in effect invites litigation to strike down a physician requirement on the basis that it is not 'medically necessary' that physicians, as opposed to other trained personnel, perform abortions; and

"Whereas, the FOCA would purport to invalidate R.S. 40:1299.34.5, which prevents the use of our citizens' tax dollars to provide operating rooms and equipment in public hospitals for the performance of abortions, except when an abortion is necessary to prevent the death of the mother, thereby effec-

tively overturning the 1977 Supreme Court ruling in *Poelker v. Doe*, 432 U.S. 519 (1977); and

"Whereas, the FOCA would purport to invalidate R.S. 40:1299.35.6, the Louisiana informed consent law, in its entirety, including provisions that give a woman seeking an abortion the right to know the probable number of weeks since conception of her unborn child, the anatomical and physiological development of that unborn child, whether the unborn child is viable, the abortion procedure to be used, and the particular medical risks associated with the abortion procedure to be used, and which also give her the right to obtain a list of the public and private agencies and services that may be available to assist her during pregnancy and after birth of her child; and

"Whereas, the FOCA would purport to invalidate R.S. 40:1299.35.5, Louisiana's requirement that a minor seeking an abortion first obtain consent of a parent or authorization of a court before an abortion, because the FOCA purports to allow a state to require only "parental involvement" such as parental notification, not consent, and would not even allow the state to require mere notification unless the state law also provides each minor the option of consulting an "other responsible adult", thereby circumventing the involvement of a minor's parents; and

"Whereas, the House version of FOCA purport to allow a state to protect individuals from being forced to participate in abortions, but not hospitals which are conscientiously opposed, and thus it would purport to invalidate R.S. 40:1299.32 which protects the freedom of hospitals to refuse to make their facilities available for the performance of abortions, exposing Louisiana's hospitals that refuse to perform abortions to lawsuits seeking to force them to perform abortions against their conscience; and

"Whereas, since the FOCA would purport to require a state to prove that any health regulation of abortion is "medically necessary" to protect the health of women undergoing such procedures, the requirement of R.S. 40:1299.35.2(B) that an ultrasound test be performed before an abortion, and the provisions in R.S. 40:1299.35.10 requiring the reporting of complications and information about abortions, would be held to a higher scrutiny in determining their validity than Louisiana reporting requirements for other medical procedures; and

"Whereas, President Clinton has proposed taxpayer funding of abortion, taxpayer funding of fetal experimentation, and taxpayer funding of abortion counseling; and

"Whereas, a large segment of our population opposes abortion and especially opposes using their tax dollars to promote abortion; and

"Whereas, a physician performing abortions was recently murdered in the state of Florida, and such criminal activity is unlawful, immoral, and destructive of the role of law; and

"Whereas, the FOCA is an attack on the right to life of our citizens' and proposes an unconstitutional violation of the power of the state of Louisiana to protect our citizens. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to oppose and defeat the bill entitled the "Freedom of Choice Act" which would purport to invalidate virtually every law on abortion enacted by the people of Louisiana through their elected officials and prevent Louisiana from enacting any enforceable limits on abortions. Be it further

"Resolved, That the Legislature of Louisiana does hereby further memorialize the Congress of the United States to defeat all proposals, and to remove existing authority, for the funding of abortions, fetal experimentation, or abortion counseling through the use of taxpayer funds. Be it further

"Resolved, That the Legislature of Louisiana does also urge and request all law enforcement agencies and officers in Louisiana to actively enforce all laws and regulations of the state of Louisiana and its agencies and subdivisions on abortion which have not been enjoined from enforcement. Be it further

"Resolved, That the Legislature of Louisiana condemns all acts of violence connected with the controversy over abortion and urges all parties to use nonviolent means to express their views. Be it further

"Resolved, That copies of this Resolution be transmitted to the president and secretary of the United States Senate and to the speaker and clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation, and that a copy also be transmitted to Louisiana Attorney General Richard Ieyoub who is hereby requested to make its contents known to all law enforcement agencies and officers in the state."

POM-183. A joint resolution adopted by the Legislature of the State of Nevada relative to the ENABLE demonstration project; to the Committee on Labor and Human Resources.

"JOINT RESOLUTION NO. 27

"Whereas, Resources from federal, state and local governments for funding health and human services are declining; and

"Whereas, There is increased public and governmental awareness of the desirability and necessity of coordinating health and human services for cost effectiveness; and

"Whereas, Rural master planning for health and human services has consistently articulated the need for integrated eligibility determination and service delivery, through "one-stop shopping" for services; and

"Whereas, Research consistently demonstrates that the self-sufficiency of clients is attainable only when all of a family's needs are addressed holistically; and

"Whereas, The creation of a family service network can more effectively utilize existing resources and allocations; and

"Whereas, Federal money for demonstration projects is available for innovative methods of service delivery; and

"Whereas, the ENABLE demonstration project would provide 17 Family Service Centers throughout rural Nevada; now, therefore, be it

Resolved, by the assembly and Senate of the State of Nevada jointly, That the Nevada Legislature hereby urges Congress to fund the ENABLE demonstration project in an effort to provide better health care services in rural Nevada; and be it further

Resolved, That this body urges state agencies and county governments to support and cooperate with the ENABLE demonstration project; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval."

POM-184. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Labor and Human Resources.

"JOINT RESOLUTION NO. 10

"Whereas, Chronic fatigue syndrome, also known as Epstein-Barr syndrome and chronic fatigue immune dysfunction syndrome, is a recently discovered illness for which there is no known cure or effective treatment; and

"Whereas, Recent biomedical research has identified chronic fatigue syndrome as a serious illness which affects a number of systems within the human body including the immune system; and

"Whereas, The syndrome is characterized primarily by a chronic debilitating fatigue and many influenza-like symptoms and is often accompanied by a variety of cognitive dysfunctions; and

"Whereas, More serious and longer lasting neurologic impairments may include seizures, psychosis and dementia; and

"Whereas, Victims of this syndrome often experience symptoms of sufficient severity to qualify them for social security disability; and

"Whereas, There is an urgent need to expand the public health response to this disease, which has been identified in every state, and which the Centers for Disease Control have called an emerging epidemic; and

"Whereas, Estimates of the afflicted range as high as 1½ percent of the national population, or approximately 3,750,000 persons; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, Jointly, That the Nevada Legislature respectfully urges the President and Congress to increase the amount of financial assistance allotted to research chronic fatigue syndrome and to develop effective treatments and a cure for this disease; and be it further

Resolved, That the Secretary of the Senate prepare and transmit a copy of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives and to each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval."

POM-185. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Labor and Human Resources.

"JOINT RESOLUTION NO. 18

"Whereas, The family unit is the basic institution in American society in which morals, social skills, traditions and other values essential to our society are imparted to younger generations; and

"Whereas, The enactment of laws forms the structure in which all citizens must function in an ordered society and often has far-reaching effects not easily foreseen at the time of enactment; and

"Whereas, The use of family impact statements, which analyze proposed federal legislation to determine whether it will strengthen or erode the stability of the family, was begun in the early 1970's; and

"Whereas, Such statements have been helpful in determining the effect policies relating to such issues as medical care, urban renewal, tax laws and public education, will have on children and their parents; and

"Whereas, Family impact statements have been ignored in recent years as policy makers often disagree on what actions are necessary to preserve and foster family stability; and

"Whereas, The preservation of the family should be given the utmost consideration by

all legislative bodies in the United States; now, therefore, be it

Resolved by the Assembly and Senate of the State of Nevada, Jointly, That the Nevada Legislature urges the Congress of the United States to give special consideration to the effect that proposed legislation relating to human resources and the delivery of social services will have on the stability and unity of families in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval."

POM-186. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Rules and Administration.

"JOINT RESOLUTION NO. 23

"Whereas, The right to vote is considered a fundamental right in the United States, the exercise of which should not be discouraged; and

"Whereas, The hours for the opening and closing of the polls in elections for national officers are determined by the individual states and vary greatly based upon the particular needs of each state; and

"Whereas, Voters who reside in states located within time zones in the western portion of the United States often learn of election results in states located within time zones in the eastern portion of the United States before the close of the polls in their own states; and

"Whereas, Such election results may indicate that a candidate has an overwhelming lead over an opposing candidate, thereby creating the impression that the vote of one person is futile or of little consequence and discouraging some voters from exercising their right to vote; now, therefore, be it

Resolved by the Assembly and Senate of the State of Nevada, Jointly, That the Nevada Legislature hereby urges Congress to enact legislation which establishes uniform hours for the closing of polls across the nation in elections for national officers; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval."

POM-187. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Governmental Affairs.

"JOINT RESOLUTION

"We, your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the United States Postal Service, as follows:

"Whereas, the people of the Village of St. George, Maine, had enjoyed the convenience of a post office for more than 160 years; and

"Whereas, the people of the Village of St. George had been assured by authorities of the United States Postal Service that the post office would not be closed before a public hearing was held and serious consideration given to the sentiments and needs of the people; and

"Whereas, authorities of the United States Postal Service made the decision to close the St. George Post Office and, feigning an emergency, did indeed shut the door of that office without a public hearing and with less than a week's notice to postal customers; and

"Whereas, any opinions of the people, expressed at a hearing that may occur after the decision has already been made and the closing accomplished, are rendered ineffective; and

"Whereas, such an arbitrary and irregular act on the part of the Postal Service puts the creditability and integrity of the United States Government into dispute; and

"Whereas, such abuse of authority by one level of government is imputed, in the public mind, to all levels of government, thus eroding respect for all governing bodies and public officials; and

"Whereas, people of the Village of St. George have no recourse save through the collective voice of the people's representatives here assembled; now, therefore, be it

Resolved, That We, your Memorialists, respectfully recommend and urge that any act by a governmental body be carried out according to procedures established to ensure that the voices of the people be heard and their wishes respected; and be it further

Resolved, That We further remonstrate against the arbitrary action of the United States Postal Service in closing the door of the St. George Post Office without considering the opinions and needs of the people of that place; and be it further

Resolved, That We further urge the responsible authorities to rectify this injustice; and be it further

Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the United States Postal Authorities in Maine, the Postmaster General of the United States and to each member of the Maine Congressional Delegation."

POM-188. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Veterans' Affairs.

"JOINT RESOLUTION

"We, your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the President and the Congress of the United States, as follows:

"Whereas, there currently exists a critical shortage of burial spaces for Maine's veterans, a problem which promises to worsen in the future; and

"Whereas, the nearest national cemetery is in Massachusetts, too far away for central and northern Maine veterans and their families; and

"Whereas, the Maine Veterans' Memorial Cemetery is open only to those veterans who served during specific time periods, specifically war-time service; and

"Whereas, the few remaining spaces at the Togus Veterans Administration cemetery are reserved only for veterans who have reservations on file; and

"Whereas, there are currently 2 bills before the Congress of the United States making National Guard and Reserve members eligible for burial in national cemeteries, which would further compound the need for burial spaces; and

"Whereas, the closing of the Loring Air Force Base in 1994 creates an opportunity to establish a national or state cemetery and as the portion of land needed for a cemetery, 80

acres, is a small percentage of the land available; and

"Whereas, the United States Veterans Administration is in the process of identifying areas in greatest need of a national cemetery and submitted a report in January 1993 to the Congress of the United States; and

"Whereas, the possibility now exists of receiving federal funds from the Veterans Administration for establishment of a new state veterans' cemetery; now, therefore, be it

Resolved, That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to direct the United States Veterans Administration to recognize the problem of proper burial space for Maine's veterans and to provide a solution to that problem by establishing a national cemetery in Maine or, in the alternative, by providing the necessary federal funding for a state veterans' cemetery; and be it further

Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 919. A bill to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes (Rept. No. 103-70).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S.J. Res. 32. A joint resolution calling for the United States to support efforts of the United Nations to conclude an international agreement to establish an international criminal court (Rept. No. 103-71).

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

S. 121. A bill to authorize a certificate of documentation for the vessel *Enterprise* (Rept. No. 103-72).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 122. A bill to authorize a certificate of documentation for the vessel *Kalena* (Rept. No. 103-73).

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

S. 386. A bill to authorize a certificate of documentation for the vessel *Pandacea* (Rept. No. 103-74).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 444. A bill to require a study and report on the safety of the Juneau International Airport, with recommendations to Congress (Rept. No. 103-75).

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

S. 888. A bill to authorize a certificate of documentation and a coastwise and fishery

endorsement for the vessel *Reel Class* (Rept. No. 103-76).

S. 889. A bill to authorize the certificate of documentation for the vessel *Da Warrior* (State of Hawaii registration number HA 161 CP) to be endorsed with a fishery endorsement (Rept. No. 103-77).

S. 1006. A bill to authorize a certificate of documentation for the vessel *Arbitrage II* (Rept. No. 103-78).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 412. A bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes (Rept. No. 103-79).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 568. A bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes (Rept. No. 103-80).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 28. A concurrent resolution expressing the sense of the Congress regarding the Taif Agreement and urging Syrian withdrawal from Lebanon, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Alexander Fletcher Watson, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State;

Daniel K. Tarullo, of Massachusetts, to be an Assistant Secretary of State;

Robert E. Hunter, of the District of Columbia, to be the United States Permanent Representative on the Council of the North Atlantic Treaty Organization, with rank and status of Ambassador Extraordinary and Plenipotentiary;

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Robert E. Hunter.
Post: Ambassador to North Atlantic Council (NATO).

Contributions, amount, date, and donee:
1. Self: 1989—June, Friends of Les Aspin, \$250; July, Dollars for Democrats (DC Democratic Party), \$50. 1990—Feb, Dollars for Democrats (DC Democratic Party), \$100; June, Friends of Les Aspin, \$100; October, Friends of Les Aspin, \$50. 1991—March, Wyche Fowler for Senate, \$200. 1992—January, Clinton for President, \$250; May, Fowler for Senate, \$300; June, Friends of Les Aspin, \$100; September, Coloradans for David Skaggs, \$100; October, Vickery for Congress, \$100; October, Fowler for Senate, \$100; November, Fowler for Senate, \$250. 1993—None.
2. Spouse: Shireen Hunter, none.
3. Children and spouses names: None.
4. Parents names: Inez Hunter (deceased), Robert Hunter Jr., none. Alberta Hunter (stepmother), none.

5. Grandparents names: Robert & Viola Hunter (deceased); David & Myrtle Evans (deceased).

6. Brothers and spouses names: David E. Hunter, none.

7. Sisters and Spouses names: none.

Raymond Leo Flynn, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See;

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Raymond Leo Flynn.

Post: Ambassador To The Holy See.

Contributions, amount, date and donee:

1. Self: Raymond L. Flynn, none.

2. Spouse: Catherine P. Flynn, none.

3. Children and spouses names: Raymond L. Flynn, Jr.; none. Julie A. Flynn, none. Katherine E. Flynn, none. Edward M. Flynn, none. Nancy E. Flynn, none. Maureen E. Flynn, none.

4. Parents names: Stephen Flynn, deceased; Lillian Flynn, deceased.

5. Grandparents names: John J. Flynn, deceased; Ellen Flynn, deceased.

6. Brothers and spouses names: Stephen Flynn, none. Dennis Flynn, none. Rosemary Flynn, none. Albert Flynn, none. Bridget Flynn, none.

7. Sisters and spouses names: NA.

Christopher Finn, of New York, to be Executive Vice President of the Overseas Private Investment Corporation; and,

Penn Kembel, of New York, to be Deputy Director of the United States 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.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1168. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of school bus drivers shall be allowable in computing adjusted gross income; to the Committee on Finance.

By Mr. JOHNSTON:

S. 1169. A bill to provide an exception to coverage of State and local employees under Social Security; to the Committee on Finance.

By Mr. CAMPBELL:

S. 1170. A bill to amend the Mineral Leasing Act to provide for leasing of certain lands for oil and gas purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. PRYOR, Mr. BOREN, and Mr. CHAFEE):

S. 1171. A bill to amend the Internal Revenue Code of 1986 with respect to the taxation of certain sponsorship payments to tax-exempt organizations and certain amounts received by Olympic organizations; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S. 1172. A bill to amend the National Defense Authorization Act for Fiscal Year 1993, to impose sanctions on certain transfers of equipment and technology used in the manufacture or delivery of weapons of mass destruction and to impose additional sanctions for violations of that Act; to the Committee on Foreign Relations.

By Mr. RIEGLE:

S. 1173. A bill to provide for a comprehensive reduction in the United States bilateral trade deficit with Japan, to assure mutually advantageous international trade in motor vehicles and motor vehicle parts, and for other purposes; to the Committee on Finance.

By Mr. COHEN:

S. 1174. A bill for the relief of Olga D. Zhondetskaya; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. MACK, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 1175. A bill to amend the Internal Revenue Code of 1986 to allow corporations to issue performance stock options to employees, and for other purposes; to the Committee on Finance.

By Mr. KOHL:

S. 1176. A bill to clarify the tariff classification of certain plastic flat goods; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1177. A bill to amend title 38, United States Code, to extend the authority of the Veterans' Advisory Committee on Education, and for other purposes; to the Committee on Veterans Affairs.

By Mr. GLENN:

S. 1178. A bill to coordinate and promote Great Lakes activities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRYAN (for himself, Mr. GORTON, and Mr. DANFORTH):

S. 1179. A bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1168. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of school bus drivers shall be allowable in computing adjusted gross income; to the Committee on Finance.

By Mr. JOHNSTON:

S. 1169. A bill to provide an exception to coverage of State and local employees under Social Security; to the Committee on Finance.

TAX RELIEF FOR SCHOOL BUS DRIVERS

• Mr. JOHNSTON. Mr. President, today I am introducing legislation identical to that which I introduced during the 102d Congress to help assist our Nation's school bus drivers who provide a very important role in the education of our children. Recently, several broad based tax provisions have been enacted into law which adversely affect school bus drivers. The bills that I am introducing today will provide some of our most dedicated school em-

ployees with relief which they need and deserve.

The first measure would permit bus drivers to deduct actual operating expenses, regardless of whether or not they itemize on their Federal tax returns. This was the law prior to the enactment of the Tax Reform Act of 1986. Under current law, however, school bus drivers' actual expenses are treated as miscellaneous expenses, thus limiting the deduction to those who itemize and subjecting it to the 2-percent floor. This floor has prevented many school bus drivers from qualifying for any deduction for their actual operational expenses because they cannot meet the 2-percent floor applicable to miscellaneous itemized deductions. The result has been a substantial increase in school bus drivers' annual income tax liability. Moreover, even those bus drivers who itemize and qualify for deductions under the 2-percent floor have been penalized, especially those who file joint returns.

The second measure would exempt school bus drivers—and other State and local employees who work on a part-time, seasonal, or temporary basis—from paying Social Security taxes. Many of these individuals are already covered under State and local retirement systems; however, the law currently requires that they pay into Social Security as well. The result is increased costs to the employer and smaller take home pay checks for the employees. Perversely, some States may even decide to remove these workers from their retirement systems, which could result in a reduction in or loss of retirement benefits for which the employees have worked for many years.

Education is the cornerstone of personal achievement; it is the most effective means we have to expand the economic and social opportunity in our State. But we cannot improve our educational system in Louisiana without commitment—commitment to those professionals—our teachers, our bus drivers, our administrators—those who work together in a cooperative effort to the education of our youth.

Our school bus drivers do a yeoman's job in transporting future generations to and from school. We all agree that the education of our youth should be one of our highest priorities. Let's pass this legislation and provide some relief to those individuals who make it possible for our children to arrive at school in a safe and timely manner.

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

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

S. 1168

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

SECTION 1. DEDUCTIONS OF SCHOOL BUS DRIVERS ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 62(a) of the Internal Revenue Code of 1986 (relating to certain trade and business deductions of employees) is amended by adding at the end thereof the following new subparagraph:

“(C) CERTAIN EXPENSES OF SCHOOL BUS DRIVERS.—The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer in connection with the performance by the taxpayer of services as an employee while driving a school bus (as defined in section 4221(d)(7)(C)).”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

S. 1169

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

SECTION 1. EXCEPTION TO COVERAGE OF STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(A) EMPLOYMENT UNDER OASDI.—Subparagraph (F) of section 210(a)(7) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking “or” at the end of clause (iv),

(2) by inserting “or” at the end of clause (v), and

(3) by inserting after clause (v) the following new clause:

“(vi) by an individual who is characterized as a part-time, seasonal, or temporary employee by such retirement system;”.

(b) EMPLOYMENT UNDER FICA.—Subparagraph (F) of section 3121(b)(7) of the Internal Revenue Code of 1986 is amended—

(1) by striking “or” at the end of clause (iv),

(2) by inserting “or” at the end of clause (v), and

(3) by inserting after clause (v) the following new clause:

“(vi) by an individual who is characterized as a part-time, seasonal, or temporary employee by such retirement system;”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1992.●

By Mr. CAMPBELL:

S. 1170. A bill to amend the Mineral Leasing Act to provide for leasing of certain lands for oil and gas purposes; to the Committee on Energy and Natural Resources.

OIL AND GAS LEASE LEGISLATION

● Mr. CAMPBELL. Mr. President, I rise and send to the desk a bill to help our Nation satisfy its energy needs.

Trapped beneath the naval oil shale reserves, two of which are located in Garfield County, CO, are trillions of cubic feet of natural gas. This natural resource can now only be developed if the Department of Energy [DOE] signs an exclusive contract with a producer.

Simply put, DOE's program to produce natural gas from the reserves is not working. Left to its own devices, the Department has lost money even though natural gas may be this country's hottest commodity. The Department's own records show that in 1990 it derived only \$143,000 in revenue, when

it cost more than \$1.9 million to administer the program. In contrast, if the Interior Department is put in charge of this program, and competitively leases the area to private industry, the taxpayers stand to make at least \$200,000 per well simply because private industry is more efficient.

Therefore, my bill will accomplish several goals:

First, it will allow the Department of the Interior and the Department of Energy to work cooperatively to establish a program to competitively lease this resource;

Second, it will allow the Secretary of the Interior, acting through the Bureau of Land Management, to manage the surface of these lands pursuant to the Federal Land Policy and Management Act of 1976;

Third, it will require that a royalty be paid to the Federal Treasury.

While we are all aware of wasteful Government programs, it has clearly been Congress's intent to make oil and gas leasing a profitable enterprise. In fact, next to income tax, revenues from oil and gas leasing represent the country's second largest source of revenue.

Congress is also familiar with proposals to open the naval oil shale reserves. In 1975, an act was passed that specifically authorized the production of oil and natural gas from the naval petroleum reserves and the naval oil shale reserves that were set aside by Executive orders in 1913 and 1924.

This bill will expand on that effort. It also would not affect the Navy's ability to access the oil shale should it ever become a realistic source of energy because the shale resource will remain with the Navy.

Now, however, the current withdrawal effectively locks up all oil and gas development in this area. This is due not only to the withdrawals themselves, but also to a 1-mile no-lease buffer zone along the outer edges.

As I have said, allowing the Department of the Interior to help the Department of Energy to manage this resource pursuant to the provisions of the 1920 Mineral Lands Leasing Act also will provide an immediate and additional source of revenue from royalties paid on production. The revenue from the development of trillions of cubic feet of gas will be a shot in the arm to communities still reeling from the pull-out of the last oil company that attempted to profit from the development of oil shale.

Because the BLM will manage the surface of the reserves pursuant to the Federal Land Management and Policy Act, my bill will mean that for once, the Government must thoroughly study the impacts drilling will have on the environment.

The Treasury also stands to gain because the Federal Government gets at least 50 percent of the royalties on production. Some may argue, however, the

under the current program, 100 percent of the revenues go to the Treasury. The fact is, that there are no revenues because the DOE loses money on its program. One hundred percent of nothing is still nothing.

I realize Congress has been reluctant to open the reserves in the past because it envisioned the reserves as more of a strategic storage reserve than as a source for additional natural gas. I believe the situation is much different today. With the recent passage of the Clean Air Act, natural gas and low sulfur coal will be the fuels of choice for many utilities and industries. It is time to refocus attention to these underutilized resources and this poorly run Government program.

I hope my colleagues will support me in my efforts.

I would also ask that the 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. 1170

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

SEC. 2. Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection at the end thereof:

“(0)(1) AUTHORITY TO LEASE.—Notwithstanding any other Provision of law, the Secretary of the Interior, in consultation with the Secretary of Energy, may lease for oil and gas exploration, development and production the public domain lands located in Garfield County, Colorado, reserved by Executive Order of the President dated December 6, 1916 (as amended by Executive order of the President dated June 12, 1919), and by Executive Order of the President dated September 27, 1924, Subject to valid existing rights, and pursuant to the requirements of this Act.

“(2) MANAGEMENT.—The Secretary of the Interior, through the Bureau of Land Management, shall hereafter manage the surface estate in the lands covered by this subsection, pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, et seq.), and other laws applicable to the public lands.

“(3) ROYALTY.—A lease of lands by the Secretary of the Interior under this subsection shall be conditioned upon the payment of a royalty pursuant to subsection (b) of this section, except that the Secretary may establish a sliding scale royalty of not less than 12.5 percent and not more than 25 percent in amount or value of the production removed or sold from the lease.

“(4) EXISTING EQUIPMENT.—The lease of lands by the Secretary under this subsection may include the transfer, at fair market value, of wells, gathering lines, and related equipment owned by the United States on the lands referenced in paragraph (1) and suitable for use in the exploration, development or production of hydrocarbons on such lands.”●

By Mr. BREAUX (for himself, Mr. PRYOR, Mr. BOREN, and Mr. CHAFEE):

S. 1171. A bill to amend the Internal Revenue Code of 1986 with respect to the taxation of certain sponsorship

payments to tax-exempt organizations and certain amounts received by Olympic organizations; to the Committee on Finance.

CLARIFYING THE TAX TREATMENT OF CORPORATE SPONSORSHIP

• Mr. BREAUX. Mr. President, I rise to introduce a bill that preserves an important source of support for tax-exempt organizations and the worthy causes they advance. My bill provides precise rules on when corporate contributions received by tax-exempt organizations are subject to tax. It is identical to language we passed in H.R. 11, the Revenue Act of 1992. President Bush vetoed H.R. 11 for reasons unrelated to the corporate contribution provisions.

Under current law, tax-exempt organizations generally are not taxed on their income. In certain situations, however, such income is subject to the Tax Code's unrelated business income tax [UBIT]. In order to be subject to UBIT, the income must be derived from a trade or business, which is regularly carried on, and which is not substantially related to the performance of the organization's tax-exempt functions.

The IRS has initiated audits over the past few years involving numerous and diverse tax-exempt organizations and their income from corporate sponsors. Some IRS auditors have tried to use the Tax Code's UBIT rules to tax corporate sponsorship payments, if the organization agrees to provide recognition to its sponsor. These unnecessary and expensive audits must be stopped.

The bill I am introducing today clarifies that, in certain circumstances, corporate contributions to tax-exempt organizations will remain tax free. This bill was developed from the many comments received from charitable organizations around the country and the efforts last year of the minority and majority staffs of the Finance and Ways and Means Committees.

Only qualified sponsorship payments received in connection with qualified public events are covered by this bill. The event must be conducted by a tax-exempt organization described in paragraph (3), (4), (5), or (6) of section 501(c) of the Tax Code. The event must also be either first, a public event that is substantially related to the exempt purposes of the organization conducting the event, or second, any other public event if that event is the only event of that type conducted by such organization during a calendar year, and such event does not exceed 30 consecutive days.

The bill also states that the corporate sponsor cannot receive any substantial return benefit other than:

First, the use of the name or logo of the sponsor's trade or business in connection with a qualified public event under arrangements, including advertising, in connection with such event which acknowledges such person's

sponsorship or promotes such person's products or services, or

Second, the furnishing of facilities, services, or other privileges in connection with such event, to individuals designated by such person.

Mr. President, it might be best to explain how my bill works by using a few examples. If a corporation provides funding for a symphony performance—an event which is related to the symphony's exempt purpose—the organization is not taxed upon receipt of the contribution even if the symphony performs many times throughout the year.

In comparison, if the symphony puts on a fundraising event—such as a fun run—and receives support from a corporate sponsor, those funds can still be tax free to the organization if the event is undertaken and concluded within a consecutive 30-day period, and the event is the only one of its kind conducted during a 1 year period.

This legislation also clarifies that royalty income received by the local organization committee for the 1996 summer Olympic games and the U.S. Olympic Committee will remain tax free. This provision is necessary because of the direction the IRS has been taking in the UBIT area. Since no public funds are expected to be allocated to these games, the tax-exempt organizations conducting the Olympics need this clarification to facilitate their financing efforts.

My bill will help ensure that IRS' proposed audit guidelines, issued last year, on corporate sponsorship payments are never finalized. While the IRS seems to have retracted this position through the release in January of proposed regulations, the risk to many tax-exempt organizations of final guidelines is so great, that the certainty of legislation is vital. Hundreds of tax-exempt organizations of all types—cultural, health, and sports—from around the country submitted comments opposing these guidelines out of fear that they would not be able to attract corporate funding for their exempt activities and that the benefit of the funds they do receive would be reduced.

This legislation should have minimal revenue impact. After passage of this provision in H.R. 11, the IRS issued proposed regulations in January on corporate sponsorship payments. The proposed rules generally reach the same conclusion as my bill, namely, that the simple recognition of corporate sponsors is not a taxable trade or business to these organizations. This bill would ensure that the IRS is never forced to backtrack on this position.

Mr. President, in these days of fiscal austerity, funding for domestic programs at all levels of government is being reduced. It simply does not make sense to reduce funding for these programs and simultaneously discourage

the private sector from making up for the shortfall. My bill is a step in the right direction. It would help prevent a misguided IRS audit position from not only harming the thousands of tax-exempt organizations in communities across the country that rely on corporate contributions, but also the worthy causes they advance.

I urge my colleagues to cosponsor this legislation and support its enactment this year, and ask unanimous consent that the full 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. 1171

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

SECTION 1. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 of the Internal Revenue Code of 1986 (relating to unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

“(1) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

“(1) IN GENERAL.—The term ‘unrelated trade or business’ does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

“(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection, the term ‘qualified sponsorship payment’ means any payment by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than—

“(A) the use of the name or logo of such person's trade or business in connection with any qualified public event under arrangements (including advertising) in connection with such event which acknowledge such person's sponsorship or promote such person's products or services, or

“(B) the furnishing of facilities, services, or other privileges in connection with such event to individuals designated by such person.

“(3) QUALIFIED PUBLIC EVENT.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified public event’ means any event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c) or by an organization described in section 511(a)(2)(B) if such event is—

“(1) a public event the conduct of which is substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization conducting such event, or

“(ii) any public event not described in clause (i) but only if such event is the only event of that type conducted by such organization during a calendar year and such event does not exceed 30 consecutive days.

An event shall be treated as a qualified public event with respect to all organizations referred to in the preceding sentence which receive sponsorship payments with respect to such event if such event is a qualified public event with respect to 1 of such organizations; except that a payment shall be treated as not being from an unrelated trade or business by reason of this sentence only to the

extent that such payment is used to meet the expenses of such event or for the benefit of the organization with respect to which such event is a qualified public event (determined without regard to this sentence).

"(B) EXEMPT PURPOSE.—For purposes of subparagraph (A), the term 'exempt purpose' means any purpose or function constituting the basis for the organization's exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), the exercise or performance of any purpose or function described in section 501(c)(3)).

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the purposes of this subsection through the use of entities under common control."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to events conducted after December 31, 1992.

SEC. 2. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OLYMPIC ORGANIZATIONS.

In the case of a qualified amateur sports organization described in section 501(j)(2) of the Internal Revenue Code of 1986, or an organization which would be so described but for the cultural events it organizes in connection with national or international amateur sports competitions—

(1) for purposes of section 512(b) of such Code, the term "royalty" includes any income received (directly or indirectly) by such organization if a substantial part of the consideration for such income is the right to use trademarks, designations, or similar properties indicating a connection with the Olympic Games to be conducted in 1996 or related events or the participation of the United States Olympic Team at such Games or events, and

(2) nothing in section 514 or 512(b) of such Code shall be construed as treating any amount treated as royalty under paragraph (1) as an item of income from an unrelated trade or business.♦

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S. 1172. A bill to amend the National Defense Authorization Act for fiscal year 1993, to impose sanctions on certain transfers of equipment and technology used in the manufacture or delivery of weapons of mass destruction and to impose additional sanctions for violations of that act; to the Committee on Foreign Relations.

IRAN-IRAQ ARMS NON-PROLIFERATION AMENDMENTS OF 1993

Mr. MCCAIN. Mr. President, today Senator LIEBERMAN and I come to the floor to introduce the Iran-Iraq Arms Non-Proliferation Amendments of 1993, a bill to revise and add to the National Defense Authorization Act for fiscal year 1993.

At the outset, Mr. President, I would like to express my appreciation to Senator LIEBERMAN and his staff who worked with us to craft this legislation. With this bill, we hope to continue in a bipartisan effort and move forward in cooperation with the executive branch to reduce what is clearly the greatest threat to world peace in the world today, the proliferation of weapons of mass destruction.

The legislation that we introduce today will contribute to the stability

of the Middle East by placing further constraints on the ability of Iran and Iraq, two of the world's most threatening states, to acquire weapons of mass destruction.

This bill builds on previous legislation, which I cosponsored with then-Senator GORE and was subsequently passed by the Senate, to establish new sanctions on foreign enterprises and governments who provide Iran and Iraq with the military equipment and technology used in the manufacture or delivery of weapons of mass destruction or the means of their delivery.

KEY PROVISIONS OF THE MCCAIN-LIEBERMAN BILL

Although the amendments made by our bill are complex, the key portions are easy to summarize.

This legislation does not introduce new export penalties for U.S. firms. It does clearly set forth United States policy toward sales to Iran and Iraq, and reinforces the importance of enforcing current law such as the Atomic Energy Act of 1954, the Arms Export Control Act, the Export Administration Act of 1979, and the Missile Technology Control Regime.

Its primary purpose, however, is to put added pressure on Iran and Iraq's foreign suppliers—the nations which have provided virtually all of the supplies and technologies for Iran's and Iraq's efforts to develop weapons of mass destruction.

It builds on existing law that prohibits persons and countries from transferring or retransferring goods or technology that would contribute knowingly and materially to efforts by Iran or Iraq to acquire destabilizing numbers and types of advanced conventional weapons, and extends this prohibition to include transfers that would contribute to the efforts of Iran or Iraq to acquire weapons of mass destruction or the means of delivery.

Most importantly, this legislation strengthens existing mandatory sanctions for foreign enterprises and governments that violate these restrictions, and provides the President with new discretionary sanctions. It acts to deter or prevent foreign countries and companies from transferring weapons of mass destruction to Iraq and Iran by confronting them with clear legal and economic penalties.

THE MANDATORY SANCTIONS

The impact of the mandatory sanctions may be summarized as follows. Existing law sets forth the following mandatory sanctions against foreign persons and countries:

First, suspension of United States and multilateral development bank assistance;

Second, suspension of codevelopment, coproduction, military, and dual-use technical exchange agreements; and

Third, prohibitions on the export of all items on the U.S. munitions list to the violating country.

This legislation recognizes the fact that sanctions focused primarily against United States firms do not affect Iran and Iraq's major suppliers.

This legislation adds mandatory sanctions against imports and transiting United States territory that apply to, "foreign countries and persons that transfer weapons of mass destruction, destabilizing numbers and types of conventional weapons, or equipment and technology that assist in enhancing the capabilities of Iran and Iraq to manufacture and deliver such weapons."

The mandatory sanctions in our bill apply to all offenders, although there is a Presidential waiver in the event of urgent national security needs.

THE DISCRETIONARY SANCTIONS

Existing law sets forth mandatory procurement and export sanctions, and no discretionary sanctions. The discretionary sanctions in our bill provide the President with a range of additional measures that he can impose to penalize severe or repeat offenders. It also provides for the discretionary use of authorities of the International Emergency Economic Powers Act.

It provides for the following discretionary sanctions against both foreign countries and foreign persons that knowingly and materially contribute to the efforts of Iran or Iraq to acquire destabilizing advanced conventional weapons and weapons of mass destruction:

First, prohibitions against assistance from financial institutions;

Second, a blocking of international financial transactions; and

Third, the suspension of U.S. aviation and port rights.

Our bill also provides the President with the power to take the following additional discretionary actions to impose on foreign countries:

First, denial of most-favored-nation status;

Second, suspension of diplomatic relations, special trade privileges, and trade agreements; and

Third, revocations of licenses for nuclear material exports.

Hopefully, these sanctions will never have to be used. They will serve as a deterrent to foreign countries and persons. If they are used, they allow the President to tailor his actions and impose sanctions that will be most effective in a given case, and to present a country or company with the risk that he will impose further sanctions.

We believe that such sanctions not only reinforce the seriousness the United States gives to fighting proliferation, but also offer an additional incentive to join in international arms control efforts and to pass and enforce national legislation that parallels the antiproliferation legislation adopted by the United States.

ALTERNATIVES TO U.S. SANCTIONS

This legislation does not emphasize unilateral action by the United States

when foreign governments are willing to take real and decisive action on their own. The bill has provisions for the termination of sanctions, and for urging the President to initiate consultations with the government with primary jurisdiction over any person who violates the prohibition.

THE NEED TO PASS THE MCCAIN-LIEBERMAN BILL

Our legislation is not intended as a substitute for international and multilateral efforts to control proliferation. We fully support efforts to strengthen the Nuclear Non-Proliferation Regime, the Chemical Weapons Convention, the Biological Weapons Convention, the Missile Technology Control Regime, and to institute controls on destabilizing transfers of conventional weapons.

We believe that every effort should be made to reach international and regional agreements, and to persuade foreign governments to establish sanctions on the actions of their own companies and citizens. We applaud the efforts of the Reagan, Bush, and Clinton administrations to achieve these ends.

At the same time, all of us know that certain nations present special threats to their neighbors, our friends and allies, and American strategic interests.

Iran and Iraq are two such nations. Iraq's recent assassination attempt on President Bush, its seizure of innocent people in Kuwait's border area, its continuing obstruction of U.N. inspection, its persecution of its Kurds and Shi'ites, its sponsorship of terrorism in Turkey, and its use of terrorist groups to attack Iran are current cases in point.

More important, in the past it has used poison gas against defenseless Kurdish civilians, invaded Iran and Kuwait, and launched missile attacks on cities in Israel and Saudi Arabia. These are examples of the attitudes and goals of a nation that is a continuing threat to world peace.

Iran has been less aggressive, but it, too, is a threat to its neighbors and the security of the world's economy. It has encouraged terrorism, seized islands in the gulf, sought nuclear and other weapons of mass destruction, and is steadily expanding its military capabilities.

Both nations have emerged as major threats to world peace in the post-cold-war world. They also, however, are highly vulnerable to concerted efforts to deny them the weapons, equipment, and technology they need to develop strong and effective capabilities to deliver weapons of mass destruction.

Unlike North Korea, Iran and Iraq cannot develop and maintain the capability to threaten their neighbors and the region unless the world is foolish enough to provide them with the tools to do the job.

This legislation recognizes this fact. It supplements broader arms control efforts by targeting two States where

effective sanctions can play a major role in strengthening the fight against proliferation. At the same time, it recognizes the grim fact that many foreign countries and companies are foolish enough to violate the letter and spirit of arms control agreements, and Iran and Iraq are cases where unilateral pressure is necessary to mobilize an effective effort to restrict the flow of technology and equipment.

THE GROWING THREAT FROM IRAN

No one should have any doubt about the potential threat we face from Iran and Iraq. The more moderate public stance that Iran has sometimes taken since the death of Khomeini has disguised a continuing military buildup and effort to acquire weapons of mass destruction. It has seized full control of the Tumb and Abu Musa islands in the gulf. It has continued to support extreme forms of Islamic fundamentalism in the Sudan, Lebanon, and the Maghreb.

Iran has bought mini-submarines and *Kilo*-class submarines. It has acquired large numbers of attack boats, and is deploying long-range antiship missiles where they can attack any large ship entering and exiting the gulf. While its amphibious capabilities are limited, it has slowly expanded its ability to attack southern Gulf States.

In spite of one of the most corrupt and badly managed economies in the developing world, and the urgent needs of its people for economic development, Iran received 1.6 billion dollars' worth of arms deliveries in 1991.

Iran's loss of oil revenue and hard currency reduced its arms deliveries to \$270 million in 1992, and United States officials predict similar deliveries in 1993. Nevertheless, it recently took delivery of one *Kilo* submarine, and it has aggressively sought advanced conventional weapons systems from every supplier in the world.

Iran has received MiG-29 and Su-24 fighters from the Soviet Union, F-7M fighters from the People's Republic of China, and seized large numbers of fighters from Iraq. It is taking deliveries on Soviet SA-5 missiles, Chinese versions of the SA-2, and is seeking to buy large numbers of used T-72's from Russia.

What is most important, however, is that Iran's financial hardships have not stopped it from funding weapons of mass destruction and the ability to deliver them.

The most publicized of these efforts are its purchase of two greatly improved North Korean versions of the Scud missile with ranges of 500 kilometers, steady purchases of the regular Scud missile, and purchases of the shorter range People's Republic of China made CSS-8 missile.

There are growing indications, however, that Iran may be acquiring a missile with a 1,000 kilometer range from North Korea, or with the aid of the

People's Republic of China, which some experts believe the Iranian's call the Tondar-68.

At the same time, U.S. Government experts agree that Iran is continuing a significant biological weapons development effort, is producing significant stocks of chemical weapons, and is actively working on nuclear weapons.

I do not want to exaggerate Iran's current progress in developing biological, chemical, and nuclear weapons. Iran's—some little more than Iraqi fronts—have created a major amount of disinformation that exaggerates the scale and success of what Iran has accomplished to date.

At the same time, it is clear that Iran continues to improve its stockpiles and types of chemical weapons, and its long range delivery systems. Last year, Robert Gates, then-Director of Central Intelligence, warned that Iran was close to developing chemical warheads for its Scud missiles.

While some American experts feel that Iran may still be limited to the production of blistering and choking agents, a recent report by the Russian Foreign Intelligence Service indicates that Iran is also able to produce a nerve gas called Sarin, that it has an extensive research effort into new toxins, and that a pesticide plant, which could produce the precursors for nerve gas, operates not far from Tehran.

There are strong indications that Iran has recently stepped up its efforts to acquire biological weapons and to obtain suitable technology and equipment in Europe. James Woolsey, the current Director of Central Intelligence, recently stated that, "biological weapons, if not already in production, are not far behind." Some experts believe that Iran may well have weaponized both toxins and anthrax.

In the case of nuclear weapons, there is broad agreement that Iran is spending several hundred million dollars a year on such effort, and is actively pursuing efforts to separate plutonium from irradiated uranium fuel and to enrich uranium fuel using gas centrifuges.

We do not have a reliable unclassified picture of the full scope of Iran's efforts in this regard, but even a short list of some of the actions recently reported in the press should be a clear warning of the dangers we face.

In spite of the fact that Iran is a major exporter of oil and gas, it is reported to have nuclear facilities of some kind at Ma'allem Kelayah, Karaj, Amir Abad, Gorgan, Bojnurd, Isfahan, Saghand, Darkovin, Busheir, and Bandar Abbas.

The facility at Ma'allem Kelayah is reported to be a military weapons development facility.

Iran is actively seeking major new nuclear reactors from India, the People's Republic of China, and Russia. It acquired hot cell technology for separating plutonium from irradiated fuel from the United States in the 1960's.

Iran has long sought support from foreign countries to complete two German-built 1,300 megawatt pressurized water reactors at Bushehr. Some reports indicate these reactors are 60 and 85 percent complete, although these reports may underestimate damage to the projects during the Iran-Iraq war.

Iran signed a 10-year nuclear cooperation agreement with the People's Republic of China in 1990, and there are numerous reports that the People's Republic of China has been in negotiations with Iran to sell a 27 megawatt research reactor that would require about 15 metric tons of uranium fuel a year. The spent fuel from such a reactor could produce up to 6 kilograms of plutonium a year: Close to the amount needed for one bomb.

Iran has acquired a low output research calutron from China, which will give it added expertise in calutron technology. Iran is negotiating with the China National Nuclear Corp. and the Qinshan Nuclear Power Corp. for a 300 megawatt reactor to be built at Darkhovin, and support from Chinese nuclear technicians.

Iran signed a contract with India, another nuclear proliferator, for a research reactor at Ma'allem Kelayeh. While U.S. pressure may have blocked this sale, it, too, may eventually contribute to proliferation.

While there is no current evidence to support reports that Iran has acquired nuclear warheads and nuclear weapons engineers from the former Soviet Union, it almost certainly is seeking whatever support it can get. It is also negotiating with Russia for two 213 type VVER 440 megawatt reactors.

Argentina's *Investigaciones Aplicadas* was prepared to sell Iran uranium purification and conversion equipment, fuel fabrication plant equipment, and potentially heavy water manufacturing capabilities until United States pressure led Argentina to cancel the sale.

It is true that the International Atomic Energy Agency has conducted a familiarization tour of some of Iran's facilities. It is important to point out, however, that this was a brief tour conducted under Iranian auspices, and not an intrusive inspection. It is also important to point out that the IAEA never detected most of Iraq's nuclear weapons development efforts before the gulf war, and that even United States intelligence never detected its main nuclear weapons design facility at Al Atheer.

United States intelligence experts have no doubt that Iran is actively developing nuclear weapons, and everything we can do to delay the transfer of specialized or dual-use technology that aids Iran in developing weapons of mass destruction will buy us time to try to make international agreements work, to develop theater missile defenses, and to strengthen local defense

and Western power projection capabilities.

No mix of international agreements and sanctions can prevent Iran from eventually acquiring some nuclear capability. Time can, however, give the Iranian people the opportunity to work out their destiny and, hopefully, to choose a regime that is more concerned with the hopes and needs of the Iranian people than the personal and ideological ambitions of a narrow cadre of extremist leaders.

THE CONTINUING THREAT FROM IRAQ

The entire world now knows that Iraq had several workable nuclear weapons designs, many key components, a multi-billion-dollar nuclear manufacturing base and a global supply network able to exploit lax Western export controls. It knows that his Western trained scientists had produced small amounts of plutonium and enriched uranium.

It is one of the ironies of history that if Iraq had left Kuwait alone, it might just be on the threshold of building its first nuclear device.

Unfortunately, Desert Storm has not ended this Iraqi threat—it has only deferred it. The U.N. efforts to destroy Iraq's weapons of mass destruction, and to deny it arms imports, have had considerable effect. United States Government experts estimate that the U.N. embargo has effectively denied Iraq the ability to acquire military hardware. Exporting nations have shown considerable restraint in selling to Iraq since the end of the gulf war, and Iraq's covert smuggling network does not seem to have had recent major successes.

Iraq, however, has not been passive. Saddam Hussein has placed a high priority on rebuilding Iraq's heavily damaged defense industrial infrastructure in order to supplement its damaged forces. This rebuilding has gone on in spite of the cost and resulting hardships to the Iraqi people, and is now largely complete. Although it can scarcely meet the needs of Iraq's Armed Forces, it is an important step in rebuilding their offensive capabilities.

Successful as we were during Desert Storm, we concentrated our attacks on the Iraqi forces in the Kuwaiti Theater of Operations. We also failed to destroy much of the Iraqi equipment that was deployed in this area. United States Air Force experts now estimate that at least 842 Iraqi tanks, 1,412 other armored vehicles, 279 artillery pieces in the areas subject to intense air attack escaped from Desert Storm.

Iraq is still the largest military force in the gulf and one of the largest military forces in the world. It now has a total military strength of some 383,000 full-time military personnel. It has rebuilt its army and Republican Guards units to a force of around 350,000 men, with at least 2,300 tanks, 2,400 armored reconnaissance and infantry fighting

vehicles, 2,000 armored personnel carriers, 400-500 self-propelled artillery weapons and multiple rocket launchers, and 1,200 heavy towed artillery weapons.

In spite of its losses during the war, and Iran's seizure of the Iraqi fighters that fled to Iranian soil, Iraq still has a 30,000-man air force. It still has at least 6 long-range bombers, 130 operational strike fighters, 180 air defense fighters, and a number of advanced reconnaissance and special purpose aircraft. It has massive stocks of air-to-air and air-to-ground guided weapons. It also retains many of its surface-to-air missile units, and thousands of air defense guns.

Iraq's military forces will continue to deteriorate as long as we enforce the U.N. embargo, but many can recover relatively quickly as soon as that embargo ends or other nations decide to violate it. Dual-use technology can substitute for military imports in some cases, and so can the sale of machine tools, engines, and other equipment that can be used to expand Iraq's military production base.

Similarly, the most the U.N. sanctions and inspections can do is to delay the threat of Iraqi weapons of mass destruction. Saddam still has his scientists on the payroll and has protected the identities of many of his global suppliers.

Virtually all experts agree that Iraq will retain some of its chemical weapons production capability, and will be able to resume limited production within a matter of months after the U.N. stops its inspections. Very little of its substantial biological warfare research effort has been exposed by the U.N. effort, and Iraq may now be able to manufacture limited amounts of toxins and active agents.

Experts debate Iraq's residual missile capabilities, but it probably has the parts, major subassemblies, manufacturing equipment, and technology to build at least some Scuds in a matter of months, and it may have concealed significant numbers of finished missiles.

Iraq's nuclear capabilities have probably suffered more than any other aspect of its prewar effort to acquire weapons of mass destruction. Nevertheless, it retains all of the technology and know how that it spent billions of dollars to acquire. The U.N. cannot destroy expertise.

Iraq also will retain at least some critical equipment. Just recently, U.N. inspectors in Iraq found yet another cache of strategic equipment for making nuclear weapons. There is no expert agreement on how much equipment Iraq has been able to conceal, but this equipment could be significant.

On April 26 of this year, an article written by the Wisconsin Project on nuclear arms control and published in the New York Times summarized the

nuclear-related equipment in Iraq today. It drew on export records and reports by inspection teams, and provided an impressive list of items that Iraq is known to possess, but which have not been destroyed or removed: 580 tons of natural uranium—Brazil, Niger, and Portugal; 1.7 tons of enriched uranium—Italy; 255 tons of HMX, a high explosive for detonating atomic bombs; 60 machines that shape metal into centrifuge parts, by Dorries, H & H Metalform, Kieserling & Albrecht, Leifeld and Magdeburg—Germany, Matrix Churchill—Britain, and Schaublin—Switzerland; mass spectrometers to monitor bomb-fuel production, by Finnigan-MAT—United States, Germany; two electric frequency converters to power atomic bomb fuel production, by Acomel—Switzerland; more than 700 valves that can process atomic bomb fuel, by Balzers, VAT—Switzerland and Nupro—United States; two coordinate-measuring machines to monitor centrifuge production, by DEA—Italy; 70 mixer-settler units to extract plutonium, some by Metallextraktion AB—Sweden; machines for milling metal, by Maho, Schiess, SHW and Wotan—Germany, Innocenti—Italy, and Zayer—Spain; two assembly presses and two balancing machines to make centrifuges; one resin-mixing and discharge machine to support electromagnetic uranium enrichment, by Millitorr—Britain; one jet-molding machine to make centrifuge motors, by Arburg—Germany; one 63-ton hydraulic press to shape explosive atomic bomb parts; one mainframe computer used to process nuclear atomic bomb codes, by NEC—Japan; two oxidation furnaces for making centrifuge parts, by Degussa—Germany; one electron-beam welder to assemble centrifuges, by Sciaky—France; tantalum metal sheets for making crucibles to cast atomic bomb cores.

This same report indicated that the following other items are suspected or known to be in Iraq, but have not been found or accounted for: More than 1 million dollars' worth of computers, electronic testing machines, computer graphics equipment, and frequency synthesizers licensed for shipping to atomic bomb builders, by Hewlett Packard—United States; more than 7 million dollars' worth of computers, licensed for shipping to atomic bomb builders, by International Computer Systems—United States; nuclear reactor control panels, instruments, and computers salvaged from a damaged reactor, by the consortium Cerbag—France.

THE PROBLEM OF THIRD COUNTRY SUPPLIERS

No country in the West can look back on what happened in Iraq without some responsibility or guilt. The United States was too slow to recognize the threat, too slow to give it suitable policy level attention, failed to properly

inform its industry, and tolerated a divided and inefficient administration of its export control procedures. It did not properly task its intelligence community, and it failed to give its customs and enforcement officers all of the support and resources they needed.

There are times, however, when even those that have sinned should be prepared to cast a stone. The United States and a few other nations—most notably Britain and Canada—did succeed in putting powerful limits on the amount of equipment and technology that Iraq could import. It established policies and sanctions and enforced them.

This same cannot be said of the rest of the world. Iraq relied on the tacit support or indifference of many governments—including many of our closest allies. In case after case, foreign governments and intelligence services must have known that Iraq had suspect activities underway and turned a blind eye to Iraq's operations in their country.

In many cases, foreign companies had to know—or deliberately ignore—the end use of their sales. While much of the equipment sold to Iraq was dual-use equipment, a substantial amount was not dual-use equipment. It had only extremely specialized civilian uses that did not suit Iraq's economy or needs.

In other cases, the dual-use equipment was highly specialized and was sold only to a narrow range of customers. The seller had to know that Iraq almost certainly was not going to use the equipment for its stated use, and often could not produce or use the equipment without knowing its potential military applications.

It is singularly unfortunate that many of these countries and companies were Western European. While we often criticize authoritarian states like the PRC for the recklessness and destabilizing effect of their arm sales, we have ample evidence that Western democracies can be equally lacking in wisdom and integrity.

This is illustrated by two studies prepared for me by the Congressional Research Service which look at the sources of Iraq's nuclear and chemical weapons technology.

The list of Iraq's nuclear suppliers includes 3 French firms, 11 German firms, 2 Italian firms, 2 Swedish firms, 4 Swiss firms, 4 British firms, and 2 Russian firms.

The list of Iraq's chemical weapons suppliers includes 7 Austrian firms, 2 Belgian firms, 2 French firms, 34 German firms, 3 Dutch firms, 3 Italian firms, 1 Spanish firm, 3 Swiss, and 1 British firm.

We may never have a full list of Iraq's suppliers, or a full list of European suppliers. We will never have a clear picture of what various European governments and intelligence services

knew and when they knew it. We can, however, be absolutely certain that many did know years in advance of Desert Storm that firms in their countries were violating the spirit and intent of the Nuclear Non-Proliferation Treaty, and were contributing to the process of proliferation.

We also have ample reason to suspect that the present controls on sales to Iraq might well be bypassed the moment sanctions were lifted or the world's attention shifted away from the actions of Iraq's Government.

Further, it is all too clear that a similar process of proliferation is underway in the case of Iran. Like Iraq before its invasion of Kuwait, Iran maintains a massive arms purchasing network throughout the world and Western Europe. This network was built up during the Iran-Iraq war and, while it has never been as large or successful as Iraq's network, it is all too real.

There are also unconfirmed rumors that this network has been successful enough so that a foreign intelligence service recently destroyed a biological research facility in Switzerland and specialized biological production equipment in Germany, because it feared that the research and equipment was being used to support Iran's biological weapons effort. It would be interesting to hear from the intelligence services of both countries as to whether these rumors can be confirmed.

Once again, let me stress that the United States is neither a paragon of efficiency or virtue. It is also unfair to mention Europe without stressing the fact that nations like Argentina, Brazil, India, Pakistan, the PRC, and Russia have all played a major role in proliferation in the past, and continue to do so.

If I appear to be pointing the finger at the Western democracies, it is only to illustrate the point that we not only face continuing Iranian and Iraq threats, but also we cannot rely on international agreements or self-policing even in the case of the nations with whom we share common values and a close alliance.

We also cannot ignore the fact that nations and companies may not learn from experience, regardless of their stated policies, the odd prosecution, and changes in their domestic laws.

We are talking about what may be vast sums of money: During 1984-91, Iraq obtained 15.8 billion dollars' worth of arms from the former Soviet Union. It obtained 2.3 billion dollars' worth of arms from the PRC, it obtained 4.5 billion dollars' worth of arms from our NATO Allies, it obtained 4.6 billion dollars' worth of arms from other European countries, and 2.9 billion dollars' worth of arms from other states; Iran spent \$19.8 billion on arms imports during 1984-91—not counting at least \$10 billion more on dual use items and the

technology for weapons of mass destruction. About 4.8 billion dollars' worth of these arms came from the former Soviet Union, \$4.5 billion came from the PRC, \$1.4 billion came from our major NATO Allies, \$5.3 billion came from the rest of Europe, and \$3.8 billion came from other countries. Roughly \$9.7 billion was imported between the cease-fire in the Iran-Iraq war and the end of 1991.

While other exporting countries may currently comply with the current sanctions, we cannot ignore the fact that they have a steadily growing incentive to support Iraq and Iran's efforts to end these sanctions, or to cheat as time goes on. Iraq's former arms suppliers all face steadily shrinking domestic markets for arms. Their defense industries are desperate for sales. Iraq and Iran's past arms purchases also show that they represent a vast potential market.

The rapid decline in the arms market for NATO and the Warsaw Pact has steadily increased the risk that nations will sell more sophisticated arms to Iran and Iraq, and provide it with the technology for weapons for mass destruction. Similarly, they create growing pressures to either violate the current meager sanctions or rush arms transfers in the moment such sanctions are withdrawn.

THE NEED FOR POWERFUL NEW SANCTIONS ON FOREIGN SUPPLIERS

All of these trends have convinced me that enacting the Iran-Iraq Arms Non-Proliferation Amendments of 1993 must be done in the near future. We cannot afford illusions about the prospects for peaceful change.

We must heed the lessons we learned from Operation Desert Storm to stop the weapons buildup by Iran and Iraq, the world's two most dangerous states. We must heed the lessons we learned from the fall of the Shah and from tacitly supporting Iraq in the latter half of the Iran-Iraq war. We cannot make an ally or a pillar out of either country.

We cannot play Iran and Iraq off against each other, or act as if the enemy of our enemy is our friend. We cannot try to use radical or extremist groups like the People's Mujahidin to influence one government or the other.

Limiting the Iraqi or Iranian threat will not bring stability to the region unless similar limits are placed on both nation's military buildup. Both Iraq and Iran already have all the arms and military strength they need for self-defense, and limits on arms transfers to these nations can only benefit their peoples by freeing economic resources for development and increasing living standards.

In summary, Mr. President, the amendments made by this bill complement the 1993 Defense Authorization Act and the key international arms control efforts affecting the transfer of

weapons of mass destruction. This bill expands on the current sanctions against Iran and Iraq to establish clear penalties against firms and countries that violate the prohibitions on transfers.

It provides an added powerful deterrent to Iranian and Iraqi aggression, that is not provided by the 1993 Defense Authorization Act, the NPT, the Biological Weapons Convention, the draft Chemical Weapons Convention, or the Missile Technology Control Regime. It firmly establishes the United States policy to limit the sales of advanced conventional weapons to the two growing threats to world peace, Iran and Iraq.

We must react to the fact that the United States and the free world do not live in a kind and gentle world. We must make it unambiguously clear that United States law will continue to penalize any nation or person who sells destabilizing arms to Iraq or Iran until both the Congress and the President are in full agreement that either Iraq and Iran has changed so strikingly in government and character that it is no longer a threat to peace.

Senator LIEBERMAN and I hope that our colleagues will continue to support the bipartisan effort to reduce the greatest threat to world peace in the world today, the proliferation of weapons of mass destruction in Iran and Iraq. We hope that our colleagues will support this bill.

Mr. President, I respectfully request that several appendices explaining the need for our bill be inserted in the RECORD following my remarks and the text of the bill.

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

S. 1172

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Iran-Iraq Arms Non-Proliferation Amendments of 1993".

(b) REFERENCES IN ACT.—Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the National Defense Authorization Act for Fiscal Year 1993.

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States—

- (1) to halt the proliferation of weapons of mass destruction within Iran and Iraq; and
- (2) to halt the transfer from any foreign country or foreign person to Iran or Iraq of all weapons of mass destruction and significant components or technology or that can be used to manufacture or deliver weapons of mass destruction.

SEC. 3. STATEMENT OF PURPOSE.

It is the purpose of this Act to impose additional sanctions against those foreign countries and persons that transfer weapons of mass destruction, destabilizing numbers and types of advanced conventional weapons,

or equipment and technology that assist in enhancing the capabilities of Iran or Iraq to manufacture and deliver such weapons.

SEC. 4. SANCTIONS AGAINST PERSONS.

Section 1604 is amended to read as follows:

"SEC. 1604. SANCTIONS AGAINST PERSONS.

"(a) PROHIBITION.—If the President determines that any person has transferred or retransferred goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons or to acquire weapons of mass destruction or the means of their delivery, then—

"(1) the sanctions described in subsection (b) shall be imposed; and

"(2) the President may apply, in the discretion of the President, the sanctions described in subsection (c).

"(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are as follows:

"(1) PROCUREMENT SANCTION.—Except as provided in subsection (d), the United States Government shall not procure directly or indirectly, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

"(2) EXPORT SANCTION.—The United States Government shall not issue any license for any export by or to the sanctioned person and shall revoke any such license issued before the effective date of the sanction.

"(3) IMPORT SANCTION.—Notwithstanding any other provision of law, no item which is the product or manufacture of the sanctioned person, and no technology developed by the sanctioned person, may be imported into any territory subject to the jurisdiction of the United States.

"(4) TRANSITING UNITED STATES TERRITORY.—(A) Notwithstanding any other provision of law (other than a treaty or other international agreement), no sanctioned person, no item which is the product or manufacture of the sanctioned person, and no technology developed by the sanctioned person, may transit any territory subject to the jurisdiction of the United States.

"(B) The Secretary of Transportation may provide for such exceptions from this paragraph as the Secretary considers necessary to provide for emergencies in which the safety of a vessel or its crew or passengers is threatened.

"(c) DISCRETIONARY SANCTIONS.—The sanctions referred to in subsection (a)(2) are as follows:

"(1) FINANCIAL INSTITUTIONS.—(A) The President may by order prohibit any depository institution that is chartered by, or that has its principal place of business within, a State or the United States from making any loan or providing any credit to the sanctioned person, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

"(B) As used in this paragraph, the term 'depository institution' means a bank or savings association, as defined in section 3 of the Federal Deposit Insurance Act.

"(2) USE OF AUTHORITIES OF THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—The President may exercise the authorities of the International Emergency Economic Powers Act to prohibit any transaction involving any property in which the sanctioned person has any interest whatsoever except for transactions involving the provision of humanitarian assistance.

"(3) PROHIBITION ON VESSELS THAT ENTER PORTS OF SANCTIONED COUNTRIES TO ENGAGE IN TRADE.—

"(A) IN GENERAL.—Beginning on the 10th day after a sanction is imposed under this Act against a country, a vessel which enters a port or place in the sanctioned country to engage in the trade of goods or services may not, if the President so requires, within 180 days after departure from such port or place in the sanctioned country, load or unload any freight at any place in the United States.

"(B) DEFINITIONS.—As used in this paragraph, the term 'vessel' includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft.

"(d) EXCEPTIONS.—The sanction described in subsection (b)(1) shall not apply—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy operational military requirements essential to the national security of the United States;

"(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(2) to products or services provided under contracts entered into before the date on which the President makes a determination under subsection (a);

"(3) in the case of contracts entered into before the date on which the President makes a determination under subsection (a), with respect to—

"(A) spare parts which are essential to United States products or production;

"(B) component parts, but not finished products, essential to United States products or production; or

"(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(4) to information and technology essential to United States products or production; or

"(5) to medical or other humanitarian items.

"(e) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—Whenever the President makes a determination under subsection (a) with respect to a foreign person, the Congress urges the President—

"(A) to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section; and

"(B) to take steps in the United Nations and other multilateral groups to negotiate comprehensive multilateral sanctions pursuant to the provisions of chapter 7 of the United Nations Charter, including a partial or complete embargo, against the government of the foreign country of primary jurisdiction over that sanctioned person, as long as that government has not taken specific and effective actions, including appropriate penalties, to terminate the involvement of the sanctioned person or firm in the activities described in section 1604(a).

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations

with that government, the President may delay imposition of sanctions pursuant to subsections (b) and (c) for up to 90 days. Following these consultations, the President shall impose sanctions immediately unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a). The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—Not later than 90 days after the application of sanctions under this section, the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions."

SEC. 5. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

Section 1605 is amended—

(1) in subsection (a)—

(A) by inserting "or to acquire weapons of mass destruction or the means of their delivery" after "destabilizing numbers and types of advanced conventional weapons"; and

(B) in paragraph (2), by striking "sanction" and inserting "sanctions";

(2) in subsection (b), by adding at the end the following new paragraph:

"(6) OTHER SANCTIONS.—The President shall apply the same sanctions described in paragraphs (1) through (4) of section 1604(b), together with the exception described in subsection (d), with respect to actions of a foreign government;" and

(3) in subsection (c)—

(A) by striking "SANCTION.—The sanction referred to in subsection (a)(2) is" and inserting "SANCTIONS.—The sanctions referred to in subsection (a)(2) are"; and

(B) by adding at the end the following new paragraphs:

"(3) DENIAL OF MOST-FAVORED-NATION STATUS.—Notwithstanding any other provision of law, the President may suspend the application of nondiscriminatory trade agreement (most-favored-nation status) to the sanctioned country for such time as the President so determines.

"(4) DIPLOMATIC RELATIONS.—The President is urged to downgrade or suspend diplomatic relations between the United States and the government of the sanctioned country.

"(5) SUSPENSION OF SPECIAL TRADE PRIVILEGES.—The President is authorized to suspend special trade privileges which were extended pursuant to the Generalized Systems of Preferences or the Caribbean Basin Initiative.

"(6) SUSPENSION OF TRADE AGREEMENTS.—The President is authorized to suspend any trade agreement with the sanctioned country.

"(7) REVOCATIONS OF LICENSES FOR EXPORT OF NUCLEAR MATERIAL.—The Nuclear Regulatory Commission is authorized to revoke any license for the export of nuclear material pursuant to a nuclear cooperation agreement with the sanctioned country.

"(8) PRESIDENTIAL ACTION REGARDING AVIATION.—(A)(1) The President is authorized to

notify the government of a sanctioned country of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

"(i) The President is authorized to direct the Secretary of Transportation to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

"(B)(1) The President may direct the Secretary of State to terminate any air service agreement between the United States and a sanctioned country in accordance with the provisions of that agreement.

"(ii) Upon termination of an agreement under this subparagraph, the Secretary of Transportation is authorized to take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

"(C) The President may direct the Secretary of Transportation to provide for such exceptions from this subsection as the President considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(D) For purposes of this paragraph, the terms 'aircraft', 'air carrier', 'air transportation', and 'foreign air carrier' have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

"(9) OTHER SANCTIONS.—The President may apply the sanctions described in section 1605(c) with respect to actions of a foreign government."

SEC. 6. WAIVER.

Section 1606 is amended—

(1) by striking "waiver" each place it appears and inserting "termination, modification, and waiver"; and

(2) by striking "waive" each place it appears and inserting "modify or waive".

SEC. 7. TERMINATION OF SANCTIONS.

The Act is amended by inserting after section 1606 the following new section:

"SEC. 1606A. TERMINATION OF SANCTIONS.

"Except as otherwise provided in this title, the sanctions imposed pursuant to section 1604(a)(1) shall apply for a period of at least 24 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that—

"(1) reliable information indicates that the sanctioned person or government has ceased to violate this Act; and

"(2) the President has received reliable assurances from the sanctioned person or government that such person or government will not, in the future, violate this Act."

SEC. 8. RULES AND REGULATIONS.

The Act is amended by inserting after section 1607 the following new section:

"SEC. 1607A. RULES AND REGULATIONS.

"The President is authorized to prescribe such rules and regulations as the President may require to carry out this Act."

SEC. 9. DEFINITIONS.

Section 1608 is amended by adding at the end the following new paragraphs:

"(8) The term 'goods or technology' includes any item of the type that is listed on the Nuclear Referral List under section 309(c) of the Nuclear Non-Proliferation Act

of 1978, the United States Munitions List (established in section 38 of the Arms Export Control Act), or the MTCR Annex (as defined in section 74(4) of the Arms Export Control Act) or any item that is subject to licensing by the Nuclear Regulatory Commission.

"(9) The term 'United States' includes territories and possessions of the United States and the customs waters of the United States, as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

"(10) The term 'weapons of mass destruction' includes nuclear, chemical, and biological weapons, bomber aircraft with a range in excess of 600 nautical miles, missiles, and missile equipment and technology."

SEC. 10. CONFORMING AMENDMENT.

Section 1602(a) is amended by striking "chemical, biological, nuclear," and inserting "weapons of mass destruction".

JUNE 1993

DEAR COLLEAGUE: Today, we are introducing the Iran-Iraq Arms Non-Proliferation Amendments of 1993 to revise and add to the National Defense Authorization Act for Fiscal Year 1993. This bill continues a bipartisan effort to move forward in cooperation with the Executive Branch to reduce what is clearly the greatest threat to world peace in the world today, the proliferation weapons of mass destruction.

This legislation will contribute to the stability of the Middle East by inhibiting the ambitions of Iran and Iraq. This bill will further inhibit the willingness of foreign enterprises and governments (see Appendices A and B) to provide Iran and Iraq with the military equipment and technology used in the manufacture or delivery of weapons of mass destructions (WMD) or the means of their delivery.

Our bill clearly sets forth United States policy toward sales to Iran and Iraq, and reinforces the importance of enforcing laws such as the Atomic Energy Act of 1954, the Arms Export Control Act, the Export Administration Act of 1979, and the Missile Technology Control Regime.

Its primary purpose, however, is to put added pressure on Iran and Iraq's foreign suppliers—the nations which have provided virtually all of the supplies and technologies for Iran and Iraq's efforts to develop WMD—by building on existing law which prohibits persons and countries from transferring or retransferring goods or technology that would contribute knowingly and materially to efforts by Iran or Iraq to acquire destabilizing numbers and types of advanced conventional weapons. Our bill extends this prohibition to include transfers that would contribute to the efforts of Iran or Iraq to acquire WMD or the means of delivery.

Most importantly, our bill strengthens existing mandatory sanctions for foreign enterprises and governments that violate these restrictions, and provides the President with new discretionary sanctions. It acts to deter or prevent foreign countries and companies from transferring WMD to Iraq and Iran by confronting them with clear legal and economic penalties.

THE MANDATORY SANCTIONS

Existing law sets forth the following mandatory sanctions against foreign persons and countries; suspension of U.S. and multilateral development bank assistance; suspension of co-development, co-production, military, and dual-use technical exchange agreements; and prohibitions on the export of all items on the U.S. Munitions List to the violating country.

Our bill recognizes that sanctions focused primarily against U.S. firms do not affect

Iran and Iraq's major suppliers by adding mandatory sanctions (within Presidential discretion) against imports and transit of U.S. territory that apply to, "foreign countries and persons that transfer WMD, destabilizing numbers and types of conventional weapons, or equipment and technology that assist in enhancing the capabilities of Iran and Iraq to manufacture and deliver such weapons."

THE DISCRETIONARY SANCTIONS

Existing law provides no discretionary sanctions. The discretionary sanctions in our bill provide the President with a range of additional measures that he can impose to penalize severe or repeat offenders and provides for the discretionary use of the International Emergency Economic Powers Act sanctions.

Our bill provides for the following discretionary sanctions. Against both foreign countries and foreign persons: prohibitions against assistance from financial institutions, a blocking of international financial transactions, and the suspension of U.S. aviation and port rights. Against foreign countries alone: denial of most-favored nation status; suspension of diplomatic relations, special trade privileges, and trade agreements; and revocations of licenses for nuclear material exports.

These sanctions should serve as a deterrent to potential violators. They allow the President to tailor his actions and impose sanctions that will be most effective in suiting a given case, and maintain the possibility of further sanctions.

RESPONDING TO THE THREAT

Virtually every day brings new evidence of the fact that Iran and Iraq represent a major threat to their neighbors, to Israel, to the flow of oil, and to the world's economy.

This bill also responds to the reality that international arms control agreements, and sanctions on U.S. companies, are not adequate to deal with this problem. Iraq has relied on the tacit support or indifference of foreign governments and their intelligence services, our western allies, and foreign companies to buy dual-use equipment and supplies to exploit the spirit and intent of existing restraints. Similarly, it is all too clear that a comparable process of proliferation is underway in Iran.

Both Iraq and Iran have demonstrated their willingness for fiscal sacrifice in pursuit of their agenda of destructive acquisition.

During 1984-1991, Iraq obtained \$15.8 billion worth of arms from the former Soviet Union, \$2.3 billion from the PRC, \$4.5 billion from our NATO allies, \$4.6 billion from other European countries, and \$2.9 billion from other states.

Iran spent \$19.8 billion on arms imports during 1984-1991 (not counting at least \$10 billion more on dual-use technology for WMD)—\$4.8 billion from the former Soviet Union, \$4.5 billion from the PRC, \$1.4 billion from our NATO allies, \$5.3 billion non-NATO Europe, and \$3.8 billion from other countries.

I hope you will join us in co-sponsoring the Iran-Iraq Arms Non-Proliferation Amendments of 1993. We would be grateful if you would ask your staff to contact Tony Cordesman, Walter Lohman, or Max Grant (x42235) of Senator McCain's staff, or Tom Parker (x44041) of Senator Lieberman's staff.

Sincerely,

JOHN MCCAIN,
United States Senator.
JOSEPH I. LIEBERMAN,
United States Senator.

APPENDIX A—LIST OF FOREIGN SUPPLIERS TO IRAQ'S NUCLEAR WEAPONS TECHNOLOGY AND MATERIAL

BRAZIL

The National Security Council of Brazil approved smuggling uranium to Iraq.

CHINA

Lithium hydride, labelled as "pharmaceutical" but conceivably usable to make tritium for boosted fission weapons.

China North Industries Corp.: supplied chemicals for missile and nuclear applications.

FRANCE

Framatome: fuel for Osirak.
St. Golbain: Fundamental nuclear technology.

Techniatome: the reactor.

GERMANY

Arthur Pfeifer-Vakuumtechnik GmbH: vacuum smelting and casting equipment, vacuum heat-treatment furnace; training in the use of the above.

Blazer: bellows valves for centrifuge enrichment program.

Degussa: special furnace for producing centrifuge parts, surface treatment to survive corrosion from uranium hexafluoride gas.

Ferrosaal (M.A.N. subsidiary): prime contractor for the Tadjl gas centrifuge complex.

H and H Metalform Ltd.: large quantities of machine tools for the centrifuge program. Spinning machines capable of making 100 centrifuge rotors per week, each machine (3 machines); flow forming machines including specific mandrels for producing centrifuge parts; computer numerically controlled machines obtained from Neue Magdeburger Werkzeugmaschinenfabrik GmbH; software for tools.

Maschinenfabrik Augsburg-Nurnberg (M.A.N.): carbon fiber rotors or winding machines for centrifuges.

Interatom (Siemens subsidiary): training, enrichment technology, "radium enrichment plants."

Nukem: U235 fuel pins; centrifuge materials.

Dr. Reutlinger und Sehne KG: balancing machines for centrifuge production. Valves capable of handling uranium hexafluoride.

Siemens (FRG): named in documents found at Iraqi facilities, no specific hardware named.

Technische Überwachungs Verein (a German government agency roughly similar to Underwriter's Laboratories): materials testing for the Tadjl gas centrifuge complex.

Uranit: indirect supplier of centrifuge technology to Iraq via Pakistan; uranium melting furnishes.

Vertiebs Ltd.: with H & H Metalform, a flow-forming machine.

ITALY

Euromac: sister company of UK company which attempted to deliver nuclear triggers.

SNIA Technit: hot cells for handling radioactive materials. Based in the illegal (but undetected by the IAEA) separation of several grams of plutonium.

JAPAN

Hamamatsu: high-speed video for observing implosion tests.

LIECHTENSTEIN

Merimpex: a front company used by Leybold.

SWEDEN

Avesta: UK subsidiary of this Swedish firm supplied special maraging steel for Iraqi centrifuges.

SWITZERLAND & SWEDEN

ASEA Brown Boveri (ABB): cold isostatic press useful for forming the high explosives for implosion systems.

SWITZERLAND

Consen: intermediary used to export \$50 million worth of advanced centrifuges capable of 100 lbs. of uranium throughput per week.

Schaeublin SA: machine tool for taking as centrifuge endcaps; computer controlled lathes; spin forming machines for endcaps.

Schmiedemeccania: metal parts for endcaps; baseplates for centrifuges (n.b.: an Iraqi purchased a part of Schmiedemeccania and half of H&H Metalform); possible connections to Leybold Heraeus.

UNITED KINGDOM

Bonaventure Europe (BE): nuclear weapon triggers (probably capacitors or switching devices such as krytrons).

BSA Machine Tools: machine tools.
Consarc Engineering: high-temperature ovens (for melting or casting of uranium metal).

Matrix Churchill: precision lathes and other machine-tool equipment.

FORMER USSR

Atomomergoexport: reactors.
Irkutsk mining-processing plant: radioactive material stolen and illegally transferred.

Source: Zimmerman, Peter D. CRS Report for Congress, "Iraq's Nuclear Achievements: Components, Sources, and Stature," February 18, 1993. Appendix A, pp. 38-40.

APPENDIX B—LIST OF FOREIGN SUPPLIERS TO IRAQ'S BIOLOGICAL AND CHEMICAL WEAPONS TECHNOLOGY AND MATERIAL

AUSTRIA

Alu-BAU Normbau: equipment for chemical weapons plant.

AST Consult Co.: laboratory construction equipment for chemical weapons.

Fenberg: construction planning for chemical weapons.

Grill and Grossman: equipment for chemical weapons plant.

Lenhardt Metal, Construction and Roofing: steel construction for chemical weapons plant.

Neuberger Wood and Plastics: precursor chemicals.

Swatek and Cerny: sanitary equipment.

BELGIUM

Phillips Petroleum subsidiary [un-named]: A Belgian subsidiary of Phillips Petroleum provided thiodiglycol, the primary compound in mustard gas, to a Dutch trading company, KBS, which in turn was filling a request of the Iraqi State Establishment for Pesticide Production.

Sybeta: this company was the prime contractor for a fertilizer complex at Al Qaim and a phosphates mine at Akashat, believed to have been converted to CW production.

CHILE

Gen. Augustino Pinochet: Pinochet's regime had put cluster and chemical bombs at the disposal of the Iraqi regime, reports said. The shipment included chemical bombs in 500,000-piece consignment with a value of \$30 million.

EGYPT

WTB International AG: supplied a controller for the Saad 16 complex.

FRANCE

Atochem: supplied Sarin precursors to Montedison and training of Iraqi chemists in the handling of toxic materials.

Protec: served as the middleman for many of the Karl Kolb company shipments to Iraq.

GERMANY

Avia Test: a contractor at the Saad-16 chemical weapons plant.

Anton Eyerle: provided mobile toxicology labs.

Chemco GmbH: sold chemical precursors.
Degussa: sold unspecified equipment at a chemical weapons facility in Iraq.

Deutsch BP: supplied military research and unspecified military equipment in chemical weapons.

Gildemeister Projecta GmbH: a general contractor at Saad-16.

Ludwig Hammer GmbH: a subcontractor to Heberger and supplied climate control systems for the Samarra CW plant.

Herberger Bau GmbH: sold building for chemical weapons facilities, under investigation by the Darmstadt public prosecutor for shipping chemicals and equipment for making CW weapons.

Heraus: provided a tubular furnace for biological weapons.

I.B.I.: provided construction and procurement of a CW plant.

Identa Company: supplied a computer-controlled magnetic card system to control entry to the Diyala chemical laboratory.

Industriewerke Karlsruhe, Augsburg (IWKA): provided machine tools to pack 155mm shells with CW agents.

Infraplan: sold facilities for precursor chemical production.

Iveco Magirus: provided mobile toxicology labs.

Karl Kolb, GmbH: a subsidiary, Pilot Plant, assisted with an insecticide plant, and subcontracted the German Quest company to supply equipment necessary to produce chemical weapons. A chemical engineer from Karl Kolb helped install mobile toxicology laboratories during the Gulf War. Karl Kolb has also been implicated in aiding in the development of six Iraqi chemical plants in Samarra. The company has been under investigation for illegal business with Iraq since 1983.

Josef Kuehn: supplied mycotoxins TH-2 and T-2.

Labosco GmbH: supplied assorted biological equipment.

Magiru Deutz: supplied equipment for mobile toxicology laboratories during the Gulf War.

Messerschmitt-Bolkow-Blohm (MBB): provided chemical weapons lab equipment of Saad-16.

Noske Kaeser: installed a large outlet air cleaning plant for a CW lab at Salman Pak.
Neuberger Holz and Kunststoffindustrie GmbH: the middleman for many of the Karl Kolb company shipments.

Pilot Plant: provided corrosion-resistant testing equipment, under investigation for shipments of materials and knowledge of poison gas production.

Plato-Kuehn GmbH: provided mycotoxins TH-2 and T-2.

Preussag AG: provided equipment, chlorine, and chlorine containers for water purification and for refrigeration of food.

Rhein-Bayern Vehicle Construction: provided mobile toxicology labs and compressed air assemblies.

Rhemm Labortechnik: provided inhalation systems for a chemical weapons plant and experimental gas chambers allegedly used to test Zyklon-B mixture on Iranian POWs.

Rotexchemie International Handels GmbH and Co.: provided Iraq with sodium cyanide, used for prussic acid and Tabun manufacture.

Sigma Chemie GmbH: helped supply TH-2 and T-2 mycotoxins.

Thyssen AG: aided, with eight other German subcontractors, in the construction of a CW/BW facility near Salman Pak.

Unipath: provided bacteriological culture media.

WET (Water Engineering Trading) GmbH: provided microbiological parts and fluid culture media, investigated for shipments of material and knowledge to produce poison gas, including special machine tools for poison gas projectiles.

Walter Thostl Bowsval (WTB): built three large factories in a complex near Baghdad, under suspicion of being a CW facility.

Fitz Werner Industrial Equipment Ltd.: sold universal drilling equipment at a chemical weapons facility.

Zeiss, Carl: sold unspecified equipment at a chemical weapons facility.

HOLLAND

Duphar: provided Iraq with blister packs and nerve gas antidotes.

KBS: served as middleman for the sale of thiodiglycol, the primary compound in mustard gas.

Melchemie: supplied the Iraqi State Establishment for Pesticide Production with most of the chemicals needed to produce nerve gas.

INDIA

Cyanide and Chemical Co.: supplied precursor chemicals.

Exomet Chemicals: supplied precursor chemicals.

Khaleej Pte: supplied precursor chemicals.
Oriental Shipping Agency: arranged shipping of precursor chemicals.

Transpek India Ltd.: supplied precursor chemicals (trionyl chloride).

United Phosphorus of Baroda and Bombay: supplied precursor chemicals.

ITALY

Ausidet: provided Sarin precursors through Montedison.

Montedison: supplied material for CW.

Technipetrole (TPL): supplied a nerve gas plant at Akashat and a CW plant at Baiji.

JAPAN

Nissso Shoji: shipped precursor chemicals through India to Iraq.

LEBANON

Christian Militia: produced CW (mustard gas) for Iraq.

SPAIN

Rio Tinto Explosives (ERT): supplied precursor chemicals.

SWITZERLAND

CIBA-Geigy: sold over 800,000 tons of phosphatimidon, a chemical used mainly in manufacturing poison gas.

Companies Inc.: provided precursor chemicals.

Ifat Corp. Ltd.: this company was part of the Consen group and was an engineering middleman for Saad-16.

UNITED KINGDOM

Rio Tinto Zinc Chemicals: supplied precursors for chemical weapons.

Source: Bowman, Steven R. CRS Report for Congress, "Iraqi Chemical Weapons Capabilities," February 24, 1993. Appendix, pp. 7-22.

APPENDIX C

[From Diana Edensword & Gary Milhollin, "Iraq's Bomb—an Update," New York Times, April 26, 1993 at A17]

Soon, possibly this week, the U.N. will report that its inspectors in Iraq have found

yet another cache of strategic equipment for making nuclear weapons. Their chief inspector at the International Atomic Energy Agency, Maurizio Zifferero, should be embarrassed. He announced in September that President Saddam Hussein's atomic weapons program was "neutralized" and "at zero." He even said that Iraq had "decided at the higher political level to stop these activities."

Saddam Hussein never told the I.A.E.A. about the newly discovered equipment, as required by U.N. resolutions. And he continues to rain down threats and intimidation on the inspectors, indicating that he has more to hide. In March 1992, Iraq's Deputy Prime Minister, Tariq Aziz, told inspectors that Iraq had not relinquished the right to build weapons of mass destruction.

Before his army marched into Kuwait in August 1990, Saddam Hussein had a workable bomb design, many key components, a multi-billion dollar nuclear manufacturing base and a global supply network able to exploit lax Western export controls, especially those in Germany. His Western-trained scientists had produced small amounts of plutonium and enriched uranium: the fuels in the bombs that destroyed Nagasaki and Hiroshima. They even did clandestine research in laboratories the I.A.E.A. inspected regularly.

If Saddam Hussein had left Kuwait alone, he might have had his first bomb by now. He still has his scientists on the payroll and has protected the identities of many of his global suppliers. He has even started to get European and American inquiries on future oil sales: petrodollars for a renewed bomb effort.

Here is a summary of nuclear-related equipment in Iraq today. It draws on export records and reports by inspection teams. The names of manufacturers, who may not have supplied their products directly to Iraq, are given where known. Iraq claimed the equipment was for civilian use. The U.S. government wants most of the material destroyed; the I.A.E.A. may let Iraq use it under the agency's monitoring. It was just such "monitoring," however, that failed to detect Iraq's bomb program in the first place.

FOUND BUT NOT DESTROYED OR REMOVED

These items have been tagged for possible destruction, monitoring by the I.A.E.A. or unconditional release to Iraq:

580 tons of natural uranium (Brazil, Niger and Portugal).

1.7 tons of enriched uranium (Italy).

255 tons of HMX, a high explosive for detonating atomic bombs.

60 machines that shape metal into centrifuge parts, by Dorries, H & H Metalform, Kieserling & Albrecht, Leifeld and Magdeburg (Germany), Matrix Churchill (Britain) and Schaublin (Switzerland).

Mass spectrometers to monitor bomb-fuel production, by Finnigan-MAT (U.S., Germany).

Two electric frequency converters to power atomic bomb fuel production, by Acomel (Switzerland).

More than 700 valves that can process atomic bomb fuel, by Balzers, VAT (Switzerland) and Nupro (U.S.).

Two coordinate-measuring machines to monitor centrifuge production, by DEA (Italy).

70 mixer-settler units to extract plutonium, some by Metalextraktion AB (Sweden).

Machines for milling metal, by Maho, Schless, SHW and Wotan (Germany), Innocenti (Italy) and Zayer (Spain).

Two assembly presses and two balancing machines to make centrifuges.

One resin-mixing and discharge machine to support electromagnetic uranium enrichment, by Millitorr (Britain).

One jet-molding machine to make centrifuge motors, by Arburg (Germany). One 63-ton hydraulic press to shape explosive atomic bomb parts.

One mainframe computer used to process nuclear atomic bomb codes, by NEC (Japan).

Two oxidation furnaces for making centrifuge parts, by Degussa (Germany). One electron-beam welder to assemble centrifuges, by Sciaky (France). Tantalum metal sheets for making crucibles to cast atomic bomb cores. Still Missing.

These items are suspected or known to be in Iraq, but have not been found or accounted for:

More than \$1 million worth of computers, electronic testing machines, computer graphics equipment and frequency synthesizers licensed for shipping to atomic bomb builders, by Hewlett Packard (U.S.).

More than \$7 million worth of computers, licensed for shipping to atomic bomb builders, by International Computer Systems (U.S.).

Nuclear reactor control panels, instruments and computers salvaged from a damaged reactor, by the consortium Cerbag (France).

Computers and instruments capable of analyzing metals and powders for atomic bomb manufacture, licensed for shipping to an atomic bomb builder by Siemens (Germany, U.S.).

\$43,000 worth of computers for a nuclear weapons testing site, licensed for shipping by EZ Logic Data (U.S.).

\$30,000 worth of electronic and computing equipment to measure neutrons and gamma rays, licensed for shipping by Canberra Industries and Canberra Elektronik (U.S., Germany).

Five frequency converters capable of powering centrifuges, by Acomel (Switzerland).

Parts that collected enriched uranium in electromagnetic enrichment machines.

One jet-molding machine to make centrifuge motors, by Arburg (Germany).

One powder press suitable for compacting nuclear fuels, by XYZ Options (U.S.).

\$1.5 million worth of cylindrical presses, by Leifeld (Germany).

\$2.2 million worth of computers, licensed to be shipped to an atomic bomb builder by Unisys (U.S.).

\$280,000 worth of computers and electronic and photographic equipment for nuclear weapons laboratories, licensed to be shipped by Perkin Elmer (U.S.).

\$367,000 worth of computers licensed for shipping to an atomic bomb builder to run its machine tools, by Gerber Systems (U.S.).

Design plans for a \$5.6 million plant to process uranium, by Natron (Brazil).

More than 100 mixer-settler units to extract plutonium, by Metalextraktion AB (Sweden).

Centrifuge cascade to enrich uranium.

Underground reactor and heavy water to produce plutonium.

Records of Iraq's foreign sources of expertise on uranium enrichment, foreign equipment suppliers and explosive tests of atomic bomb components.

Records containing identities and current activities of Iraqi nuclear personnel, including those trained by H&H Metalform, Interatom, Leybold, Lurgi and ZSI (Germany), Balzers (Switzerland), Chemdex (Poland), CNEN (Brazil), and Matrix Churchill (Britain).

Computer database showing status and extent of the entire nuclear weapon program.

• Mr. LIEBERMAN. Mr. President, I join my distinguished colleague, Sen-

ator McCAIN, in introducing the Iran-Iraq Arms Non-Proliferation Amendments, which will amend the National Defense Authorization Act for fiscal year 1993. This bill is intended to deal with the threat of advanced weaponry, and particularly weapons of mass destruction, from Iran and Iraq.

Weapons of mass destruction are adding an entirely new dimension to world politics. In the past, relations between the major powers dominated international events; medium-sized countries such as Iran and Iraq only mattered insofar as they contributed to the geopolitical assets of a major power or became the object of a great power rivalry.

Today, however, countries, such as Iran or Iraq, could become as much as a threat as a major industrial power. No longer are a full panoply of conventional forces needed to threaten United States interests; a primitive nuclear device could wreak more havoc on the continental United States than Nazi Germany or Imperial Japan could ever aspire to. So despite much talk about the decline of the nation-state, proliferation is strengthening the potential power of those states bent on becoming nuclear powers.

Of all the aspiring nuclear powers, none threatens United States interests more than Iran. CIA Director James Woolsey said before the Senate Committee on Government Affairs on February 24 that:

Iran is pursuing the acquisition of nuclear weapons despite being a signatory of the Nuclear Nonproliferation Treaty [NPT]. Iran probably will take at least 8 to 10 years to produce its own nuclear weapons, perhaps sooner if it receives critical foreign assistance for its development program.

To this end, Tehran continues to apply economic pressure on Germany to complete a commercial nuclear power plant at the city of Bushehr that was abandoned when Khomeini came to power. It has also signed contracts for the sale of several commercial nuclear plants, whose materials could be weaponized, from Russia and China. Commercial nuclear power plants make no economic sense for Iran, which has the world's second largest supply of natural gas.

CIA Director Woolsey has also warned that despite Iraq's overwhelming military defeat, its scientific and engineering capabilities and its commercial network remain largely intact:

Iraq retains key nonfissile materials and equipment, such as centrifuge drawings, machine tools, and expertise, that it could use to rebuild a centrifuge-based uranium enrichment effort * * * the Iraqis retain missiles, support equipment, and propellant, and they are still capable of firing scud missiles * * * Iraq's biological weapons capability is perhaps of greatest immediate concern.

THE MCCAIN-LIEBERMAN BILL

Faced with this challenge, the McCain-Lieberman bill is designed to thwart foreign firms and individuals

that provide assistance to the Iranian and Iraqi weapons programs, particularly those involving arms of mass destruction. While U.S. law generally deals adequately with transgressions by U.S. firms, additional measures are needed against foreign firms. Such measures could be effective because, for all their defiance toward the international community, Iran and Iraq are not hermit States, like North Korea. They rely on foreign suppliers for their weapons materials and for some of their know-how.

The McCain-Lieberman amendments do this. Existing law mandates sanctions against foreign firms and individuals that contribute to Iran and Iraq's programs of destabilizing advanced conventional weapons and weapons of mass destruction by:

First, suspending United States and multilateral development bank assistance;

Second, suspending codevelopment, coproduction, military, and dual-use technical exchange agreements; and

Third, prohibiting the export of all terms on the U.S. munitions list to the violating country.

The McCain-Lieberman bill adds mandatory sanctions against these foreign firms by shutting their imports out of the U.S. market. With this bill, no foreign entity will be able to export to the United States if it knowingly abets the Iran and Iraq weapons programs.

This bill also adds the following discretionary sanctions:

First, prohibitions against assistance from financial institutions,

Second, a blocking of international transactions, and

Third, the suspension of U.S. aviation and port rights.

The McCain-Lieberman bill also provides the President with the power to take the following discretionary actions:

First, denial of most-favored-nation status;

Second, suspension of diplomatic relations, special trade privileges, and trade agreements; and

Third, revocations of licenses for nuclear material exports.

BEHIND THE WEAPONS PROGRAM

The weapons programs of Iran are being driven by two deeply rooted impulses: Islamic fundamentalism and Iranian nationalism. The Iranian Government has been split between Islamic fundamentalists and so-called pragmatists or nationalists. Fundamentalists believe in a heavy-handed state socialist economy and repressive social mores. Their foreign policy is fueled principally by anti-western policies on religious grounds.

In contrast, Iranian nationalists, who have been gaining power since the election of Hashemi Rafsanjani as President in 1989, are motivated primarily by traditional Persian Nationalism.

They believe deeply that the Persian Gulf is within their exclusive sphere of influence. The defeat of Iraq has reinforced their view that Iran is the sole Islamic power of consequence in the region.

Iranian nationalism has also been emboldened by the expectation that the collapse of the Soviet Union will permit a return of Iranian influence to the U.S.S.R.'s seven Islamic republics, which were under loose Iranian control in the past. Iranian adventurism, on the part of both fundamentalists and nationalists, has also been fueled by the prospect of cheap, surplus Warsaw pact military equipment.

Iraqi nationalism, embodied in its most virulent form by Saddam, is driving Baghdad's weapons policies. Iraq has always seen itself as the Arab custodian of the gulf, and few Iraqis consider Kuwait to be a legitimately independent country. This imperial attitude no doubt has been used to serve the purposes of the country's ruling elite, which is predominantly Sunni. Since the Sunnis only represent 20 percent of the country's population, Sunni leaders have sometimes been tempted to engage in foreign adventurism to divert the discontents of its Shi'ite majority. This is the case today.

CONCLUSION

Mr. President, there is a deceptive lull in international affairs. With the end of the cold war and the collapse of the Soviet Union, there are not apparent, overwhelming threats to the United States. And yet just as growing German power haunted Europe at the beginning of this century, the specter of weapons of mass destruction in the hands of radical Third World states is a cause of forboding at the end of the century. We must, therefore, prevent the diffusion of technology and know-how to Iran and Iraq.

The McCain-Lieberman bill does this by amplifying upon the existing legal, diplomatic, and conceptual structure that should isolate these two radical Persian Gulf countries. In doing so, we will slow, and hopefully prevent, them from obtaining weapons that threaten our lives and those of our children as nothing else does. ●

By Mr. RIEGLE:

S. 1173. A bill to provide for a comprehensive reduction in the United States bilateral trade deficit with Japan, to assure mutually advantageous international trade in motor vehicles and motor vehicle parts, and for other purposes; to the Committee on Finance.

UNITED STATES-JAPAN TRADE EQUALIZING ACT OF 1993

● Mr. RIEGLE. Mr. President, I rise today to introduce legislation to provide for balanced and comprehensive reduction in our trade deficit with Japan. This bill, the United States-Japan Trade Equalizing Act of 1993 is

result-oriented legislation which will deal effectively with the growing United States trade deficit with Japan as a result of their unfair trade practices.

This bill complements my earlier bills by approaching the United States trade deficit with Japan on an overall basis.

Just reading this morning's newspapers explains the need for this legislation. Yesterday, negotiations between the United States and Japan to define a new trading relationship broke down.

Contrary to his predecessors, President Clinton has sought measurable progress in our trade relationship with Japan. The United States proposed establishing clearly defined measurable targets for opening specific Japanese markets and for cutting the Japanese trade surplus in general.

Japan has refused, I believe, because setting clearly defined targets has been successful in the past in opening up the Japanese market.

The most obvious example of the benefit of this approach was the semiconductor agreement which required 20 percent of the Japanese market to be foreign—an agreement which achieved its intended result. I believe the very success of this approach mandates that we continue to demand specific and clear measurable targets.

The New York Times states, and I quote, "The deadlock in Tokyo is a blow to Clinton's economic revival plans." I agree that trade is critical to the United States economic future, but do not believe that the Japanese control our economic destiny. We do, as long as we are willing to take those steps necessary to ensure the long-term growth of the United States, and the world, economy.

The United States-Japan Trade Equalizing Act of 1993—which I introduced today—is a step in that direction by providing for a balanced reduction in Japan's overall trade deficit with the United States over a 5-year period. For each of the next 5 years, Japan would be required to reduce its trade surplus with the United States, either by buying more United States products, or selling less products here.

If Japan does not meet the deficit reduction targets, the United States will impose quantitative restrictions on both motor vehicles and motor vehicle parts from Japan. It is appropriate to target the Japanese auto and auto parts sectors for restrictions as the majority of our trade deficit with Japan is in these two sectors alone.

This legislation was first introduced as part of a larger, comprehensive trade package over a year ago. Looking back to when I introduced the legislation last year, I see that many of the issues I was concerned with at that time have not improved.

There continues to be growing unemployment and underemployment, layoffs by many of our Fortune 500 companies, and a growing trade deficit with Japan.

However, one thing has changed over the past year—the specific numbers. The trade numbers indicating the magnitude of the United States trade deficit with Japan have worsened.

The cumulative United States trade deficit since 1980 is over \$1.1 trillion—roughly half of our deficit is with Japan. Our cumulative trade deficit with Japan alone is \$511 billion—over a half a trillion dollar deficit with one country alone. Moreover, our deficit with Japan is not improving.

When I introduced this legislation last year, our 1991 trade deficit with Japan was \$43.4 billion. By the end of 1992, our trade deficit had reached \$49.4 billion—an increase of almost 14 percent in 1 year alone.

In April of 1993 alone, the United States trade deficit with Japan was \$5.5 billion—since the beginning of this year, the United States trade deficit with Japan is \$18.79 billion. If this trend continues, the United States trade deficit for 1993 would be \$56.37 billion, again an increase of about 14 percent. That would mean that since 1991, the United States trade deficit with Japan will have increased by almost 30 percent.

Further, well over half the United States trade deficit with Japan is in the automotive sector. The United States trade deficit with Japan in the automotive sector has increased significantly since the mid 1980's. In 1986, the automotive sector represented 55.6 percent of the United States' total trade deficit with Japan.

By 1988 our deficit in the automotive sector had increased to 61.7 percent, and by 1990 it increased to 73.7 percent. By 1990 almost three-fourths of the United States' trade deficit with Japan was in the auto and auto parts sectors alone.

The U.S. trade deficit in the auto parts sector has increased unabated throughout the 1980's. Between 1985 and 1986, the United States trade deficit with Japan in the auto parts sector increased 95 percent, and between 1986 and 1987 the auto parts deficit increased another 31 percent, and continued nonstop throughout the 1980's and 1990's—reaching \$9.8 billion in 1992.

Last year, our auto parts deficit alone accounted for approximately 20 percent of our total trade deficit with Japan.

Our motor vehicle deficit with Japan shows the same trends as both our auto parts deficit and our overall trade deficit—it increased nonstop throughout the 1980's and 1990's. Our motor vehicle deficit with Japan represents on average 45-50 percent of our total trade deficit.

We must remember trade and trade practices have a direct relationship to

how much wealth this country has, how many Americans have jobs, and the kinds of jobs they have. The U.S. auto industry accounts for approximately 4.5 percent of our gross national product.

The auto industry employs about 2.5 million workers in the United States and, in doing so, provides workers a middle class standard of living—a home, a pension, health care, and education for their children.

Working Americans—whether in the auto industry, another manufacturing industry, agriculture or other—are the backbone of this country. It is working Americans, through their labors, production, and innovation, that create the products that Americans and people around the world need and want.

In doing so they contribute directly to the economic strength of this country. However, Americans who lose their jobs because of the unfair trade practices of other countries are no longer able to positively contribute to the economic strength of this country.

These unemployed Americans—through no fault of their own—have a negative impact on our economy. They require financial resources be diverted from already burdened Federal, State, and local budgets, for retraining, unemployment compensation and worker adjustment assistance.

The funds used for these programs could be put to much better use—education, crime control, health care—if U.S. workers had not lost their jobs to unfair trade practices. Further, most unemployed workers have less disposable income to spend, thus having a deleterious effect on overall economic growth in the United States.

There are also many social costs associated with unemployment—rising crime, increased alcoholism, drug abuse, and family violence—to name a few. Most of the United States' unemployment results from the unfair trade practices of other countries—not from a lack of U.S. competitiveness.

The problem of Japan's closed market is not just a United States-Japan problem, it affects the entire world economy. Japan's closed market hampers both United States economic growth and overall global economic growth as well. Not only are there countless anecdotal examples of Japan's closed market, but the degree of their closed market is well documented in economic statistics.

Compared to other industrialized nations, Japan imports a disproportionately small share of manufactured products. In 1991, U.S.-manufactured imports represented 6.9 percent of our gross domestic product [GDP].

For the rest of the G-7, excluding Japan, manufactured imports represented on average 7.4 percent of GDP. However, manufactured goods imports in Japan represented only 3.1 percent of their GDP. In addition, Japan has

the lowest level of foreign direct investment among the OECD countries.

Only 0.7 percent of the global stock of direct investment is in Japan, whereas 28.6 percent of the global stock of direct investment is in the United States, and 28.6 percent is in Europe. Clearly, Japan continues to be a closed market to the United States and other country's goods and services.

It is unacceptable for the second largest economy, Japan, to continue to use unfair trade practices, such as maintaining a closed market, to further its economic goals.

We have seen entire United States industries disappear, or be reduced to noncompetitiveness, as a result of Japan's unfair trade practices. The United States has virtually lost its consumer electronics industry, semiconductor, and computer chip industry as a result of unfair trade practices by Japan.

These practices include a closed domestic market, export targeting, predatory pricing practices, the Japanese *kieretsu* system of trade, and other practices. Now, we are on the verge of losing our auto and auto parts industry because of Japan's unfair trade practices in these areas.

While the previous administration was content to merely study the issue, or pursue informal talks with the Japanese, nothing was accomplished. The results of then-President Bush's trip to Japan over 1 year ago have been nonexistent—for in 1992 the United States experienced its largest ever trade deficit with Japan.

More specifically, the so-called import targets the Japanese auto makers and auto parts producers agreed to early in 1992, have not been met. A number of articles following then-President Bush's trip report that the Japanese now say they did not actually commit to increased purchases of United States produced autos or auto parts.

Further, the Japanese have indicated, the specific import targets discussed for reducing the deficit in the auto and auto parts industries were not real commitments but merely informal guidelines discussed by the United States and Japan. Clearly, informal commitments or voluntary targets do not work.

The United States needs a mechanism which will produce results. My legislation provides a mechanism which will produce results.

The United States-Japan Trade Equalizing Act of 1993 provides for a balanced reduction in Japan's overall trade deficit with the United States over a 5-year period.

Beginning in 1994, Japan will be required to reduce its surplus with the United States by 20 percent of the level our 1993 bilateral trade deficit. In each of the following 4 years, Japan will be required to reduce its trade surplus by an additional 20 percent of the 1993 deficit base level.

If Japan does not meet the deficit reduction targets set out in this bill, the United States will impose quantitative restrictions on imports of both motor vehicles and motor vehicle parts from Japan. As I stated earlier, it is appropriate to target the Japanese auto and auto parts sectors for restrictions as the majority of our trade deficit with Japan is in these two sectors alone.

The quantitative restrictions will equal the number of auto and auto parts each that were entered into the United States during 1993 less 20 percent. In other words, if the United States imported 1.5 million cars from Japan in 1993, the number of cars permitted to enter the United States during 1995, if the 1994 deficit reduction target was not met, would be 1.125 million cars.

Likewise, the specific number of auto parts, in each product category that would be permitted to enter the United States would be determined according to the same formula.

In each of the following deficit reduction years, the number of autos and auto parts which would be allowed entry into the United States if Japan did not meet its deficit reduction targets, would be reduced by an additional 20 percent.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1173

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 "United States-Japan Trade Equalizing Act of 1993".

TITLE I—FINDINGS AND DEFINITIONS

SEC. 101. FINDINGS, PURPOSE, AND DISCLAIMERS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States trade deficit with Japan has increased substantially over the past decade. In 1991, the United States trade deficit with Japan was \$43,400,000,000. The trade deficit increased by 14 percent in 1 year, to over \$49,400,000,000 by the end of 1992.

(2) The traditional domestic motor vehicle and motor vehicle parts sector directly employs more than 1 million workers and indirectly employs several million more. The workers are skilled, hard working, productive, capable, and proud of their work. The workers and their employers have achieved great improvements in quality, performance, fuel economy, safety, and design of domestic motor vehicles.

(3) The domestic motor vehicle and motor vehicle parts sector directly and indirectly accounts for about 12 percent of our gross national product and generates more than \$200,000,000,000 a year in revenue.

(4) The domestic motor vehicle and motor vehicle parts sector is a major consumer of steel, glass, textiles, rubber, aluminum, machine tools, chemicals, electronics, and other important products.

(5) Recognizing the competitive pressures facing the motor vehicle industry, Japan has

operated under a voluntary export restraint arrangement since 1981 that has not been recognized or enforced by the United States Government.

(6) Since 1986 the United States Government has engaged, with little result, in a negotiating process with the Government of Japan to obtain fair access to the markets of that nation for United States producers of motor vehicle parts and manufacturers of motor vehicles.

(7) Despite these negotiating efforts, in 1992 the United States posted a \$49,400,000,000 trade deficit with Japan of which over \$30,000,000,000 was accounted for by the automotive sector deficit (\$9,800,000,000 of which was attributable to motor vehicle parts), and there is little evidence that the Japanese Government is seriously trying to eliminate such deficits which are detrimental to the United States economy and jobs.

(8) In addition to transplant assembly facilities in the United States that are owned or controlled by Japanese persons, motor vehicles and motor vehicle parts are being imported from Japan into the United States in such increased quantities and under such conditions as to cause, or threaten to cause, serious injury to domestic manufacturers of like or directly competitive products and to the domestic workers producing such products.

(9) In the last 5 years, transplant assembly facilities in the United States that are owned or controlled by persons from Japan have not shifted significantly their procurement to traditional United States producers of motor vehicle parts, as illustrated by the fact that—

(A) the United States automotive parts trade deficit with Japan grew between 1985 and 1990 at an annual average rate of 17 percent and totaled \$9,800,000,000 in 1992; and

(B) only 12.5 percent of the customs value of vehicles manufactured in such transplant facilities in the United States is based on parts produced by traditional United States motor vehicle parts producers, while 35.1 percent of such value is based on imports from Japan and 32.4 percent of such value is based on purchases from Japanese-affiliated parts producers located in the United States.

(10) The pattern of procurement described in paragraph (9) has contributed significantly to the overall United States merchandise trade deficit with Japan.

(11) The continuation of current procurement practices by automobile companies owned or controlled by persons from Japan and the increased production of vehicles by transplant facilities in the United States is projected to result in a 110 percent (or \$21,990,000,000) increase in the United States motor vehicle parts trade deficit by 1994.

(12) Aftermarket parts are likely to account for 50 percent of the motor vehicle parts trade deficit with Japan by 1994 because transplant facilities are not purchasing sufficient quantities of original equipment from United States suppliers.

(13) Traditional United States motor vehicle parts manufacturers are particularly underrepresented in the production of motor vehicles produced by transplant facilities in the United States in the following 3 major, high value-added vehicle systems:

(A) Engines.

(B) Transmissions.

(C) Body structures.

(14) In the 1991 National Trade Estimates Report, the United States Trade Representative listed "close and durable relationships" between Japanese motor vehicle makers and suppliers as a barrier to United States motor vehicle parts sales in Japan.

(15) The market share of Japanese motor vehicle manufacturers in the European Community is currently 10 percent while their market share in the United States is about 35 percent.

(16) The European Community has negotiated an understanding with the Government of Japan limiting the market share of motor vehicles produced by Japanese motor vehicle manufacturing companies both in Japan and in the European Community to less than 16 percent until the year 2000.

(17) The home market for motor vehicles and motor vehicle parts in Japan remains largely closed to all foreign manufacturers whose combined market share equals no more than 3 percent.

(18) Japan's nontariff market barriers include onerous inspection and certification systems that discriminate against foreign-made motor vehicles and motor vehicle parts, a tax system that discriminates against foreign-made products, closed distribution systems and dealer networks, and government-tolerated "Keiretsu" relationships involving motor vehicle and motor vehicle parts manufacturers and dealers. At the same time, Japanese firms enjoy open markets in the United States with no limitations or discrimination.

(b) PURPOSE.—The purpose of this Act is to decrease the merchandise trade deficit of the United States with Japan by providing for a staged merchandise trade deficit reduction over a 5-year period.

(c) CONGRESSIONAL DISCLAIMERS.—It is the intent of Congress that this Act shall not be deemed to modify or amend the terms or conditions of any international treaty, convention, or agreement that may be applicable to motor vehicles and motor vehicle parts and to which the United States, on the date of the enactment of this Act, is a party, including, but not limited to, the terms or conditions of any such treaty, convention, or agreement which provide for the resolution of conflicts between the parties thereto. Nothing in this Act shall be construed (1) to confer jurisdiction upon any court of the United States to consider and resolve such conflicts, or (2) to alter or amend any law existing on the date of the enactment of this Act which may confer such jurisdiction in such courts.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) MOTOR VEHICLE AND MOTOR VEHICLE PARTS.—

(A) The term "motor vehicle" means any article of a kind described in heading 8703 or 8704 of the Harmonized Tariff Schedule of the United States.

(B) The term "motor vehicle parts" means any article of a kind described in the following provisions of the Harmonized Tariff Schedule of the United States if suitable for use in the manufacture or repair of motor vehicles:

(i) Subheadings 8407.31.00 through 8407.34.20 (relating to spark-ignition reciprocating or rotary internal combustion piston engines).

(ii) Subheading 8408.20 (relating to the compression-ignition internal combustion engines).

(iii) Subheading 8409 (relating to parts suitable for use solely or principally with engines described in clauses (i) and (ii)).

(iv) Subheading 8483 (relating to transmission shafts and related parts).

(v) Subheadings 8706.00.10 and 8706.00.15 (relating to chassis fitted with engines).

(vi) Heading 8707 (relating to motor vehicle bodies).

(vii) Heading 8708 (relating to bumpers, brakes and servo brakes, gear boxes, drive

axles, nondriving axles, road wheels, suspension shock absorbers, radiators, mufflers and exhaust pipes, clutches, steering wheels, steering columns, steering boxes, and other parts and accessories of motor vehicles). The Secretary shall by regulation include as motor vehicle parts such other articles (described by classification under such Harmonized Tariff Schedule) that the Secretary considers appropriate for the purposes of this Act.

(C)(1) The term "Japanese motor vehicle" means a motor vehicle which is the product of Japan.

(1) The term "Japanese motor vehicle part" means a motor vehicle part which is the product of Japan.

(2) ENTERED.—The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) IMPORT RESTRICTION IMPLEMENTATION PERIOD.—The term "import restriction implementation period" means a calendar year which—

(A) occurs after 1994 and before calendar year 2001, and

(B) follows a calendar year with respect to which the Secretary finds, under section 201(b), that the trade deficit reduction target was not met.

(4) INTERSTATE SALE.—The term "interstate sale" means sale or distribution in the interstate commerce of the United States.

(5) BASELINE DEFICIT.—(A) The term "baseline deficit" means the average monthly merchandise trade deficit, as computed by the Secretary, of the United States with Japan during calendar year 1993.

(B) In computing merchandise trade deficits under this section, the value of bilateral trade between the United States and Japan in—

- (i) crude petroleum; and
 - (ii) nonmonetary gold;
- shall not be included.

(6) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(7) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

TITLE II—MERCHANDISE TRADE DEFICIT REDUCTION

SEC. 201. STAGED TRADE DEFICIT REDUCTION.

(a) TRADE DEFICIT REDUCTION TARGETS.—

(1) IN GENERAL.—The trade deficit reduction target for each of the calendar years listed below is an average monthly merchandise trade deficit of the United States with Japan during such year that does not exceed an amount that equals the applicable percentage of the baseline deficit that appears opposite such year:

Calendar year	Applicable percentage of baseline deficit
1994	80 percent
1995	60 percent
1996	40 percent
1997	20 percent
1998	0 percent

(2) SPECIAL RULE FOR 1998.—For calendar year 1998, the 0 percent trade deficit reduction target shall be treated as having been met if the merchandise trade deficit of the United States with Japan during such year does not exceed—

- (A) an amount equal to 5 percent of the value of the aggregate bilateral merchandise trade between the United States and Japan during such year; or
- (B) \$5,000,000,000.

(b) COMPUTATIONS.—

(1) IN GENERAL.—Not later than January 1 following each calendar year listed in sub-

section (a)(1), the Secretary shall compute whether the trade deficit reduction target for such year was met.

(2) ANNOUNCEMENT OF IMPORT RESTRICTION IMPLEMENTATION PERIOD.—If the Secretary finds under paragraph (1) that the trade deficit reduction target specified under subsection (a) for a calendar year was not met, the Secretary shall announce, by publication in the Federal Register, that the import restriction implementation period is in effect beginning on January 1 of the year after the year to which the finding applies.

SEC. 202. COMPUTATION OF IMPORT RESTRICTIONS IF TRADE DEFICIT REDUCTION TARGET NOT MET.

(a) IN GENERAL.—On January 1 of the first calendar year (and each calendar year thereafter) for which an import restriction implementation period is in effect, the Secretary shall compute and publish in the Federal Register the quantitative import restrictions for such calendar year.

(b) COMPUTATION.—

(1) IN GENERAL.—For purposes of subsection (a), the term "quantitative import restrictions" means the aggregate quantity of Japanese motor vehicles and the aggregate quantity of Japanese motor vehicle parts that may be entered into the United States (in accordance with paragraph (2) or (3)) for a calendar year described in subsection (a).

(2) FIRST YEAR RESTRICTIONS.—The aggregate quantity of Japanese motor vehicles and Japanese motor vehicle parts that may be entered into the United States, during the first calendar year for which an import restriction implementation period is in effect, may not exceed the aggregate quantity of such motor vehicles and the aggregate quantity of such motor vehicle parts entered into the United States during 1993, reduced by 20 percent.

(3) SUBSEQUENT YEARS.—In the case of any calendar year for which an import restriction period is in effect after the first such calendar year, the aggregate quantity of Japanese motor vehicles and Japanese motor vehicle parts that may be entered into the United States shall not exceed the amount of such motor vehicles and motor vehicle parts entered during the most recent preceding calendar year for which an import restriction implementation period was in effect, reduced by 20 percent.

(4) ADMINISTRATION.—In order to prevent import surging or to otherwise ensure the efficient administration of this Act, the Secretary may impose temporary quantitative import restrictions on Japanese motor vehicles and Japanese motor vehicle parts entered during the first 3 months of a calendar year in an import restriction implementation period.

SEC. 203. REPORTS.

Within 30 days after a computation is made under section 201 or 202 with respect to a calendar year, the Secretary shall submit to the Congress a report setting forth the bases of the computation.

SEC. 204. SENSE OF CONGRESS REGARDING ACHIEVEMENT OF MERCHANDISE TRADE DEFICIT REDUCTION TARGETS.

It is the sense of the Congress that representatives of the United States and Japanese Governments should undertake continuing discussions regarding the means and measures, to be selected by the Japanese Government, to achieve the merchandise trade deficit reduction targets required under section 201(a). During the discussions, the Trade Representative should particularly address market access priorities for United States exports to Japan.♦

By Mr. LIEBERMAN (for himself, Mr. MACK, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 1175. A bill to amend the Internal Revenue Code of 1986 to allow corporations to issue performance stock options to employees, and for other purposes; to the Committee on Finance.

EQUITY EXPANSION ACT OF 1993

♦ Mr. LIEBERMAN. Mr. President, I rise today to introduce the Equity Expansion Act of 1993. I am pleased to be joined in this effort by Senators MACK, FEINSTEIN, and BOXER.

This bill could help spur the competitiveness and profitability of American companies by expanding the number of employees in all industries who will have the opportunity to receive part of their remuneration in the form of stock options. In addition, our bill would reform the current punitive tax and financial accounting treatment of employee stock options and it will create strong tax incentives for employees to retain the stock they purchase through their stock options, enhancing our pool of long-term, patient capital.

Mr. President, from a public policy perspective this bill is appealing because it is focused on strengthening a key American advantage in global competition. America's best companies learned long ago that the key to success in the world's toughest markets is a dedicated work force that shares the common goals for their company. Nothing spawns that commitment better than the opportunity for equity ownership through broad-based employee stock options and stock purchase plans.

Employee equity could help give us an edge in global competition. Neither the Europeans nor the Japanese have yet learned how to generate the kind of employee creativity and commitment that broad-based employee stock option plans have demonstrated for United States companies. Our Nation's public policy should encourage and promote employee participation through broad use of equity compensation programs. The bill we are introducing today will begin that process.

WHY THIS IS A JOBS BILL

One of our Nation's strongest concerns now is how to stimulate additional job creation in the American economy. We contemplate spending billions of dollars trying to prime the job pump, but we often can't be certain what we will receive in return. As we debate those measures, it's important that we not overlook a powerful job creation engine that is already pumping out thousands of high-quality jobs with a future in this country and generating major tax revenues for us in the process. That engine is small business, and the fuel is the broad-based employee stock option.

Stock options make it possible to start new companies and create new jobs with significantly less cash than

would otherwise be required. They enable growing companies to attract the key people who can make the difference at each stage of a company's progress. Stock options stretch scarce venture capital dollars and allow companies to hire more people than they otherwise could. Stock options also encourage risk-taking and spur technological innovation. America's most dynamic, job-creating companies consistently rely on employee stock options to attract and motivate their employees. Not just their top executives, all their employees.

I often hear from innovative CEO's who tell me they could not have built their companies and created the jobs they have without the ability to offer stock options to their entire work force. These same executives tell me that the rule change soon to be imposed by the Financial Accounting Standards Board [FASB] would have prevented them from creating many of those jobs.

Mr. President, our bill will not only prevent damage to America's growth-oriented industries, it will improve the ability of those companies to share equity more widely with their employees. In the process it will encourage thousands of additional companies to begin granting stock options to their work force, giving them a powerful stake in those companies.

At a time when we are contemplating a variety of reforms, taxes, and other mandates on business that will make it more expensive to create jobs, it's vital that we find new ways to make it easier to start companies and employ people. The Equity Expansion Act is such a bill.

A POSITIVE REVENUE IMPACT

Mr. President, another important reason this bill is attractive is that, unlike most business tax proposals, we believe the Equity Expansion Act will be ruled revenue-positive by the Joint Committee on Taxation. The Joint Committee found a similar bill to be a revenue-raiser in 1979. We asked two national accounting firms to analyze the revenue implications of our bill under today's tax rates and rules.

In a letter dated April 26, 1993, Ernst & Young reached the following conclusions:

Setting aside matters of timing, to the extent that the performance stock options created by this bill displace nonqualifying stock options (or equivalently taxed cash compensation), there is an unambiguous revenue gain to the Treasury. This revenue gain is offset to the extent that performance stock options displace incentive stock options; and under the current rate structure, so long as 40 percent or more of the performance stock options would otherwise have been nonqualifying stock options (or equivalently taxed cash compensation), the net impact would be a revenue gain for the Treasury.

Coopers & Lybrand also examined the revenue implications of our bill. They conclude:

In summary, the Equity Expansion Act of 1993 appears to offer the combination of reducing individual tax burdens for the employee and potentially increased Treasury collections. When compared to a non-qualified stock option, the proposed performance option would induce employees to keep the associated stock for the required holding period and in the situations outlined above, government revenue should rise. Our results are less definitive when the analysis is done using ISOs as a yardstick, but based on the current employee practice of selling the stock immediately, the performance options should also increase government revenue.

At a time when there is intense pressure on all tax provisions, my colleagues and I are pleased to be able to offer a bill that focuses on many of the most productive, job creating companies in the economy and also is likely to generate a revenue gain for the Treasury. I plan to include the full text of these accounting firm analyses, along with the Joint Committee's revenue estimate, in a future statement on this bill.

WHAT ARE STOCK OPTIONS, AND WHO PAYS FOR THEM?

An employee stock option is a right to purchase a set number of company shares for a fixed price at some defined time in the future. Unlike the type of stock options traded on stock exchanges, employee stock options are not transferable. There is no external market to establish their value.

The cost of employee stock options is borne entirely by the company's shareholders through dilution in the value of their shares. Yet, as described in more detail below, investors willingly approve these plans because they stimulate greater returns. Stock option plans are the only element of corporate compensation that already require the express approval of shareholders. Further, they are subject to annual proxy disclosure and footnote treatment in financial statements.

SUMMARY OF THE EQUITY EXPANSION ACT

The Equity Expansion Act leaves existing forms of stock options in place. Companies could continue to offer tax-deductible nonstatutory—nonqualified—stock options if they wish. But companies willing to forgo that deduction and grant options broadly throughout their work force would be able to offer their employees a new form of option, called a performance stock option [PSO], that requires no taxes from employees at exercise and gives them strong tax incentives to hold onto their stock after they acquire it. To qualify, at least half of a PSO must go to "non-highly compensated" employees, as defined by the IRS. This new form of option essentially restores the benefits of capital gains treatment by excluding half of the tax on the employees' gain when they sell their stock, after a minimum 2 year holding period.

TAX PROVISIONS

Despite its powerful tax incentives, this new form of option, performance

stock option, will not cause a revenue loss to the U.S. Treasury. In fact, a revenue gain is achieved by omitting the employer's expense deduction when PSO's are exercised—as in incentive stock options.

PSO plans will require the approval of the firm's shareholders. They:

Assure broad participation by reserving at least half of the stock in PSO plans for "non-highly compensated" employees as defined by Congress in IRC §414(q).

Relieve employees of taxes on their paper profits when they exercise their options. They would still be taxed when they sell their stock.

Encourage employees to retain their stock after exercise by excluding 50 percent of their gain from tax when the stock is sold, after a minimum 2-year holding period.

Remove the spread at exercise from the alternative minimum tax, and prevent the IRS from imposing FICA and FUTA taxes on premature sales.

ACCOUNTING PROVISIONS

The bill directs the SEC to end the charge against earnings now required on variable options, thereby providing management with a flexible and powerful new motivational tool. The number of options the employee could exercise in the future could be increased or decreased by the achievement of performance goals set by the company—that is, shareholder ROI, product development goals, revenue or profitability target, et cetera—without an accounting penalty.

The bill counters the decision on stock option accounting announced by the Financial Accounting Standards Board on April 7, 1993. It directs the SEC to maintain the current financial accounting treatment of all forms of fixed stock options. No additional compensation charge to earnings would be required.

THE NEED FOR THIS BILL

1. STOCK OPTIONS IMPROVE THE PERFORMANCE OF AMERICAN COMPANIES

In the traditional model for financing a company, investors provide money to a company and receive stock in return. The company then uses some of the money to compensate its employees. There is no dispute over how to account for this simple transaction. But over the last generation a growing number of American companies have learned the value of going back to their investors for a second investment in the form of stock which they then share with large segments of their work force through employee stock option plans.

Because the exercise of employee options will dilute the economic and voting power of shareholders, the corporation laws of virtually every State require that shareholders specifically approve employee stock option plans. And approve them they do, because over the years shareholders have

learned that they receive significantly greater returns from companies that share stock to motivate their work force.

For example, it's worth nothing that professional venture capital firms are some of the strongest advocates of broad-based employee stock option plans. Veteran America venture capitalists are among the most sophisticated corporate investors, directors, and shareholders in the world. They know that as shareholders they bear the full cost of stock option plans through dilution of their holdings. Yet they consistently insist that their portfolio companies establish and maintain extensive employee stock options plans that cover all or nearly all of their work force. And they're not hesitant to say why. The professional venture capital industry has learned over the years that broad-based employee stock ownership is essential to achieving the dramatic returns that investors in professional venture capital funds seek.

2. COMPANY-WIDE OPTION PLANS ARE WIDESPREAD AND GROWING

Many people in this country mistakenly believe that stock options are a benefit awarded only to CEO's and other top executives. This misimpression is reinforced by stories about individual executives stock option packages. Hardly any national visibility has gone to the important trend toward companies sharing options with their entire work force. Yet this movement is fundamental to the success American companies have achieved in global competition. Examples include such highly successful large companies as Chili's, DuPont, Genentech, Kroger, Merck, Nation'sBank, Pepsico, and Pfizer. And the practice is even more widespread among smaller companies.

America's technology companies have been the world's leaders in sharing their stock with their employees and benefiting from the growth that ensues. A dramatic example is Microsoft Corp. The New York Times recently estimated that Microsoft's stock option and employee stock purchase plans have created more than 2,200 employee millionaires in that one company. This is an achievement that our public policy should encourage. But it is far from an isolated example.

A 1990 Radford Associates survey of 300 electronics companies found 85 percent of the companies using options gave them to middle managers and above, while 30 percent even include nonsalaried people. Only 15 percent limited their options to officers.

The Industrial Biotechnology Association reports a similar experience. According to IBA, 75 percent of their companies use stock options. Fully 60 percent grant options to their entire work force. Only 8 percent limit their options to officers and a few managers.

In 1991, ShareData, Inc., makers of a widely used PC-based stock option

management program, surveyed their 800-firm user group, which includes many companies outside the technology sectors. They received 300 responses. A substantial majority—68 percent—of the smallest companies—with fewer than 100 employees—grant stock options to every one of their employees. Even when companies reached 500 employees, more than half—54 percent—of the respondents granted options to their entire work force.

It's well known that the political pressure on FASB stems in large part from the mistaken belief that stock options only go to a few top executives. It's painfully ironic that FASB's new accounting rule would translate that premise into a self-fulfilling prophesy. Top executives will always be able to bargain for equity compensation, and boards of directors will want them to have it, even if FASB doubles its cost. What will be lost, however, is the tradition of granting stock options to a company's entire work force. FASB's proposed charge against earnings would also cover the discounts companies now offer their employees to encourage them to purchase stock directly from the company. Both broad-based stock options and employee stock purchase plans will become prohibitively expensive if FASB's plan goes through.

3. U.S. TAX POLICY SHOULD ENCOURAGE STOCK RETENTION BY EMPLOYEES

Nearly every study of what works in successful companies advocates encouraging employees to buy and own meaningful portions of their company's stock. Employee stock options are a sound technique for making it possible for employees to purchase stock in their companies. Yet today's tax policies strongly discourage employees from retaining their stock after they exercise their options.

When employees exercise their stock options they are only acquiring stock. Ordinarily an income tax liability doesn't develop from purchasing an asset like stock. But in the case of the most widely used form of stock option, nonqualified options, employees are required to pay a tax on their paper profit at the time they purchase their stock—before they actually realize any gain from selling the stock. The law also allows employers to deduct the same amount as a compensation expense.

Since the cost of this tax on employees is in addition to the cost of purchasing the stock, most employees are forced to sell their stock immediately to pay the tax. This destroys the fundamental policy goal of encouraging employee ownership in their companies.

INCENTIVE STOCK OPTIONS HAVE BEEN RENDERED WORTHLESS

In 1981 Congress enacted incentive stock options [ISO's] to redress some of the problems with nonqualified op-

tions. ISO's were designed to allow employees to keep their stock after exercise by relieving them of taxes at exercise. In return for dropping the tax on employees, ISO's provide no compensation tax deduction for the company.

ISO's actually raise money for the Treasury because, when they sell their stock, employees pay tax on the full spread from date of grant to the date of sale. Since that tax revenue is not diluted by a deduction from the company, the Treasury comes out ahead. The Joint Committee on Taxation confirmed this effect in 1979 when it ruled that the ISO is revenue-positive.

But over the years, the usefulness of ISO's have been severely curtailed. Even though they raise money for the Treasury, Congress now treats ISO's like a tax concession and imposes the alternative minimum tax on their exercise. In addition to being conceptually wrong, this means that employees are once again forced to sell their ISO stock to pay the AMT tax. That defeats the whole purpose of the ISO. The bill we are introducing today will reform that policy.

As noted above, the Equity Expansion Act will create a new form of option, called performance stock options. This new form of option will encourage more companies to grant more options to more of their employees because it is limited to companies that offer broad-based stock option plans to large portions of their work force.

PSO's will require neither an income tax nor an AMT tax payment from employees when they exercise their options. Since any gain in the value of the stock at exercise would not be treated as personal service income to the employee, the company would not receive a compensation expense deduction for it. This foregone corporate deduction generates what Ernst Young describes as "an unambiguous revenue gain for the Treasury."

Our bill then uses a portion of that revenue gain to encourage employees to retain their stock for at least 2 years after exercise. After that holding period, half of the employee's gain will be excluded from tax when he or she ultimately sells the stock. Even with this tax incentive included, we expect the PSO to be ruled revenue-positive to the Treasury.

BUT WHAT ABOUT THOSE FAT CATS?

Mr. President, as I have noted, much of the criticism of stock options revolves around horror stories about a small number of extravagantly compensated executives. Much of the political pressure that has been exerted on FASB stems from such publicity. So it's fair to ask why our bill won't generate even more such stories.

First, it's important to remember that following the scandals we all remember last year, the SEC has promulgated a major new program requiring

extensive disclosure of executive compensation in a company's proxy statements. The compensation of the top people in a company will now be displayed in a readable and comprehensive way, along with comparisons against other companies in the same industry. It is now much easier for shareholders to hold their board of directors accountable for overcompensating employees. It is not necessary to clamp down on the use of stock options as a way to get a handle on executive pay.

Second, the Equity Expansion Act will encourage thousands of companies to share stock options with large percentages of their work force. The bill requires that at least 50 percent of the stock in a PSO plan must be granted to employees who are "not highly compensated" under the definition of that term in section 414(q) which Congress enacted in 1986. That definition is adjusted for inflation. In 1993 highly compensated employees begins at \$57,820 for company officers. It covers the top paid 100 employees and the top 20 percent of employees. So any CEO who earns a gain on a PSO will not only have shared that gain with his or her shareholders, but will also have shared it widely with lower level people inside the company.

And finally there is the matter of tax cost. This bill does not cost the taxpayers additional money. We expect it will actually generate additional revenue for the Treasury. Therefore, it is to everyone's advantage to have this new stock option vehicle be adopted and implemented as widely as possible.

FASB'S STOCK OPTION PROPOSAL MUST BE RECONSIDERED

Mr. President, the tax provisions of the Equity Expansion Act would increase the value of broad-based employee stock options to both employees and companies in this country. Unfortunately, however, there still remains a major threat to the ability of companies to continue offering this incentive to their entire work force. I refer to the proposal by the Financial Accounting Standards Board to change the financial accounting rules for stock options.

The magnitude of the threat posed by FASB's proposal is demonstrated by a recent survey of 500 mainly high-technology start-up companies conducted by Venture One, a San Francisco research firm. Ninety percent of these companies said that if they had to deduct stock options from their profits it would force them to stop granting options to their entire work force, confine them to top executives only, or drop them completely. That is exactly the opposite of what we should be doing with stock options in this country.

WHY DOES SECRETARY BENTSEN CALL FASB'S PLAN HIGHLY DEBATABLE?

Mr. President, on April 2, Treasury Secretary Lloyd Bentsen wrote FASB

expressing his "reservations about the proposal under consideration which would require companies to take a highly debatable charge to earnings when granting stock options."

It's important to point out some of the reasons this charge is considered "highly debatable" by the Clinton administration, the users of financial statements, all six national public accounting firms, and the companies that grant options.

The fact is that accurately estimating the future value of employee stock options is nearly impossible. No model yet offered comes close. First, no one can even know if the option recipient will remain employed at the company long enough to ever exercise the option. Beyond that, estimating the value of an option to purchase stock in the future requires predicting the company's future earnings, cash flow, market share, capital spending, as well as future Government policy. A high degree of subjectivity is simply unavoidable. Yet FASB proposes to force such guesses about the future onto the company's income statement as a reduction of its hard-won earnings.

The Board says the market will learn to overlook these charges and discern the true worth of the companies. The question is—from a policy perspective why should we make them do it in the first place? Can the benefits FASB proposes to produce with this charge outweigh the harm it will cause? The Board's supporters respond that such considerations are outside of FASB's charter. They feel the Board's responsibility is truth in accounting, not a balancing of interests. Yet a broader perspective is needed.

The Equity Expansion Act contains a provision directing the SEC not to require an issuer to recognize an expense or other charge in financial statements furnished to its security holders resulting from the grant, vesting, or exercise of an employee stock option. It would also eliminate the charge to earnings currently required for performance-based, variable options.

As a matter of abstract accounting theory, FASB's approach to stock option accounting may be defensible. But from a public policy, job creation, and competitiveness perspective, it is simply unnecessary and unusually disruptive.

I believe that the global preeminence of America's vital technological industries could be damaged by the proposal FASB has put forward.

FUTURE STATEMENTS ON EQUITY EXPANSION ACT ISSUES

Mr. President, a full discussion of the various questions raised by this bill is well beyond the scope of a single floor statement. Therefore, I plan to offer additional remarks over the next weeks and months to consider in more detail some of the topics that are important to understanding the Equity

Expansion Act. Among the future issues I hope to review are:

How the Equity Expansion Act can spread the benefits of equity compensation to thousands of companies and millions of Americans who don't receive options today;

A survey of the research showing that extensive use of equity compensation promotes growth and competitiveness in American companies and industries.

Explanations of the revenue impact of the bill from both the public accounting firms and the Joint Committee on Taxation;

An examination of the accounting rationale for retaining the current accounting treatment of employee stock options; and

What positive alternatives to this accounting change are available to answer FASB's concerns.

Mr. President, I ask unanimous consent that the text of the Equity Expansion Act be printed in the RECORD following my remarks.

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

S.1175

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 "Equity Expansion Act of 1993".

SEC. 2. PERFORMANCE STOCK OPTIONS.

(a) IN GENERAL.—Part II of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to certain stock options) is amended by redesignating section 424 as section 425 and by inserting after section 423 the following new section:

"SEC. 424. PERFORMANCE STOCK OPTIONS.

"(a) IN GENERAL.—Section 421(a) shall apply with respect to the transfer of a share of stock to any person pursuant to the exercise of a performance stock option if no disposition of such share is made by such person within 1 year after the transfer of such share to such person.

"(b) PERFORMANCE STOCK OPTION.—For purposes of this part—

"(1) IN GENERAL.—The term 'performance stock option' means an option granted to any person for any reason in connection with the performance of services for an entity described in paragraph (4) to purchase stock of any corporation described in paragraph (4).

"(2) ADDITIONAL REQUIREMENTS.—An option shall not be treated as a performance stock option unless the following requirements are met:

"(A) NONDISCRIMINATION.—Either—

"(i) the option is granted to an employee who, at the time of the grant, is not a highly compensated employee, or

"(ii) immediately after the grant of the option, employees who are not highly compensated employees hold performance share options which permit the acquisition of at least 50 percent of all shares which may be acquired pursuant to all performance stock options outstanding (whether or not exercisable) as of such time.

For purposes of clause (ii), only that portion of the options held by persons other than nonhighly compensated employees which results in the requirements of clause (ii) not

being met shall be treated as options which are not performance stock options, and such portion shall be allocated among options held by such persons in such manner as the Secretary may prescribe.

“(B) SPECIFIC NUMBER OF OPTIONS.—The option is granted pursuant to a plan that includes either—

“(1) the aggregate number of shares that may be issued under options granted under the plan, or

“(ii) a method by which the aggregate number of shares that may be issued under options granted under the plan can be determined (without regard to whether such aggregate number may change under such method),

and which is approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted.

“(C) TIME WHEN OPTION GRANTED.—The option is granted within 10 years after the date the plan described in subparagraph (B) is adopted, or the date such plan is approved by the stockholders, whichever is earlier.

“(D) TIME FOR EXERCISING OPTION.—The option by its terms is not exercisable after the expiration of 10 years from the date such option is granted.

“(E) OPTION PRICE.—Except as provided in paragraph (6) of subsection (c), the option price is not less than the fair market value of the stock at the time the option is granted.

“(F) TRANSFERABILITY.—The option by its terms is not transferable by the person holding the option, other than—

“(1) in the case of an individual, by will or the laws of descent and distribution, or pursuant to a qualified domestic relations order (as defined in subsection (p) of section 414), and

“(ii) in the case of any other person, by any transaction in which gain or loss is not recognized in whole or in part.

“(3) ELECTION NOT TO TREAT OPTION AS PERFORMANCE STOCK OPTION.—An option shall not be treated as a performance stock option if—

“(A) as of the time the option is granted the terms of such option provide that it will not be treated as a performance stock option, or

“(B) as of the time such option is exercised the grantor and holder agree that such option will not be treated as a performance stock option.

“(4) ENTITIES TO WHICH SECTION APPLIES.—This section shall apply to an option granted to a person who performs services for—

“(A) the corporation issuing the option, or its parent or subsidiary corporation,

“(B) a partnership in which the corporation issuing the option holds (at the time of the grant) a capital or profits interest representing at least 20 percent of the total capital or profits interest of the partnership, or

“(C) a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which section 425(a) applies.

“(5) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term ‘highly compensated employee’ has the meaning given such term by section 414(q).

“(c) SPECIAL RULES.—

“(1) GOOD FAITH EFFORTS TO VALUE STOCK.—If a share of stock is acquired pursuant to the exercise by any person of an option which would fail to qualify as a performance stock option under subsection (b) because there was a failure in an attempt, made in good faith, to meet the requirement of subparagraph (E) of subsection (b)(2), the re-

quirement of subparagraph (E) of subsection (b)(2) shall be considered to have been met.

“(2) PERMISSIBLE PROVISIONS.—An option that meets the requirements of subsection (b) shall be treated as a performance stock option even if—

“(A) the option holder may pay for the stock with stock of the corporation granting the option,

“(B) the option holder has the right to receive property at the time of the exercise of the option,

“(C) the right to exercise all or any portion of a performance stock option may be subject to any condition, contingency or other criteria (including, without limitation, the continued performance of services, achievement of performance objectives, or the occurrence of any event) which are determined in accordance with the provisions of the plan or the terms of such option, or

“(D) the option is subject to any condition not inconsistent with the provisions of subsection (b).

“(3) FAIR MARKET VALUE.—For purposes of this section, the fair market value of stock shall be determined without regard to any restriction other than a restriction that, by its terms, will never lapse.

“(4) DEFINITION OF PARENT AND SUBSIDIARY CORPORATIONS.—For purposes of this section, the terms ‘parent corporation’ and ‘subsidiary corporation’ have the meanings given such terms by subsections (e) and (f) of section 425 except that such subsections shall be applied by substituting ‘20 percent’ for ‘50 percent’ each place it appears.

“(5) PERFORMANCE CRITERIA.—In the case of a performance stock option that provides that its exercise is subject to any conditions or criteria described in subparagraph (C) of paragraph (2), the date or time the option is granted with respect to each share that may be acquired shall be the date or time the original performance share option is granted and subject to the provisions of section 425(h), no portion of the option shall be treated as granted at any other time.

“(6) CONVERSION OF OPTIONS.—If—

“(A) there is a transfer of an incentive stock option in exchange for a performance stock option, and

“(B) the number of shares that may be acquired pursuant to such performance stock option and the transferred incentive stock option are the same,

then the option acquired shall qualify as a performance stock option if the option price pursuant to the performance share option is no less than the option price under the transferred incentive stock option.”

(b) CONFORMING AMENDMENTS.—

(1) Section 421(a) of such Code is amended by striking “or 423(a)” and inserting “, 423(a), or 424(a)”.

(2) Section 421(b) of such Code is amended—

(A) by striking “or 423(a)” and inserting “, 423(a), or 424(a)”, and

(B) by striking “or 423(a)(1)” and inserting “423(a)(1), or 424(a)”.

(3) Section 421(c)(1)(A) of such Code is amended by inserting “and the holding period requirement of section 424(a)” after “423(a)”.

(4)(A) Sections 421(a)(2), 422(a)(2), and 423(a)(2) of such Code are each amended by striking “424(a)” and inserting “425(a)”.

(B) Clause (11) of section 402(e)(4)(E) of such Code is amended by striking “424” and inserting “425”.

(5) Section 423(b)(3) of such Code is amended by striking “424(d)” and inserting “425(d)”.

(6) Section 425(a) of such Code, as redesignated by subsection (a), is amended by striking “424(a)” and inserting “425(a)”.

(7) Section 425(c)(3)(A)(11) of such Code, as redesignated by subsection (a), is amended by striking “or 423(a)(1)” and inserting “, 423(a)(1), or 424(a)”.

(8) Section 425(g) of such Code, as redesignated by subsection (a), is amended by striking “and 423(a)(2)” and inserting “, 423(a)(2) and 424(b)(4) (as modified by section 424(c)(4))”.

(9) Section 425(j) of such Code, as redesignated by subsection (a) (relating to cross-references), is amended by inserting “performance stock option” after “employee stock purchase plans.”

(10) Section 1042(c)(1)(B)(11) of such Code is amended by striking “or 423” and inserting “423, or 424”.

(11)(A) Section 6039(a)(1) of such Code is amended by inserting “or performance stock option” after “incentive stock option”.

(B) Section 6039(b)(1) is amended by inserting “, performance share option,” after “incentive stock option”.

(C) Section 6039(c) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and” and by adding at the end the following new paragraph:

“(3) the term ‘performance share option’, see 424(b).”

(12) The table of sections for part II of subchapter D of chapter 1 of such Code is amended by striking the item relating to section 424 and inserting the following new items:

“Sec. 424. Performance stock options.

“Sec. 425. Definitions and special rules.”

SEC. 3. TAX TREATMENT OF GAIN ON PERFORMANCE SHARE OPTIONS.

(a) EXCLUSION.—

(1) IN GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to capital gains and losses) is amended by adding at the end the following new section:

“SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM STOCK ACQUIRED THROUGH PERFORMANCE STOCK OPTIONS.

“(a) GENERAL RULE.—Gross income shall not include 50 percent of the gain from the disposition of any stock acquired pursuant to the exercise of a performance stock option if such disposition occurs more than 2 years after the date on which such option was exercised with respect to such stock.

“(b) DEFINITIONS AND RULES.—For purposes of this section—

“(1) PERFORMANCE STOCK OPTION.—The term ‘performance stock option’ has the meaning given such term by section 424(b).

“(2) CERTAIN ACQUISITIONS DISREGARDED.—If stock described in subsection (a) is disposed of and the basis of the person acquiring the stock is determined by reference to the basis of the stock in the hands of the person who acquired it through exercise of the performance stock option, such person shall be treated as acquiring such stock pursuant to such option on the date such stock was acquired pursuant to the exercise of such option.

“(3) EXERCISE BY ESTATE.—If a performance stock option is exercised after the death of an individual holder by the estate of the decedent, or by a person who acquired the right to exercise such option by bequest or inheritance or by reason of the death of the decedent, the 2-year holding requirement of subsection (a) shall not apply to the disposition by such estate or person.”

(2) CONFORMING AMENDMENTS.—

(A)(1) Section 172(d)(2) of such Code (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

“(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—
“(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets, and
“(B) the exclusion provided by section 1202 shall not be allowed.”

(i) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting “, (2)(B),” after “paragraph (1)”.

(B) Paragraph (4) of section 642(c) is amended to read as follows:

“(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).”

(C) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: “The exclusion under section 1202 shall not be taken into account.”

(D) Paragraph (4) of section 691(c) of such Code is amended by striking “1201, and 1211” and inserting “1201, 1202, and 1211”.

(E) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting “such gains and losses shall be determined without regard to section 1202 and” after “except that”.

(F) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

“Sec. 1202. 50-percent exclusion for gain from stock acquired through performance stock options.”

(b) TREATMENT FOR WAGE WITHHOLDING AND EMPLOYMENT TAXES.—

(1) FICA TAXES.—Section 3121(a) of the Internal Revenue Code of 1986 (defining wages) is amended by striking “or” at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting “, or”, and by adding after paragraph (21) the following new paragraph:

“(22) any gain from the exercise of a performance stock option (as defined in section 424(b)) or from the disposition of stock acquired pursuant to the exercise of such a performance stock option.”

(2) FUTA TAXES.—Section 3306(b) of such Code (defining wages) is amended by striking “or” at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting “, or”, and by adding after paragraph (16) the following new paragraph:

“(17) any gain described in section 3121(a)(22).”

(3) WAGE WITHHOLDING.—

(A) Section 3401(a) of such Code (defining wages) is amended by striking “or” at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting “, or”, and by adding at the end the following new paragraph:

“(21) any gain from the exercise of a performance stock option (as defined in section 424(b)) or from the disposition of stock acquired pursuant to such a performance stock option.”

(B) Section 421(b) of such Code (relating to effect of disqualifying disposition) is amend-

ed by adding at the end the following new sentence: “A deduction to the employer corporation in the case of a transfer pursuant to an option described in section 422, 423, or 424 shall not be disallowed by reason of a failure to withhold tax under chapter 24 with respect to gain on stock acquired in the transfer.”

SEC. 4. STOCK OPTION COMPENSATION.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

“(h) STOCK OPTION COMPENSATION.—The Commission shall not require or permit an issuer to recognize any expense or other charge in financial statements furnished to its security holders resulting from, or attributable to, either the grant, vesting, or exercise of any option or other right to acquire any equity security of such issuer (even if the right to exercise such option or right is subject to any conditions, contingencies or other criteria, including, without limitation, the continued performance of services, achievement of performance objectives, or the occurrence of any event) which is granted to its directors, officers, employees, or other persons in connection with the performance of services, where the exercise price of such option or right is not less than the fair market value of the underlying security at the time such option or right is granted.”

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to options granted after the date of the enactment of this Act.●

● Mrs. FEINSTEIN. Mr. President, I rise to join my distinguished colleagues, Senators LIEBERMAN, MACK, and BOXER in introducing the Equity Expansion Act of 1993.

At a time when California continues to be mired in recession, when our economy is struggling to convert thousands of defense jobs into private sector jobs, it's a pleasure for me to offer a bill that will significantly improve the ability of new companies to start-up and grow, as well as help existing companies create more new jobs than they otherwise could.

My bill will improve the tax and accounting treatment of employee stock options and encourage many more companies to offer stock options to their entire workforce. It will also require the Financial Accounting Standards Board [FASB] to reexamine their recent decision to impose huge new accounting charges on the use of employee stock options. I am seriously concerned that if FASB's rule is adopted, tens of thousands of desperately needed jobs in California and the Nation will never be created.

Because of this bill, thousands of households in California and the rest of the country should begin to enjoy the benefits of equity participation in their companies. At the same time, the companies that begin to share equity more broadly with their employees should find their earnings improved and their competitiveness enhanced.

Many of my colleagues here in Washington may not be familiar with the widespread use of employee stock options in America's fastest growing

companies. But I can tell you that in California's high technology industries, broad-based employee stock option plans play a crucial role in creating and sustaining the entrepreneurial culture that is essential to the competitiveness of these industries. They are especially important to young technology companies that depend on options to attract and retain key technical talent that would be beyond their ability to attract with cash compensation alone.

A stock option is a right granted to an employee to purchase stock in his or her own company, at today's price, for a specified time in the future. Options help the company by giving employees a strong incentive to work to increase the value of their company's stock. Stock options help create jobs by stretching the cash of venture capitalists and other risk capital investors. By sharing stock with employees in addition to their cash compensation, more companies and more jobs can be created from the limited investment capital pool that is available today.

HOW THE EQUITY EXPANSION ACT WOULD IMPROVE STOCK OPTIONS

Valuable as employee stock options plans are for our economy, they are inhibited and discouraged by the Federal Tax Code today.

Under current law employees who hold the most common form of option, “nonqualified” options are forced to pay a tax on their paper profit at the time they exercise their options and purchase their stock. The difference between the fair market value of the stock obtained by nonqualified options and the option exercise price is treated as ordinary income. The employer is generally permitted to deduct the same amount of ordinary income reported by the employee.

In the case of the other form of option currently available, “incentive stock options,” or “ISO's,” the difference between the option price and the fair market value of the stock when it is exercised is treated as a tax preference under the alternative minimum tax [AMT].

So under today's tax regime employees are forced to pay either an income tax or an alternative minimum tax at the time they purchase their stock, even though they have not realized and pocketed any gain. The effect of this requirement is to force almost all option recipients to immediately sell their stock at the time they exercise their options in order to generate cash to pay their tax. This destroys the fundamental policy goal of the option program which was to encourage employees to own as much of their company as possible.

The Equity Expansion Act would reform this situation by creating a third form of stock option, called performance stock option. This new option

would relieve employees of the obligation to pay a tax at the time they exercise their options and the company would receive no corresponding deduction. In addition, it would give employees a strong incentive to hold onto their stock after they acquire it, by excluding half the tax on their gain when they eventually sell their stock after a 2-year holding period.

A REVENUE GAIN FOR THE TREASURY

The tax break offered by performance stock options should make them extremely popular in the business community, but what about in Congress? Can we afford to create a new tax incentive for employee stock options? I am pleased to report that we can, because this new stock option will generate a revenue gain for the Treasury. That's because companies that offer performance stock options will have to forego the compensation expense tax deductions they would otherwise have received if they had given their employees either cash compensation or nonqualified stock options. Even though employees will be paying less tax, their employers will be paying more than enough additional tax to make up the difference.

HOW WILL THIS BILL HELP RANK-AND-FILE EMPLOYEE?

Mr. President, I'm well aware that in the past stock options have figured in prominently in stories about runaway executive compensation. Unfortunately all those headlines have obscured the important contribution that options make to the livelihoods of hundreds of thousands of Americans who will never be famous for their wealth. Now that the SEC has imposed an extensive new regime of executive compensation disclosure rules, it will be much easier for shareholders to prevent the kind of abuses we have heard so much about in the past. It is simply not necessary to restrict the use of stock options overall to prevent abuses by a few fat cats.

But it's still fair to ask how my bill would prevent top executives from hogging all the tax benefits it offers. The answer is that the Equity Expansion Act requires that companies that choose to offer this new form of option will be required to share at least half the stock in the plan with company employees who are not highly compensated as defined by Congress. This requirement will assure that the benefits of performance stock options are shared widely in every company that uses them. It will also encourage many companies that today restrict their stock option plans to top executives to broaden their option program. I am very enthusiastic about the prospect that this bill will result in employee stock options becoming available to thousands of households that don't have them today.

The Equity Expansion Act is a carefully crafted bill. It would encourage several of the most widely rec-

ommended reforms called for by experts in the debate over executive compensation. For instance, in a recent Harvard Business Review article, Andrew R. Brownstein and Morris J. Panner propose exactly what this bill would deliver.

We suggest that companies take two important steps that make both business and political sense. First, corporations should design plans that allow workers throughout an organization to share in the large bonuses and generous rewards of stock option plans. Second, corporations should create plans that encourage employees to continue to hold the shares awarded to them in stock option programs.

By expanding the employee eligibility pool for stock options, companies will solve two problems simultaneously. They will take the principle of pay for performance and spread it throughout the organization. And they will address the political problem of pay disparity between workers and executives.

Mr. President, I hope my colleagues in the Senate will join with us in sponsoring and voting for this important job-creating and job-preserving bill, the Equity Expansion Act of 1993.●

By Mr. KOHL:

S. 1176. A bill to clarify the tariff classification of certain plastic flat goods; to the Committee on Finance.

CLARIFYING THE CLASSIFICATION OF CERTAIN FLAT GOODS

● Mr. KOHL. Mr. President, I am introducing legislation today that is important to the health of the domestic flat goods industry in this country and in the State of Wisconsin. Flat goods are items that are carried in your pocket or your purse, like wallets, key chains, and eyeglass holders.

When the United States converted to the international Harmonized Tariff Schedule [HTS], a loophole was created which allowed plastic flat goods, which formerly entered at a duty rate of 20 percent, to enter at an effective duty rate of 5.8 percent. The actual and potential number of items subject to reclassification into the lower duty category is massive and could result in a loss of revenue to the U.S. Government of up to \$9 million.

More important, however, is the fact that the duty loophole is threatening our domestic industry by driving up imports and making it impossible for American producers to stay competitive.

Mr. President, this was clearly not the intent of Congress. In fact, Congress was specific in its intent that the conversion to HTS should be tariff neutral. I firmly believe it is up to Congress to remedy this situation, and the legislation I am introducing today achieves this in the fairest way possible.

My bill is a modification of an earlier bill I introduced in the last Congress, S. 1661, and is based on compromise

language put forward by the administration last year. The changes proposed by the administration would, in their words, "restore the duties applicable at the time of the tariff conversion by: First, reintroducing into the HTS a definition of reinforced and laminated plastics; second, providing a duty of 8 percent ad valorem for flat goods with an outer surface of not less than 20 percent leather; and third providing authority for the President to continue staging previously authorized tariff cuts."

Under the former tariff schedules of the United States [TSUS], reinforced or laminated plastics were defined as "rigid, infusible, insoluble plastics formed by the application of heat and high pressure on two or more superimposed layers of fibrous sheet material which has been impregnated or coated with plastics or rigid plastics comprised of embedded fibrous reinforcing material—such as paper, fabric, asbestos, and fibrous glass—impregnated, coated, or combined with plastics usually by the application of heat or heat and low pressure." This definition was dropped in the conversion to the HTS, leaving HTS 4202.32.10 open to a broader interpretation of what constitutes "reinforced or laminated plastics." The change recommended by the administration clarifies that only rigid products would be subject to the lower duty under HTS 4202.32.10.

The administration's recommended changes also address the major concern of importers to the earlier version of my bill—the duty treatment of plastic flat goods with leather trim. Under the TSUS, these items were treated as leather products for duty purposes since the leather trim was considered to be the component of chief value and, thus, were imported in a leather category, dutiable at 8 percent. With the conversion to the HTS, however, the chief value concept was replaced with essential character. Therefore, plastic flat goods with leather trim were considered plastic, and were dutiable at 20 percent. The administration's recommended change, incorporated in my bill, establishes a new subheading for plastic flat goods with leather trim dutiable at 8 percent ad valorem.

In closing, I urge my colleagues on the Senate Finance Committee to take this measure up at the earliest possible time.●

By Mr. ROCKEFELLER:

S. 1177. A bill to amend, title 38, United States Code, to extend the authority of the Veterans' Advisory Committee on Education, and for other purposes; to the Committee on Veterans Affairs.

VETERANS' PROGRAM IMPROVEMENT ACT OF 1993

● Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce S. 1172, the proposed Veterans'

Program Extension Act of 1993. This legislation would extend two VA programs—first, it would extend the Veterans' Advisory Committee on Education by 4 years, from December 31, 1993, until December 31, 1997; and second, it would extend VA's authority to maintain a regional office in the Republic of the Philippines by 18 months, from March 31, 1994, until September 30, 1995.

Mr. President, the Veterans' Advisory Committee on Education is composed of persons who are eminent in the fields of education, labor, and management, representatives of institutions and establishments furnishing education to veterans and their families, and of veterans themselves. The Advisory Committee works in consultation with the Secretary of Veterans Affairs with respect to the administration of educational benefits, and also produces relevant reports and recommendations on education to give to both the Secretary and Congress. Extending the authority to maintain the Advisory Committee will help ensure continuous delivery of quality educational benefits to our Nation's veterans.

Mr. President, the VA regional office in Manila administers programs to veterans in the Philippines, including the many Filipinos who served in or were attached to the United States Armed Forces during World War II. Approximately \$182 million in benefits are paid annually through the Manila regional office, and operating a regional office in the Philippines continues to be the most cost-effective means of administering VA programs for beneficiaries who reside there.

Mr. President, our Nation holds the service of its veterans in the highest esteem, and one of our foremost priorities should be to ensure that veterans and their families receive the benefits they so rightly deserve. I urge my colleagues to support the extension of these worthwhile and necessary programs.●

By Mr. GLENN:

S. 1178. A bill to coordinate and promote Great Lakes activities, and for other purposes; to the Committee on Environment and Public Works.

GREAT LAKES FEDERAL EFFECTIVENESS ACT

● Mr. GLENN. Mr. President, I rise today to introduce the Great Lakes Federal Effectiveness Act of 1992. This legislation, introduced in the House of Representatives last session by Congressmen Nowak, Davis, and Hertel, would provide greater coordination of the Federal Government's environmental research in the Great Lakes Basin.

The Great Lakes Federal Effectiveness Act establishes a council to coordinate U.S. Federal Great Lakes ecosystem research, to prepare a report on those activities, to identify topics for

workshops, to make recommendations on uniform monitoring data management, and to disseminate research findings. The Council will be composed of offices from the EPA, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration, among others.

The Council established by the Great Lakes Federal Effectiveness Act differs from the Great Lakes Research Office established by the Clean Water Act 4 years ago in that there are no bricks and mortar or cross-agency funds authorized in this legislation. Instead, each agency participates in a council which has a rotating chairmanship, and channels its own research funds, to the greatest extent possible, in accordance with a mutually agreed-to Great Lakes research agenda.

Mr. President, we as a society are finally learning a lesson that Native American cultures have understood for centuries: Nature is a complex system composed of highly interdependent parts, and it cannot be fully understood—or successfully managed—unless all of these parts are considered together. This ecosystem perspective on the natural environment, if incorporated into our Federal environmental policy, promises to fundamentally improve the effectiveness and efficiency of environmental management. Rather than address air, water, soil, and wildlife independently of each other as we have until now, we will begin to account for cross-media transfers of pollutants in our environmental protection efforts, and protect the ecosystem as a whole. In the Great Lakes Basin, the Environmental Protection Agency already is geographically targeting—that is, better integrating—its base programs and directing them toward a common set of overall environmental objectives.

Efforts to better integrate environmental protection programs must be undergirded by an equally well-integrated base of scientific knowledge. House Merchant Marine and Fisheries Committee hearings on Great Lakes environmental research this spring revealed an impressive number of agencies and research programs directed at various facets of the Great Lakes environment. Every one of these programs is crucial and more are needed to successfully predict the impacts of human activities in the basin, and to accurately identify effective and affordable restoration measures.

Yet with the level of specialization that we have achieved in environmental research in the Great Lakes Basin, a concerted effort will be required to achieve adequate communication and coordination among research initiatives to avoid unnecessary duplication, turf competition, and most of all, to be able to see the forest for the trees.

I would like to pause here to credit the Federal research managers in the

Great Lakes region for anticipating this need and already acting upon it. The Federal research managers in the basin initiated their own effort to coordinate their research programs through integrating their work through the International Joint Commission's Council of Great Lakes Research Managers with the EPA's 5-year planning process.

The Council of Great Lakes Research Managers is composed of Federal, State, academic, and private sector officials from the United States and Canada involved in Great Lakes research. It maintains a Great Lakes Research Inventory that lists and describes environmental research projects from both sides of the border so that the basin's research community can be fully apprized of each other's work. The IJC's Council will also attempt to jointly define research priorities for the basin which address salient policy questions.

This effort promises better targeted and more cost-effective Federal research in the Great Lakes Basin. However, continued Federal agency involvement will be uncertain until clear authorization for these activities is created in statute. Providing this authorization to assure continued Federal agency participation in this innovative effort to coordinate research among agencies and across disciplines in the Great Lakes Basin is the fundamental objective of the Great Lakes Federal Effectiveness Act of 1992.

Mr. President, requiring Federal agencies to coordinate their research in the Great Lakes Basin, and to do so as much as possible through the IJC's Council of Great Lakes Research Managers, will improve the value and relevance of research findings produced by Federal agencies in the Great Lakes Basin. It will stretch our research dollars, and help us to better tap scientific resources within the academic community, the private sector, and in Canada. I urge my colleagues of the Senate to endorse this legislation and move toward its timely enactment.●

By Mr. BRYAN (for himself, Mr. GORTON, and Mr. DANFORTH):

S. 1179. A bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FTC REAUTHORIZATION

Mr. BRYAN. Mr. President, I am introducing today legislation to reauthorize the Federal Trade Commission [FTC]. As you know, Mr. President, the Commerce Consumer Subcommittee, which I chair, is the authorizing committee for the FTC. I am joined in this effort by Senator DANFORTH, who is the ranking Republican member of the Committee, and Senator GORTON, who is the ranking member of the Consumer Subcommittee.

The Federal Trade Commission is one of our country's most important consumer protection agencies. It has the responsibility of protecting consumers from unfair business dealings and unlawful methods of competition. Pursuant to its authority under the Federal Trade Commission Act, the FTC seeks to protect consumers from unfair and deceptive acts and practices, including civil abuses such as telemarketing and mail fraud, credit card fraud, as well as false and deceptive advertising.

The FTC also has the duty of protecting the public from unfair methods of competition through the prevention of unfair trade restraints such as price fixing, unlawful monopolies, and anti-competitive mergers and acquisitions.

I am certain that most of my colleagues are well aware that the FTC has not been authorized since the expiration of its previous authorization in 1982. Although the committee has reported legislation in each Congress since that time—which has been passed by the Senate on several occasions—we have been unsuccessful in obtaining final passage by both the House and Senate. However, I am particularly optimistic about the passage of a bill this Congress. A bill has already been considered and passed by the House. I have made it clear that I plan to ensure that the legislation we are introducing today is reported and considered by the Senate as expeditiously as possible.

Some may ask the question as to why we continue to go through this process. Why are the reauthorization and this exercise necessary, particularly since the FTC has continued to receive funding by appropriators. Reauthorization, however, is important for all independent agencies. Most significantly, it shows the commitment and confidence the Congress and the people have in the agency. Additionally, it permits the agency to establish a clear and focused agenda, as well as, the opportunity for the Congress to work closely with the agency in setting its goals and in ensuring that it has the necessary resources to carry out its mandate.

The legislation I am introducing today provides authorizations for the Commission for fiscal years 1994 through 1996. The legislation is comparable to bills previously introduced and passed by the Senate regarding the Commission's administrative functions. The bill, among other things, enhances the Commission's ability to enroll and obtain evidence on persons involved in illegal activities. The bill also establishes guidelines for certain regulatory activities of the Commission, so as to ensure that its resources are being used efficiently and effectively: The legislation requires the FTC to conduct industry wide rulemakings only when there is evidence that such activities are preva-

lent, instead of initiating such actions when there is evidence of only one or two bad actors. In such cases, the FTC certainly should pursue individuals and companies pursuant to its adjudicative authority. The Commission also is required to conduct an internal review of its activities and to identify areas of enforcement that can best be handled by the States and other agencies, so as to prevent a duplication of resources. In addition, the bill requires the Commission to provide reports to the authorizing committees on its enforcement efforts to combat predatory pricing and retail price maintenance.

As I stated, Mr. President, I am confident that we will be successful in reauthorizing the FTC this Congress. The passage of this bill is important not only for the FTC, but also for businesses and consumers. I am sure that all of my colleagues agree, and will join us in supporting this legislation.

• Mr. GORTON. Mr. President, as the ranking Republican of the Consumer Subcommittee, I am delighted to join Senator BRYAN, the chairman of the subcommittee, in introducing legislation to reauthorize the Federal Trade Commission [FTC]. Senator BRYAN and I have worked to reauthorize the agencies within the subcommittee's jurisdiction and have been successful in all instances except this one. The Commerce Committee has reported FTC bills in each of the past two Congresses, but there has been no action by the House during that time. This Congress, I am pleased that, under the leadership of my colleague from Washington, Representative AL SWIFT, the House passed an FTC bill on June 21. Given this prompt action by the House, I am hopeful that the FTC will be reauthorized for the first time since 1980.

The legislation we are introducing today provides specific guidance to the Commission about how to allocate its resources and will enhance Commission enforcement efforts. For example, the bill prohibits rulemakings on commercial advertising pursuant to the Commission's unfairness authority. During the 1970's, the Commission initiated several controversial rulemakings in this area. The result was that a considerable amount of time and resources were spent on these undertakings, with no rules to show for the effort. Although the current Commission likely would never attempt to promulgate such rules, the prohibition in the bill will constrain their successors from attempting to repeat the mistakes of the past. Similarly, the restriction on Commission regulation of agricultural cooperatives and marketing orders reflects the desire to avoid duplicative regulation, as the Department of Agriculture is responsible for monitoring these activities.

The bill also enhances Commission enforcement efforts in several ways, including permitting the FTC to issue

civil investigative demands for physical evidence and by allowing the Commission's Bureau of Competition to issue these demands. This provision will improve substantially the Commission's capability to address consumer fraud. Similarly, the expanded venue provision, which is based in part on 28 U.S.C. 1391, the general venue provision in the United States Code, will permit the FTC to bring defendants scattered throughout the country to justice in a single forum. This promotes judicial economy and will help the FTC to save precious resources for law enforcement.

The bill also addresses a long-standing problem involving the Commission's cease-and-desist orders. Under current procedures, such orders become final only after all appeals are exhausted. If a case goes to the Supreme Court, this can take many years. These procedures allow the appeal process to be used simply as a dilatory tactic. The provision in this bill allows cease-and-desist orders to become final 60 days after they are issued unless a court or the Commission issues a stay. This is a reasonable solution which continues to protect the right of defendants to challenge these orders.

Mr. President, since the 101st Congress, the FTC has thrived under the leadership of Chairman Janet Steiger. I believe that she and her fellow Commissioners will carry out their responsibilities even better after this legislation is enacted. I commend Senator BRYAN for his leadership on this issue, and I urge my colleagues to support this bill. •

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. BIDEN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 11, a bill to combat violence and crimes against women on the streets and in homes.

S. 27

At the request of Mr. SARBANES, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 185

At the request of Mr. GLENN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations, and for other purposes.

S. 295

At the request of Mr. DURENBERGER, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 295, a bill to amend title 23, United States Code, to remove the penalties for States that do not have in effect safety belt and motorcycle helmet traffic safety programs, and for other purposes.

S. 484

At the request of Mr. DASCHLE, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 484, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the medicaid program, and for other purposes.

S. 519

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 519, a bill to reduce Federal budget deficits by prohibiting further funding of the Trident II ballistic missile program.

S. 520

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 520, a bill to prohibit the expenditure of appropriated funds on the Advanced Solid Rocket Motor program.

S. 540

At the request of Mr. HEFLIN, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 540, a bill to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

S. 560

At the request of Mr. NUNN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 560, a bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

S. 573

At the request of Mr. BREAU, the names of the Senator from Arkansas [Mr. PRYOR] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 573, a bill to amend the Internal Revenue Code of 1986 to provide for a credit for the portion of employer social security taxes paid with respect to employee cash tips.

S. 578

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 578, a bill to protect the free exercise of religion.

S. 604

At the request of Mr. DOMENICI, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 604, a bill to provide for programs for the prosecution of driving while intoxicated charges to be included in the Edward Byrne Memorial State and Local Enforcement Assistance Program.

S. 605

At the request of Mr. DOMENICI, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 605, a bill to amend title 23, United States Code, to require the Secretary of Transportation to withhold certain funds from States that fail to deem a person driving with a blood alcohol concentration of 0.08 percent or greater to be driving while intoxicated, and for other purposes.

S. 649

At the request of Mr. RIEGLE, the names of the Senator from California [Mrs. BOXER] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 649, a bill to ensure proper and full implementation by the Department of Health and Human Services of Medicaid coverage for certain low-income Medicare beneficiaries.

S. 798

At the request of Mr. ROTH, his name was added as a cosponsor of S. 798, a bill to amend the Federal Fire Prevention and Control Act of 1974 to establish a program of grants to States for arson research, prevention, and control, and for other purposes.

S. 808

At the request of Mr. DECONCINI, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 808, a bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities.

S. 833

At the request of Mr. GRASSLEY, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 833, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 834

At the request of Mr. GRASSLEY, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 834, a bill to amend title XVIII of the Social Security Act to provide for increased

Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage area, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Tennessee [Mr. MATHEWS], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 999

At the request of Mr. CHAFEE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 999, a bill to amend the Foreign Trade Zones Act to allow foreign trade zones to be established where a regional commission involving more than one State will coordinate zone activities.

S. 1007

At the request of Mr. PRYOR, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1007, a bill to recreate the common good by supporting programs that enable adults to share their experience and skills with elementary and secondary school age children.

S. 1011

At the request of Mr. PRYOR, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1011, a bill to amend title XI of the Social Security Act to improve and clarify provisions prohibiting misuse of symbols, emblems, or names in reference to Social Security programs and agencies.

S. 1030

At the request of Mr. ROCKEFELLER, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1030, a bill to amend chapter 17 of title 38, United States Code, to improve the Department of Veterans Affairs program of sexual trauma counseling for veterans and to improve certain Department of Veterans Affairs programs for women veterans.

S. 1040

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 1040, a bill to support systemic improvement of education and the development of a technologically literate

citizenry and internationally competitive work force by establishing a comprehensive system through which appropriate technology-enhanced curriculum, instruction, and administrative support resources and services, that support the National Education Goals and any national education standards that may be developed, are provided to schools throughout the United States.

S. 1063

At the request of Mr. HATCH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1098

At the request of Mr. DURENBERGER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1098, a bill to amend title XIX of the Social Security Act to provide for optional coverage under State Medicaid plans of case-management services for individuals who sustain traumatic brain injuries, and for other purposes.

S. 1118

At the request of Mr. HATFIELD, the names of the Senator from Hawaii [Mr. INOUE] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1118, a bill to establish an additional National Education Goal relating to parental participation in both the formal and informal education of their children, and for other purposes.

S. 1145

At the request of Mr. JEFFORDS, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1145, a bill to prohibit the use of outer space for advertising purposes.

S. 1147

At the request of Mr. KEMPTHORNE, the names of the Senator from Tennessee [Mr. MATHEWS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Wyoming [Mr. SIMPSON] were withdrawn as cosponsors of S. 1147, a bill to prohibit Presidential nominees from performing certain governmental functions, and for other purposes.

S. 1159

At the request of Mr. MURKOWSKI, the names of the Senator from New York [Mr. D'AMATO], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maine [Mr. MITCHELL], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 1159, a bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States.

SENATE JOINT RESOLUTION 51

At the request of Mr. DURENBERGER, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of Senate Joint Resolution 51, a joint resolution designating the week commencing October 3, 1993, as "National Aviation Education Week."

SENATE JOINT RESOLUTION 97

At the request of Mr. PACKWOOD, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Alaska [Mr. STEVENS], the Senator from Hawaii [Mr. INOUE], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Missouri [Mr. DANFORTH], the Senator from New Mexico [Mr. DOMENICI], the Senator from New York [Mr. D'AMATO], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 97, a joint resolution to commemorate the sesquicentennial of the Oregon Trail.

SENATE JOINT RESOLUTION 99

At the request of Mr. DECONCINI, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Maryland [Mr. SARBANES], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 99, a joint resolution designating September 9, 1993, and April 21, 1994, each as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 106

At the request of Mr. LAUTENBERG, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. INOUE], the Senator from Maine [Mr. COHEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. GRASSLEY], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Delaware [Mr. ROTH], the Senator from Tennessee [Mr. SASSER], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Rhode Island [Mr. CHAFFEE], the Senator from Arizona [Mr. DECONCINI], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 106, a joint resolution designating July 2, 1993, and July 2, 1994, as "National Literacy Day."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. MITCHELL, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution urging the President to negotiate a comprehensive nuclear weapons test ban.

SENATE CONCURRENT RESOLUTION 21

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from California [Mrs. BOXER], and the Senator from Montana [Mr. BURNS]

were added as cosponsors of Senate Concurrent Resolution 21, a concurrent resolution expressing the sense of the Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible if offered in a State court by a defendant in a criminal case.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. MOYNIHAN, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of Senate Concurrent Resolution 30, a concurrent resolution congratulating the Anti-Defamation League on the celebration of its 80th anniversary.

At the request of Mr. BROWN, the names of the Senator from Florida [Mr. GRAHAM], the Senator from New Jersey [Mr. BRADLEY], the Senator from South Dakota [Mr. PRESSLER], the Senator from Connecticut [Mr. DODD], the Senator from Alabama [Mr. HEFLIN], the Senator from Utah [Mr. HATCH], the Senator from North Dakota [Mr. CONRAD], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Concurrent Resolution 30, supra.

SENATE CONCURRENT RESOLUTION 31

At the request of Mr. DODD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Concurrent Resolution 31, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 117

At the request of Mr. DECONCINI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Resolution 117, a resolution to express the sense of the Senate that the Olympics in the year 2000 should not be held in Beijing or elsewhere in the People's Republic of China.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce that the Committee on Energy and Natural Resources will hold a hearing on the Department of Energy's efforts to clean up its nuclear weapons complex.

The purpose of the hearing is to receive testimony on the scope and cost of the Department's cleanup program, the technological and managerial problems it faces, the standards governing the cleanup effort, and how priorities are set among competing cleanup projects.

The hearing will take place on Thursday, July 29, 1993, at 9:30 a.m. in room

SD-366 of the Dirksen Senate Office Building, First and C Streets NE, Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Sam Fowler of the committee staff at (202) 224-7569.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing scheduled before the full Committee on Energy and Natural Resources has been postponed.

The hearing scheduled for July 1, 1993, at 9:30 a.m. in room 366 of the Senate Dirksen Office Building has been postponed and will be rescheduled for a later date.

The purpose of the hearing was to receive testimony from Dr. Tara O'Toole, nominee to be Assistant Secretary of Energy for Environment, Safety and Health; and Robert Nordhaus, nominee to be General Counsel for the Department of Energy.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, June 29, 1993, at 11 a.m. in SR-332 on the National Academy of Science Report on Pesticides and Children.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Tuesday, June 29, 1993, at 10 a.m. to mark up S. 424, the Limited Partnership Rollup Reform Act of 1993.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 29, 1993, to discuss the administration's program for meeting the stabilization goals for greenhouse gases announced in the President's Earth Day speech and the ongoing work on the national action plan.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. 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, June 29, beginning at 2:30 p.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, June 29, 1993, at 10 a.m. to hold a business meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, June 29, 1993, at 10 a.m., to hold a hearing on women prisoners.

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

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, June 29, 1993, at 9:30 a.m. to hold a hearing on the insurance industry.

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

SUBCOMMITTEE ON CONSUMER

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Consumer, of the Committee on Commerce, Science, and Transportation be authorized to meet on June 29, 1993, at 2 p.m. on reauthorization of the Federal Trade Commission.

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

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL AND DEFENSE INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Tuesday, June 29, 1993, in open session, to receive testimony on bomber and related aircraft programs in review of the Defense authorization request for fiscal year 1994 and the future years defense program.

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

SUBCOMMITTEE ON REGIONAL DEFENSE AND CONTINGENCY FORCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Regional Defense and Contingency Forces be authorized to

meet on Tuesday, June 29, 1993, at 10:30 a.m., in open session, to receive testimony on Navy programs in review of the Defense authorization request for fiscal year 1994 and the future years defense program.

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

SUBCOMMITTEE ON DISABILITY POLICY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Disability Policy be authorized to meet for a hearing on the Reauthorization of the Technology-Related Assistance for Individuals with Disabilities Act of 1988 and the Reauthorization of the Developmental Disabilities Assistance and Bill of Rights Act, during the session of the Senate on Tuesday, June 29, 1993, at 9 a.m.

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

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, June 29, 1993, at 10:30 a.m. to mark up the fiscal year 1994 Foreign Relations Authorization Act. An original piece of legislation.

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

SUBCOMMITTEE ON TOXIC SUBSTANCES, RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, June 29, beginning at 9:30 a.m., to conduct a hearing on S. 729, the Lead Reduction Act of 1993.

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

ADDITIONAL STATEMENTS

NEW CHILDREN'S FACILITY AT YALE-NEW HAVEN HOSPITAL

• Mr. LIEBERMAN. Mr. President, I rise to recognize the upcoming dedication of the new children's facility at Yale-New Haven Hospital. This wonderful occasion culminates many years of planning.

The Children's Hospital at Yale-New Haven will be the most comprehensive state-of-the-art facility for children on the east coast between Philadelphia and Boston. It has been designed, from the beginning, to provide a sensitive clinical setting for children in need of serious care. Children admitted to the hospital will find an environment uniquely suited to their needs, and the facilities will provide great comfort

and stimulation to children who require extended care during their formative years.

Mr. President, as a parent and resident of New Haven, I know what a great addition this facility is to our community and the State of Connecticut. But the Children's Hospital will serve children from areas far and near, and so it is a great addition to our Nation's health care system.

On behalf of the Senate, I wish the designers, builders, directors, and staff of the hospital all the best as they prepare to celebrate the opening of this marvelous facility. Their efforts have yielded a great success. ●

TRIBUTE TO SHIVELY

● Mr. McCONNELL. Mr. President, I rise today to pay tribute to the town of Shively in Jefferson County, KY.

Shively, a community of over 15,000 people, is located just west of my hometown of Louisville on the Ohio River flood plain. This area was initially settled by a handful of German Catholics and thrived as a collection of small farms. Not long after the dawn of the 20th century, this farmland community gained the reputable status of city and was named after the region's first settler, Christian Shively.

Traditional rural family living dominated the character of Shively in the prewar years. Although this character changed significantly after World War II, not all would argue it was a change for the worse. The growth of Louisville and rapid suburbanization wiped out many of the farms in Shively. However, as Shively was transformed into a suburb, economic development followed. Workers were attracted to the area's multiplicity of job opportunities. The tobacco industry, distilleries, manufacturing jobs, and retail trade all contributed to a prosperous environment.

Unfortunately, political unrest in the 1980's has resulted in many misconceptions about Shively. In reality, Shively enjoys the advantages of a quiet small town and close-knit community. Moreover, Shively residents possess a great deal of pride even though outsiders often misunderstand their community.

Mr. President, I respectfully request that a recent article from the Louisville Courier-Journal be printed in today's CONGRESSIONAL RECORD.

The article follows:

[From the Louisville Courier-Journal, June 28, 1993]

SHIVELY

(By Bill Pike)

Talk to a Shively resident about the town and you're likely to get an earful about the community's image.

To many residents, Shively has a bad image. And to them, it's a bum rap.

"I'd say we are more stereotyped than any other city in Jefferson County," said Jim Jenkins, the Democratic candidate for mayor in the city of 15,000 just southwest of

Louisville. "It's unfair. It has damaged the city."

Phil Quillman—a former editor of the Southwest Newsweek, a weekly newspaper serving the Shively area—agreed.

"Shively isn't the 'lively Shively' image that people have predetermined in their heads," he said. "Shively's really just a bedroom community. It's a nice place, really."

A reflection of strip-joint sleaze and public corruption, the image harkens back to the bars built along Seventh Street Road during World War II for soldiers stationed at Fort Knox.

(Actually, only the west side of Seventh Street Road is in Shively. The other side of the street is in Louisville. But Shively's image is such that the city boundary has somehow gravitated in the public imagination to take in the entire Seventh Street Road strip.)

The image got worse during the early 1980s, when Michael Donio, who had been Shively's police chief, pleaded guilty to extortion charges and received a five-year prison sentence and a \$10,000 fine.

Shively people maintain that the media overplayed the Donio affair, giving a good city a bad name.

"At one time, 'lively Shively' meant the city was a good place to live with a lot to do," Jenkins said. "You all in the media twisted its meaning."

In the minds of Shively residents, the powers in downtown Louisville—including The Courier-Journal—have their own image problem, one of keeping their gaze fixed on the more affluent East End. That leaves the leadership showing its corporate backside to residents in the South and West Ends. Given that perspective, Shively residents say, their town has been misunderstood ever since it was incorporated in 1938.

Seeing only the negative—and the traffic backups on busy Dixie Highway, which passed through Shively—outsiders fail to understand that Shively has its quiet streets and is a close-knit community, with serious politics and a streak of pride found in few of Jefferson County's 93 suburban cities.

"A lot of people have a strong identity as residents of Shively, in spite of the negatives," Quillman said. "They know Shively for what it is. They have pride in Shively."

"If you're not from Shively, don't criticize it," said City Council member Bud Smith.

That pride resulted in part from a coup the city pulled off in its infancy. A week after Shively was incorporated as a sixth-class city with 1,035 residents, it annexed \$20 million worth of distilleries on Seventh Street Road and Dixie Highway. Distillery executives helped engineer the move to keep their businesses out of Louisville, where taxes were higher.

Taken aback, Louisville officials accused Shively of "distillery kidnapping" and filed a lawsuit to stop the raid. However, Louisville's efforts served only to ignite a long-standing distrust.

"There's always been that antipathy of Louisville toward Shively," said the Rev. Gerald Timmel, former pastor of St. Helen's Catholic Church, which has been Shively's spiritual center for nearly 100 years.

The distillery brouhaha and Shively's subsequent growth contrasts with the area's quiet beginnings. The first settlers were vegetable farmers. German Catholics mostly, drawn to the area's rich soil. Clustered around St. Helen's, a little community sprang up and named itself after the church.

In 1902, residents wanted to call their first post office St. Helen's, but the name was al-

ready in use in Eastern Kentucky. Instead, they named it after Christian Shively, the area's first settler. The name stuck when Shively became a city.

The area remained in small farms until after World War II, instilling an enduring legacy of family togetherness.

"My grandfather grew potatoes, cabbage, beans, tomatoes and truck-farm stuff on Seventh Street Road," said Louis Korfhage, who owns a nursery on Dixie Highway. "My dad and my uncles worked there, too."

"My dad ran the hot beds. That's where they raised the plants. One of my uncles did the marketing. Another did the planting."

"A fellow from up east came to work for him and introduced him to pansies. They put them on the market wagon to see how they would do. He was the first in the area to have them. They sold so well he went into geraniums."

The horse-drawn wagon, Korfhage said, made frequent trips during the growing season to the Haymarket in downtown Louisville, where farmers sold their produce.

"It was fun going to the Haymarket with Dad. What I can really remember was going across the street and getting pork chops for breakfast. That was great. Pork chops for breakfast!"

Following World War II, subdivisions sprouted where vegetables and flowers had flourished.

"They just built them and built them," said David Huber, whose grandfather was a blacksmith who had immigrated from Germany.

"I remember when the Bibelhausers grew vegetables over there where the bowling alley is and when Oehrie's Dairy had a pasture where City Hall is. It was quite a change."

The building boom, lasting into the 1960s, attracted young veterans and their families looking for a way out of Louisville.

"Most of them came from Parkland or Portland or the West End," said Smith, who moved to Shively with his parents in 1948 from the West End. "Most of them were Catholic."

"A lot of people came up from Marion and Nelson counties and counties out that way. They came here for jobs. And they were good jobs—at the distilleries, tobacco places, American-Standard," Smith said.

"Those were good-paying, blue-collar jobs, the kind you don't have much of anymore."

Shively grew into a middle-class community of 15,000 in 1960. It topped out at around 19,000 in 1970 and then dropped back to around 15,000 as the children of the original suburbanites came of age and moved on. In recent years, African Americans have begun moving to Shively from Louisville.

During the early '60s, the city had a \$25 million tax base that led officials to boast that Shively was the state's richest city—figured on tax base per capita. It also had a police chief who became a legend.

"Luther 'Nub' Melton was like an old-time sheriff," said Quillman, a teen-ager at the time. "He knew every car that belonged in Shively. He'd stop you and check you out. He'd say, 'Boys, you better not be drinking or you'll be hearing from me. You hear me?'"

"He was so big it would take him five minutes to get out from under the steering wheel. He had a stomach all right, but he wasn't tall. He intimidated us. We listened to him."

Like everyone who remembers Melton, Smith told a story about him.

"One time a guy pulled a gun on Nub. But Nub stuck his finger in the barrel of the gun

and said, "Shoot. Go ahead." He talked the guy down, he backed him down!"

Along with an earlier town marshal named Joe Roach, Melton set a precedent as a strong-armed chief that may have led to Shively's darkest hour. That was Donio's admission in 1984 that he extorted money from the owner of the Red Garter Lounge on Seventh Street Road in exchange for allowing prostitution and other vice.

Several years of political turmoil followed as Shively sought to lay blame for its black eye. The wake left by the Donio affair included a bitter election in 1985 and the resignation two years later of a number of city officials.

Suspicion between rival Democratic factions endures today in Shively, which is one of only a handful of Kentucky cities that conduct elections along party lines.

"Back in the revenue-sharing days, you got more consideration from county and state people if you belonged to a party," said Mayor Bill O'Daniel. "We switched to partisan elections in the early '50s."

Adding to the political stew, once-wealthy Shively has been looking for new sources of revenue as changes in the state whiskey tax and the market place have driven away the distilleries.

"We made our tax revenue from whiskey that is stored," O'Daniel said. "At one time, there were seven distilleries storing whiskey. Now, there are just two."

In 1985, an aborted plan to annex much of neighboring Pleasure Ridge Park embroiled Shively in controversy, as did a property-tax increase that voters shot down the next year.

Perhaps looking for stability, voters in 1987 re-elected O'Daniel, who at 79 is the closet thing Shively has to a father-figure. He has been involved in city government since the early '50s and has served 18 years as mayor.

"We needed someone to get the city back on an even keel," said Jenkins.

Jenkins said attacking new businesses is the key to righting the city's finances and reducing budget deficit estimated at as much as \$320,000.

While Jenkins looked ahead to Shively's future, the blacksmith's grandson lingered a bit in the past.

"I remember when the interurban train car used to drop off wine in a 25-gallon keg for St. Helen's communion," Huber said. "They'd leave it by the tracks on Dixie Highway at Crums Lane. Everybody was so honest, nobody would steal it."

"I was about 10 years old. I used to . . . put it in my wagon and haul it over to St. Helen's for old Father Pfeiffer, the German priest. That's what Shively used to be like."•

KIDS SAY NO TO MOVIE VIOLENCE

• Mr. DURENBERGER. Mr. President, the average American child watches 22,000 hours of TV by the age of 18. The average Ph.D. graduate—by contrast—spends only 15,000 hours in class from kindergarten through the doctoral program.

And much of that 22,000 hours of TV watching is coarsening and harmful. Clearly, we—as a society—ought to be much more serious about the intellectual and spiritual formation of our young people.

Not for the first time, a little child is leading us. Six-year-old Alex Boyd of

Rosemount, MN, is boycotting the merchandise associated with the violent new film *Jurassic Park*—and calling on other youngsters to follow his lead. If I cannot see the movie, he argues, why should I spend my allowance on the merchandise?

Mr. President, Alex Boyd is reminding us that we too—as a nation—have an allowance, and we can make responsible choices about what to do with it. Alex is not complaining about movie violence and the decline of America's culture—he is putting his money where his mouth is and doing something about.

A valuable lesson for us all.

I ask that an article about Alex Boyd from the St. Paul Pioneer Press—along with an Associated Press story about director Steven Spielberg's children—be included in the RECORD at the conclusion of my remarks.

The material follows:

BOY, 6, BOYCOTTS "JURASSIC PARK" TOY DINOSAURS

(By Bill Gardner)

There comes a time in a boy's life when he has to stand on principle.

No matter how much Alex Boyd might want some "Jurassic Park" toy dinosaurs, the 6-year-old Rosemount boy refuses to part with any of his allowance and is urging other youngsters to follow his lead.

"Why should I spend my allowance on the toys when I can't see the movie?" Alex asked.

His parents won't let him see the Steven Spielberg blockbuster, rated PG-13, because it has too much violence. And Alex, determined to make a point about the movie spin-off products being marketed to younger kids, has become an instant media star.

He has appeared on television, radio, and newspapers across the country, courtesy of the Associated Press. Now People magazine wants to interview him, his parents said.

Alex's father, Tom, is virtually a Hollywood insider, having played the oboe solos for "Jurassic Park," "Dances with Wolves," "Out of Africa," "Beauty and the Beast," "Aladdin" and both "Batman" movies, among many others.

Tom Boyd and his wife, Julie, recently saw "Jurassic Park" and decided it was no movie for young children. "I had to close my eyes three times," Boyd said.

Boyd, who grew up in the San Fernando Valley of Los Angeles, moved the family to Rosemount a year ago and now commutes to Los Angeles for film work. He has worked on many Steven Spielberg films and noted that Spielberg won't let his own 8-year-old son, Max, see "Jurassic Park."

Alex said he has been looking forward to the movie.

"I was really bummed out that it was rated PG-13," he said. The rating means parental discretion is advised for children under age 13.

During a recent trip to the Target Greatland store in Apple Valley, Alex explained his views to the store manager, who seemed sympathetic. Alex said he was sticking up for kids everywhere.

"There was this little kid saying, 'Me want dino, me want dino,'" Alex recalled.

Alex has had the same problem with other films, including "Robin Hood," "Batman" and "Terminator." He'd buy the toys but couldn't see the movie.

But not this time. "I've grown old enough to know better now," he said.

SPIELBERG'S KIDS WON'T SEE JURASSIC PARK

Steven Spielberg doesn't want a Minnesota kindergartener to feel bad about missing out on "Jurassic Park"—his kids won't be seeing the hit movie either.

Earlier this week, 6-year-old Alex Boyd of Rosemount organized an informal boycott of the movie's Jurassic toys, bubble bath, jaw-breakers, sleeping bags, coin purses, walkie-talkies and other merchandise.

In a letter to Spielberg, Boyd said it's not fair to ask kids to spend their allowance on stuff from a movie they're too young to see.

Spielberg told Alex that he, too, felt "teased" as a child when he wasn't allowed to have or do things his parents knew were inappropriate.

"Six years old may be too young to see this movie," Spielberg said in a letter dated Thursday. "But the toys are made for older kids to enjoy, too. It seems equally unfair to me that some of these older kids whose parents think it is OK for them to see 'Jurassic Park' should be denied the chance to get toys and souvenirs."

The PG-13-rated film is set in a theme park inhabited by dinosaurs recreated in a scientific experiment. The animals rampage, eating each other and a few park visitors.

Alex's mother saw the movie and decided it was too violent for her son to see.

Spielberg, who has four children under age 9, said parents must decide whether "Jurassic Park" is suitable for their children.

"I am not allowing my children to see the movie for a few more years," Spielberg wrote.

He urged Alex to wait until Thanksgiving for "We're Back—A Dinosaur Story." That film—a fantasy about a scientist who sends dinosaurs to Manhattan where they befriend children—is one Spielberg told Alex he could enjoy with his family.•

TRIBUTE TO KAREN ADAMS

• Mr. MCCONNELL. Mr. President, I rise today to honor a Bowling Green, KY, native for her outstanding achievements. Karen Adams has entered a traditionally male environment as plant manager of Grindmaster Corp. in Louisville, KY. Despite being a bit of an oddity in this particular profession, she has performed her duties with distinction, impressing all with her capabilities.

Adams admirers point to her diligent work ethic and ability to deal with people as reasons for her success. Grindmaster's president points out that the workers under Ms. Adams respond to her leadership and direction. Since she became plant manager there has been an increase in both production and efficiency. Sales for 1992 at the corporation increased 20 percent over 1991 levels, and revenues so far this year are up 15 percent.

Mr. President, Karen Adams understands the fact that the customer comes first. She makes sure that Grindmaster's customer needs are met promptly. This trait undoubtedly has contributed to the company's improved performance during the past few years.

Mr. President, I ask my colleagues to join me in paying tribute to Karen Adams. I think that all will agree that she demonstrates on a daily basis why American workers are still the most productive in the world. Additionally, I ask that an article from the June 21, 1993, Business First be included in the RECORD at this point.

The article follows:

[From Business First, June 21, 1993]

A REAL GRIND: KAREN ADAMS TEARS DOWN STEREOTYPE—PLANT MANAGER BUILDS CONFIDENCE

(By Rachael Kamuf)

For all the breakthroughs women have made in the business and labor world, Grindmaster Corp.'s plant manager—Karen Adams—doesn't need a calculator to count all the female production chiefs with whom she is personally acquainted.

"I'm it, as far as I know," in this area and Kentucky as a whole, the 41-year-old Adams says.

Grindmaster President Karl Kuiper says he is unaware of any other women in comparable positions either.

Still, Kuiper says, her gender was not a factor when Adams—who started in the purchasing department in 1988—was put in charge of the manufacturing process at Grindmaster last year.

"She had been doing an excellent job," Kuiper says in listing the primary reason Adams was picked to oversee production of the commercial coffee-brewing machines sold under the Grindmaster label.

"If that person is doing a heck of a job, you don't consider if it is a man or a woman."

And with Adams, he says: "You've got a good manager here who is very good with people. They respond very well to her leadership and direction. . . . Efficiency is up. Production is up. . . . The credit is hers."

Adams, in turn, praises Kuiper and other executives of the privately owned company for giving her a chance to prove her mettle. "A lot of people think Louisville is not a progressive city, but Grindmaster has shown itself to be progressive."

But if any one person is responsible for assuring that Adams would be able to make a place for herself in this world, she says it was her mother.

"She is a very independent woman," who passed on her strengths to her two daughters, Adams says.

Although his wife and sister-in-law, Sharon Ash, have distinct personalities and character traits, Adams' husband, Larry Betzel, says, "they are both so much like their mother, it is spooky sometimes."

Ash is a management consultant in California. "She's like me," Adams says. "Sometimes she wears a suit, and another day she is in a hard hat and jeans."

Their father was in the U.S. Air Force, and the family traveled throughout the world until the parents separated when Adams was a toddler. Their mother then returned to her native Bowling Green, Ky., to be near relatives while raising her children.

"She worked two jobs a lot," Adams recalls. "I now realize that my sister and I were the only people we knew who came from a divorced background. But my mother was such a strong woman it never occurred to me that we were different. She would tell us, 'Girls, you gotta be tough, if you are going to make it.' . . . If things don't go your way, you pick up and go on, because that is what you are supposed to do."

Adams was 16 when she started working part time at the Castner-Knott department store in Bowling Green. At age 19, she was a department manager. Three years later, Adams says she was offered a position as a buyer, which would have meant relocating to the Castner-Knott headquarters in Nashville.

By that time, Adams, who had married shortly after her 1969 graduation from Bowling Green High School, was a mother herself. Her husband objected to moving to Tennessee, and Adams declined the promotion.

A few years later Adams, who had by then become divorced, made an even greater geographical change; she packed up daughter Ashley and headed for Alaska, where her sister Sharon was then living. "Her husband had always wanted to go to Alaska, and off they went," Adams says about her sister.

Her own infatuation with Alaska began with her older sister's tales of life in the land of the midnight sun. And at Ash's urging, Adams made the long trek from Bowling Green to Northern Alaska in 1980, despite having no job waiting for her there.

Adams says she wasn't worried about finding employment, however. "The pipeline was being laid, and things were still booming," she points out.

Grady Harris, who now lives in Albuquerque, N.M., says she has had no reason to be concerned about her daughter. "She was always a faster learner. . . . always determined. . . . a very self-sufficient person. I never had to worry about Karen. Karen could do it."

At her first visit to an employment agency in Alaska, Adams met a placement counselor who had once worked with her sister. Such ties—and her own background, which included business classes at Western Kentucky University in Bowling Green—were enough to get Adams an interview for an opening in the purchasing department at a mechanical contracting firm where the office manager was also a native Kentuckian.

Ash and her family departed Alaska just three months after Adams moved there, but Adams says she was not tempted to leave.

"Alaska is a pretty laid-back place. You either love it or hate it," Adams says.

For her, "It was love at first sight. It is absolutely the most beautiful place I have ever seen. The scenery literally brings you to your knees."

As a "Chechako"—Indian for newcomer—Adams made some mistakes. Such as the time she removed a glove in 20-degree below weather and found that her hand began to freeze almost instantly.

"The winters there, oh, they are cold," she says. "But you get acclimated. And I feel the winters here much more. It is so very damp, it cuts me to the bone. It was much dryer there."

Her memories of Alaska include camping, deep-sea fishing. They also include looking out her kitchen window and seeing mosquitoes so big that they are referred to as the state bird, and watching two moose graze in the back yard. "They were hungry and angry," says Adams, who tried to record the event by clicking away with her 35 mm camera.

"I was so excited. I got some great close-up shots." There was only one problem. In all the excitement she forgot to load film into the camera.

For Adams, the highlight of the years in Alaska was meeting and marrying Larry Betzel in 1983. The couple met at S. Koglund Co., where she worked in the accounting department and he was in sales. Their business relationship is the reason that she refers to him as Betzel, not Larry.

"Everyone said, 'If you want to know anything, ask Betzel.' No one ever called him anything else. So to me, Larry is a stranger's name. I do get some strange looks when I introduce him to people."

Betzel, regional sales manager for Halton/Pan Oston Co., and Adams reluctantly returned to Kentucky in 1985 for family reasons. Halton/Pan Oston is based in Glasgow, Ky., and Betzel operates out of an office in their home in Old Brownsboro Place.

She remembers five years in Alaska with fondness, but notes, "If I left here now, I would miss it."

For their first 18 months in Louisville, Adams was a homemaker for the blended family that includes her daughter, now a 19-year-old college student, and Betzel's son from a previous marriage, 13-year-old Van, who just completed the seventh grade at Kammerer Middle School.

Adams slipped back into the paid work force gradually, going to work for a temporary employment service. One of the companies where she was assigned was Grindmaster, and Adams went to work there full time in 1988 as a purchasing agent.

By 1990, she was materials manager and also became involved in production scheduling.

Her performance and thorough knowledge of the production department made Adams the natural choice to take over responsibility for the manufacturing line last year "when we had a parting of ways with the plant manager," Kuiper says.

He says: "She is positively aggressive. She goes for it. She brought a combination of talent and experience that have served us well. She is a good, solid organizer who has very, very good people skills. I would challenge anyone to find a man who could do any better."

As the plant manager, Adams oversees the work of 21 of Grindmaster's 54 Louisville employees. The company, which was started in 1933 at the corner of Eighth and Main streets, has a total of 104 workers at its facility in Bluegrass Industrial Park and another in Canton, Mass., where cold-drink dispensers are produced.

Grindmaster recently purchased a business in New York City that makes espresso coffee machines and is gearing up here for an expansion as the manufacturing is relocated to Louisville.

Kuiper says the additional work will mean the hiring of seven to 10 more employees in Adams' department.

Coffee grinders for the home are also sold by Grindmaster. The machines were designed in the Grindmaster research and development division in Louisville, but are produced at a factory in China in a joint venture with a Chinese concern.

Bringing on a line of espresso equipment is part of the Grindmaster growth strategy, Kuiper says, as the managers seek out new niches in the specialty-beverage business. Last year's sales—between \$20 million and \$25 million—represented a 20-percent increase over 1991, he says. Kuiper says revenues so far this year are up 15 percent.

Kuiper says Adams has played a pivotal role in matching output with projects. "As a plant manager, you have to be able to handle anything that comes your way. And she has been able to handle everything."

Adams describes her job as "keeping the vice president of sales happy." And she succeeds, according to the Grindmaster vice president of sales, Larry Johnson.

"I am very happy," Johnson says. "Karen listens to our needs. Our needs are our customers' needs. And she has done a good job of meeting our customers' needs."

Although plant managers at Grindmaster and other factories have traditionally been male, Adams says she encountered no resistance from the employees on the line—all but three are men—when she was promoted.

"The men were and are wonderful," says Adams, who also oversees receiving, warehousing and shipping.

One of the reasons Adams was accepted so readily was because of her tenure with Grindmaster, says a 20-year veteran of the production line, Frank Grace. "She had been there a few years and had a real good job."

As a manager, he says her demands are realistic. "She knows what she can and cannot do." More important, says Grace—one of three "lead men" in the plant—"she appreciates everything we do. Karen tells us when we do a good job. It helps morale and production when anyone tells you that."

Adams is no pushover, however, he says. "She is firm, but she is easy to work for."

The Grindmaster family may have accepted Adams' role as a natural course of events, but she says some outsiders have had problems adjusting.

"It's the old story: a strong man, he gets things done. A strong woman, she's a bitch. I nip that in the bud pretty quickly."

She ran into that shortly after her promotion, when the plant was going full tilt to meet increased demand. She told vendors she could not meet with them, unless there was a problem, until the orders were filled.

That didn't satisfy a salesman who wanted to sign up Grindmaster as a new client. When she told him to call her again in six weeks, Adams says he responded by saying, "Look, hon, is there a man there I can talk to?"

Her response: "Yes, there are a lot of men out here, but they all work for me. He said, 'Oh.' He hung up and never called back."

Her job requires that Adams often put in 10- to 12-hour days. The hours don't bother her, but she says "the best part of the day is going to Betzel and the kids."

The Betzel-Adams family members tend to be homebodies, says Adams, whose idea of a good time is relaxing at home, stretched out on a chaise lounge watching television or reading. Her daily activities also include walking the family pets, two schnauzers and a 140-pound Great Dane named Leo.

She also looks forward to going into Grindmaster every day. "I like to work," she says, adding that she has found being with a growing company "exciting."

"I love the excitement," she says. "It is fascinating to see ideas come from research and development, and then to watch as sales and marketing do their thing with the prototype."

"Then it is turned over to production, and here we go again."●

THE NEED FOR PUBLIC INFORMATION ON THE PEOPLE'S MUJAHIDIN OF IRAN

● Mr. McCAIN. Mr. President, it is my continuing concern that, due to a lack of official information on its ideology and history, representatives of People's Mujahidin of Iran [PMOI] are lobbying the United States Congress without Members of Congress being aware of whether this organization does or does not have terrorist connections. Given the charges made in a previous FBI report that the PMOI has a history of terrorism, an anti-Western ideology,

and ties to the regime of Saddam Hussein, this should be a matter of concern to all Members.

In order to shed some light on the activities of the PMOI, I have asked the Federal Bureau of Investigation to update the review of open sources on the PMOI that it first issued in 1987. Although the Director of the FBI has indicated a willingness to provide me information in a classified briefing, thus far, my efforts to obtain an update of the 1987 report have been rebuffed.

I ask that my correspondence with the Director of the FBI, Secretary Christopher and Attorney General Reno be included in the RECORD following my remarks.

As I have stated in my correspondence to the Director, Attorney General, and Secretary of State, I believe that the Congress, and more importantly, the American people have a right to know the broad results of U.S. Government investigations into the PMOI. We cannot deal with this issue through classified briefings. These may be helpful in briefing individual Members, but they do not serve the purpose of informing the Congress or the American people.

The PMOI has become a major lobbying group. It has lobbied Members of the Senate and the House. It has lobbied the President and his wife. It has conducted fund-raising efforts throughout the United States, and it is actively lobbying members of the Iranian-American community. Some U.S. Government officials repeatedly give background briefings attacking this group while other U.S. Government officials meet with its representatives on a very different basis.

The U.S. Government must not become the unwitting tool of any political group engaged in any of the following activity:

Attacks on American citizens, other foreigners, and Iranian citizens and officials during the time of the Shah.

Involvement in a civil war in which it took a strong anti-American and anti-Western stance, was a more extreme left wing movement than Iran's Tudeh Communist Party, and regularly used terrorism and assassination during the struggle for power following the Shah.

Involvement in a Saddam Hussein funded and supported military movement attacking Iran during the Iran-Iraq war, and in maintaining such a military movement on Iraqi soil during and after the invasion of Kuwait.

Continuing involvement in a low-level struggle of terrorism and counterterrorism with the Rafsanjani government in Iran.

Continuing to accept funds, support, bases, and arms from the Saddam Hussein government in Iraq.

Soliciting political support and funds from the Congress, American citizens, and Iranian exiles on United States soil

under the guise of being a democratic coalition and human rights advocate when it remains an extreme leftist group whose secret agenda opposes American values and the security of Israel.

In our efforts to promote democracy in Iran, we must be extremely careful not to support terrorism and extremism. Making sure that the American people and this body are properly informed about the nature of the groups competing for influence in Iran is the best way to avoid these undemocratic extremes. To this end, I believe that it is vital that the FBI report publicly on the activities of the PMOI, and specifically that it update its 1987 report. We need to find a way of supplementing our current reporting patterns of global terrorism and human rights abuses that clearly distinguishes between legitimate democratic opposition groups and those that have terrorist connections.

The material earlier referred to follows:

UNITED STATES SENATE,
June 9, 1993.

WILLIAM S. SESSIONS,
Federal Bureau of Investigation,
Washington, DC.

DEAR DIRECTOR SESSIONS: After reviewing your letter of May 11, 1993, I do not believe that a briefing would be a meaningful or suitable response to my original requests.

I fully recognize the need to protect the rights of Americans and foreign nationals in this country, and to avoid prejudicing an on-going investigation. At the same time, I see little merit in the FBI's refusal to update an existing report, and a great deal of bureaucratic obfuscation.

As I said in my letter to you of January 25, we cannot deal with this issue through classified briefings. These may be helpful in briefing individual members, but they do not serve the purpose of informing the Congress or the American people.

Let me repeat, there is no question that we have every ethical, moral, and strategic reason to encourage Iraqi and Iranian democratic movements, to halt the arms build-up in Iraq and Iran, and to do everything we can to pressure Iraq and Iran to adopt the rule of law and protect the human rights of all their citizens.

Yet, anyone can use the rhetoric of democracy. Anyone can hide behind the flag of human rights. Anyone can attempt to exploit our opposition to the current regimes in Iraq and Iran, and our ethical and moral beliefs. This is particularly true in two countries filled with political, ethnic, and religious turmoil and without real democratic traditions. It is particularly true because Iran is actively arming and encouraging Iraqi groups that oppose Saddam Hussein, and Saddam Hussein is actively arming Iranian groups that oppose Rafsanjani.

We must be extremely careful not to support terrorism in the name of anti-terrorism, front groups in the name of democracy, or extremist opposition groups in the name of human rights. We must not take sides between factions, and we must not encourage violence in the name of democracy. This is why I first wrote you in December, 1992 to ask for an update of the FBI's 1987 report on the People's Mujahedin of Iran (PMOI).

The fact remains that the PMOI has become a major lobbying group. It has lobbied

members of the Senate and the House. It has lobbied the President and his wife. It has conducted fund raising efforts throughout the United States, and it is actively lobbying members of the Iranian-American community. The fact remains that some U.S. government officials repeatedly give back-ground briefings attacking this group while other U.S. government officials meet with its representatives on a very different basis.

I have just received another report on this group, which seems to be from a hostile Iranian group and which has been widely circulated to members of Congress. I am attaching this to my letter, and while I have no way to evaluate its contents, there is no doubt that serious questions still exist about the real nature of the PMOI.

The fact remains that the U.S. government must not become the unwitting tool of any political group that engages in any of the following heritage, belief, or actions that have been listed in the FBI's 1987 report and recent reporting by the Congressional Research Service:

Attacks on American citizens, other foreigners, and Iranian citizens and officials during the time of the Shah.

Involvement in a civil war in which it took a strong anti-American and anti-Western stance, was a more extreme left wing movement than Iran's Tudeh Communist Party, and regularly used terrorism and assassination during the struggle for power following the Shah.

Involvement in a Saddam Hussein funded and supported military movement attacking Iran during the Iran-Iraq War, and in maintaining such a military movement on Iraqi soil during and after the invasion of Kuwait.

Continuing involvement in a low level struggle of terrorism and counter-terrorism with the Rafsanjani government in Iran.

Continuing to accept funds, support, bases, and arms from the Saddam Hussein government in Iraq.

Soliciting political support and funds from the Congress, American citizens, and Iranian exiles on U.S. soil under the guise of being a democratic coalition and human rights advocate when it remains an extreme leftist group whose secret agenda opposes American values and the security of Israel.

The only way that PMOI involvement in these activities can be realistically assessed is for the FBI to provide an unclassified report that addresses each of these points.

If, upon further investigation, the FBI finds that the PMOI has not engaged in any of the activities mentioned above, then it has more credibility as a legitimate democratic movement. It should be free of the kind of indirect allegations made by the State Department and other executive agencies. The fact remains that no group operating in American politics should be forced to live in limbo, or in a climate where U.S. officials informally criticize it, if it has not engaged in any wrongdoing.

If the facts are uncertain, then the Congress, the American people, the media, and Iranian exiles in America deserve to know the truth about such uncertainties, and make their own judgments. If the PMOI has engaged in the activities noted above, then we must take appropriate judicial action and we must not treat it as a legitimate opposition to Iran's current government until it has fundamentally changed its character and leadership.

To put it bluntly, your response on this issue to date reminds me of another Director that denied the existence of the Mafia for nearly two decades, and allowed it to become

a critical law enforcement problem. It reminds me that that same Director had to be forced by Presidential and Congressional pressure to come to grips with the need to protect the civil rights of Afro-Americans and other minorities. The Bureau has an unfortunate history of rushing into situations where it can get favorable publicity and dodging serious problems.

I repeat my continuing caveat on the kind of data the U.S. government should provide. We must never do anything to abridge the First Amendment rights of any group, foreign or domestic. We must continue the struggle for democracy and human rights. We must encourage and support every group that truly advocates freedom and the rule of law that opposes any regime that denies such progress, whether it is Iran, Iraq, or anywhere else in the world.

But, the fact remains that we cannot afford to have a situation where groups can lobby Congress and the American people in the name of democracy, human rights, freedom, and the rule of law whose true nature is very different or who have undisclosed ties to foreign governments, those who use violence, and those who use terrorism. We cannot afford to allow such groups to raise funds in the United States without the Congress and the American people knowing their true nature.

We have already seen in the case of the World Trade Center bombing that it does no good to dodge these issues, rush to judgment in a flurry of media events, and then watch an uninformed media, public, and Congress start to assign the blame against Arab or Islamic groups in general, Hamas, Iran, or Iraq.

With the end of the Cold War, it has become even more important to identify real terrorists and make it clear when the government does not feel groups support terrorist actions or act as fronts for them. There also is little point in maintaining a list of terrorist countries and then failing to identify the terrorist organizations that actually operate in the United States.

Quite frankly, this situation is absurd. The FBI has already written an unclassified report on the group in question. The United States government repeatedly takes back-ground positions, and is supposed to be in the middle of a major exercise to open up the process of government and reduce unnecessary classification.

You have ample tools available to update your existing report. As I have noted in earlier correspondence, you have already shown that it is possible to summarize the results of U.S. government investigations without disclosing sensitive sources and methods.

I would like to resolve this issue without legislation or confrontation, but I do not believe that further delay and correspondence is a substitute for action. Your office has already repeatedly delayed its responses to my previous letters, in one case by nearly three months, and even initially denied that the FBI was the source of a report that it had passed to Senate security.

As a result, I would like to have your formal agreement or non-agreement to provide the requested update no later than June 24, 1993. If necessary, please coordinate this response with Attorney General Reno and Secretary of State Christopher.

Sincerely,

JOHN MCCAIN,
United States Senator.

U.S. SENATE,
June 9, 1993.

Hon. JANET RENO,
Department of Justice, Washington, DC.

DEAR MS. RENO: I am enclosing copies of an exchange of correspondence with William S. Sessions, the Director of the FBI, that I find deeply disturbing. It is both non-responsive and ignores a major problem in dealing with foreign groups that lobby the Congress and American people.

The issue involved is my request for an update of a report the FBI issued on the People's Mujahedin of Iraq (PMOI) in 1987. I believe that the Congress, and more importantly the American people, has a right to know the broad results of U.S. government investigations into this group, and whether it does or does not have terrorist connections.

I also believe that the Executive Branch cannot operate according to a dual standard in dealing with such groups. It cannot, on the one hand, provide "unofficial" briefings to the media, Congress, and others that condemn such a group or associate it with terrorism, and then refuse to summarize its conclusions and the facts that support them. This is particularly true when an FBI report, official or unofficial, is already in broad circulation.

Let me make the same point to you that I have made to Director Sessions in my correspondence to him. I fully recognize the need to protect the rights of Americans and foreign nationals in this country, and to avoid prejudicing an ongoing investigation. At the same time, I see no merit in the FBI's refusal to update an existing report, and a great deal of bureaucratic obfuscation.

I also see indifference to a major problem in dealing with terrorism and political extremism in the post-Cold War era. We have every ethical, moral, and strategic reason to encourage Iraqi and Iranian democratic movements, to halt the arms build-up in Iraq and Iran, and to do everything we can to pressure Iraq and Iran to adopt the rule of law and protect the human rights of all their citizens.

Yet, anyone can use the rhetoric of democracy. Anyone can hide behind the flag of human rights. Anyone can attempt to exploit our opposition to the current regimes in Iraq and Iran, and our ethical and moral beliefs. This is particularly true in two countries filled with political, ethnic, and religious turmoil and without real democratic traditions. It is particularly true because Iran is actively arming and encouraging Iraqi groups that oppose Saddam Hussein, and Saddam Hussein is actively arming Iranian groups that oppose Rafsanjani.

There is little point in issuing a long series of public and unclassified reports on terrorist activities overseas if we cannot link our anti-terrorist effort to dealing with groups that operate in the United States. We must have some way in which to access the investigative and intelligence efforts of the United States government that will prevent members of Congress, the media, and the American public from supporting terrorism in the name of anti-terrorism, front groups in the name of democracy, and/or extremist opposition groups in the name of human rights.

The PMOI is a classic case in point. It has become a major lobbying group. It has lobbied members of the Senate and the House. It has lobbied the President and his wife. It has conducted fund raising efforts throughout the United States, and it is actively lobbying members of the Iranian-American

community. At the same time, U.S. government officials have repeatedly given background briefings attacking this group while other U.S. government officials meet with its representatives on a very different basis.

There is no question that the Executive Branch should protect sensitive investigative and intelligence data. At the same time, it should not refuse to provide an adequate warning of activities that would allow members of Congress or the public to become the unwitting tool of any political group that engages in any of the following kinds of activities (all of which are listed in the FBI's 1987 report and recent reporting by the Congressional Research Service):

Attacks on American citizens, other foreigners, and Iranian citizens and officials during the time of the Shah.

Involvement in a civil war in which it took a strong anti-American and anti-Western stance, was a more extreme left wing movement than Iran's Tudeh Communist Party, and regularly used terrorism and assassination during the struggle for power following the Shah.

Involvement in a Saddam Hussein funded and supported military movement attacking Iran during the Iran-Iraq War, and in maintaining such a military movement on Iraqi soil during and after the invasion of Kuwait.

Continuing involvement in a low level struggle of terrorism and counter-terrorism with the Rafsanjani government in Iran.

Continuing to accept funds, support, bases, and arms from the Saddam Hussein government in Iraq.

Soliciting political support and funds from the Congress, American citizens, and Iranian exiles on U.S. soil under the guise of being a democratic coalition and human rights advocate when it remains an extreme leftist group whose secret agenda opposes American values and the security of Israel.

The only way that PMOI involvement in these activities can be realistically assessed is to provide an unclassified report that addresses each of these points. Background briefings, special access briefings, and classified material do not provide effective warnings to Congress, the public, or the media. They also allow U.S. government officials to condemn the PMOI or any similar group without a hearing.

As I have stressed from the start in my correspondence with Director Sessions, we must never do anything to abridge the First Amendment rights of any group, foreign or domestic. We must continue the struggle for democracy and human rights. We must encourage and support every group that truly advocates freedom and the rule of law that opposes any regime that denies such progress, whether it is Iran, Iraq, or anywhere else in the world.

If, upon further investigation, the FBI, Department of Justice, and State Department, and the intelligence community find that the PMOI has not engaged in any of the activities mentioned above, then it has more credibility as a legitimate democratic movement. It should be free of the kind of indirect allegations made by the State Department and other executive agencies. The fact remains that no group operating in American politics should be forced to live in limbo, or in a climate where U.S. officials informally criticize it, if it has not engaged in any wrongdoing.

If the facts are uncertain, then the Congress, the American people, the media, and Iranian exiles in America deserve to know the truth about such uncertainties, and make their own judgments. If the PMOI has

engaged in the activities noted above, then we must take appropriate judicial action and we must not treat it as a legitimate opposition to Iran's current government until it has fundamentally changed its character and leadership.

I have asked Director Sessions repeatedly to come to grips with this issue, and to update the FBI's 1987 report. I would be grateful if you would consult with Secretary Christopher, and intervene in this matter to make sure that I get a full and timely response that reflects the views of the Department of Justice and State Department, as well as the FBI, and that no further effort is made to avoid coming to grips with the core issues involved.

Sincerely,

JOHN MCCAIN,
United States Senator.

U.S. SENATE,
June 9, 1993.

Hon. WARREN M. CHRISTOPHER,
Department of State, Washington, DC.

DEAR SECRETARY CHRISTOPHER: I am enclosing copies of an exchange of correspondence with William S. Sessions, the Director of the FBI, that I find deeply disturbing. It is both non-responsive and ignores a major problem in dealing with foreign groups that lobby the Congress and American people.

The issue involved is my request for an update of a report the FBI issued on the People's Mujahedin of Iraq (PMOI) in 1987. I believe that the Congress, and more importantly the American people, has a right to know the broad results of U.S. government investigations into this group, and whether it does or does not have terrorist connections.

I also believe that the Executive Branch cannot operate according to a dual standard in dealing with such groups. It cannot, on the one hand, provide "unofficial" briefings to the media, Congress, and others that condemn such a group or associate it with terrorism, and then refuse to summarize its conclusions and the facts that support them. This is particularly true when an FBI report, official or unofficial, is already in broad circulation.

Let me make the same point to you that I have made to Director Sessions in my correspondence to him. I fully recognize the need to protect the rights of Americans and foreign nationals in this country, and to avoid prejudicing an ongoing investigation. At the same time, I see no merit in the FBI's refusal to update an existing report, and a great deal of bureaucratic obfuscation.

I also see indifference to a major problem in dealing with terrorism and political extremism in the post-Cold War era. We have every ethical, moral, and strategic reason to encourage Iraqi and Iranian democratic movements, to halt the arms build-up in Iraq and Iran, and to do everything we can to pressure Iraq and Iran to adopt the rule of law and protect the human rights of all their citizens.

Yet, anyone can use the rhetoric of democracy. Anyone can hide behind the flag of human rights. Anyone can attempt to exploit our opposition to the current regimes in Iraq and Iran, and our ethical and moral beliefs. This is particularly true in two countries filled with political, ethnic, and religious turmoil and without real democratic traditions. It is particularly true because Iran is actively arming and encouraging Iraqi groups that oppose Saddam Hussein, and Saddam Hussein is actively arming Iranian groups that oppose Rafsanjani.

There is little point in issuing a long series of public and unclassified reports on terrorist activities overseas if we cannot link our anti-terrorist effort to dealing with groups that operate in the United States. We must have some way in which to access the investigative and intelligence efforts of the United States government that will prevent members of Congress, the media, and the American public from supporting terrorism in the name of anti-terrorism, front groups in the name of democracy, and/or extremist opposition groups in the name of human rights.

The PMOI is a classic case in point. It has become a major lobbying group. It has lobbied members of the Senate and the House. It has lobbied the President and his wife. It has conducted fund raising efforts throughout the United States, and it is actively lobbying members of the Iranian-American community. At the same time, U.S. government officials have repeatedly given background briefings attacking this group while other U.S. government officials meet with its representatives on a very different basis.

There is no question that the Executive Branch should protect sensitive investigative and intelligence data. At the same time, it should not refuse to provide an adequate warning of activities that would allow members of Congress or the public to become the unwitting tool of any political group that engages in any of the following kinds of activities (all of which are listed in the FBI's 1987 report and recent reporting by the Congressional Research Service):

Attacks on American citizens, other foreigners, and Iranian citizens and officials during the time of the Shah.

Involvement in a civil war in which it took a strong anti-American and anti-Western stance, was a more extreme left wing movement than Iran's Tudeh Communist Party, and regularly used terrorism and assassination during the struggle for power following the Shah.

Involvement in a Saddam Hussein funded and supported military movement attacking Iran during the Iran-Iraq War, and in maintaining such a military movement on Iraqi soil during and after the invasion of Kuwait.

Continuing involvement in a low level struggle of terrorism and counter-terrorism with the Rafsanjani government in Iran.

Continuing to accept funds, support, bases, and arms from the Saddam Hussein government in Iraq.

Soliciting political support and funds from the Congress, American citizens, and Iranian exiles on U.S. soil under the guise of being a democratic coalition and human rights advocate when it remains an extreme leftist group whose secret agenda opposes American values and the security of Israel.

The only way that PMOI involvement in these activities can be realistically assessed is to provide an unclassified report that addresses each of these points. Background briefings, special access briefings, and classified material do not provide effective warnings to Congress, the public, or the media. They also allow U.S. government officials to condemn the PMOI or any similar group without a hearing.

As I have stressed from the start in my correspondence with Director Sessions, we must never do anything to abridge the First Amendment rights of any group, foreign or domestic. We must continue the struggle for democracy and human rights. We must encourage and support every group that truly advocates freedom and the rule of law that opposes any regime that denies such

progress, whether it is Iran, Iraq, or anywhere else in the world.

If, upon further investigation, the FBI, Department of Justice, and State Department, and the intelligence community find that the PMOI has not engaged in any of the activities mentioned above, then it has more credibility as a legitimate democratic movement. It should be free of the kind of indirect allegations made by the State Department and other executive agencies. The fact remains that no group operating in American politics should be forced to live in limbo, or in a climate where U.S. officials informally criticize it, if it has not engaged in any wrongdoing.

If the facts are uncertain, then the Congress, the American people, the media, and Iranian exiles in America deserve to know the truth about such uncertainties, and make their own judgments. If the PMOI has engaged in the activities noted above, then we must take appropriate judicial action and we must not treat it as a legitimate opposition to Iran's current government until it has fundamentally changed its character and leadership.

I have asked Director Sessions repeatedly to come to grips with this issue, and to update the FBI's 1987 report. I would be grateful if you would work with Attorney General Reno in this matter to make sure that I get a full and timely response that reflects the views of the Department of Justice and State Department, as well as the FBI, and that no further effort is made to avoid coming to grips with the core issues involved.

Sincerely,

JOHN MCCAIN,
United States Senator.

U.S. SENATE,
January 25, 1993.

MR. WILLIAM S. SESSIONS,
Federal Bureau of Investigation,
Washington, DC.

DEAR DIRECTOR SESSIONS: I have received a letter from John E. Collingwood, the Inspector in Charge of the Office of Public and Congressional Affairs in response to my letter to you of December 15, 1992.

I believe that this response raises a basic public policy issue that cannot be resolved in the way your letter suggests. Whether or not the report I enclosed to you was a formal FBI report, we cannot deal with the issue through classified briefings. These may be helpful in briefing individual members, but they do not serve the purpose of informing the Congress or the American people.

There is no question that we have every ethical, moral, and strategic reason to encourage Iraqi and Iranian democratic movements, to halt the arms build-up in Iraq and Iran, and to do everything we can to pressure Iraq and Iran to adopt the rule of law and protect the human rights of all their citizens.

Yet, anyone can use the rhetoric of democracy. Anyone can hide behind the flag of human rights. Anyone can attempt to exploit our opposition to the current regimes in Iraq and Iran, and our ethical and moral beliefs. This is particularly true in two countries filled with political, ethnic, and religious turmoil and without real democratic traditions. It is particularly true because Iran is actively arming and encouraging Iraqi groups that oppose Saddam Hussein, and Saddam Hussein is actively arming Iranian groups that oppose Rafsanjani.

We must be extremely careful not to support terrorism in the name of anti-terrorism, front groups in the name of democracy, or

extremist opposition groups in the name of human rights. We must not take sides between factions, and we must not encourage violence in the name of democracy.

This is why I wrote you asking for an update of the 1987 report that I received from Senate Security on the People's Mujahedin of Iran (PMOI). The PMOI has become a major lobbying group. It has lobbied members of the Senate and the House. It has lobbied the President elect and his wife. It has conducted fund-raising efforts throughout the United States, and it is actively lobbying members of the Iranian-American community.

Regardless of the exact status of the report I sent you, there is no doubt that serious questions exist about the real nature of the PMOI. There is no doubt that the PMOI is derived from a violent left wing group that carried out the assassination of American officers and civilians in Iran before the fall of the Shah. Similarly, a recent report by the Congressional Research Service raises similar questions about the PMOI. The State Department refuses to meet with this group because of its heritage of extremism.

I agree that we should not take sides in Iranian or Iraqi politics, nor become involved in the complex infighting between Iranian groups in exile. I do believe, however, that we must not start the new Clinton Administration with a new "Irangate." The U.S. government must not become the unwitting tool of any political group that can accurately be charged with any of the following heritage, belief, or actions:

Attacks on American citizens, other foreigners, and Iranian citizens and officials during the time of the Shah.

Involvement in a civil war in which it took a strong anti-American and anti-Western stance, was a more extreme left wing movement than Iran's Tudeh Communist Party, and regularly used terrorism, and assassination during the struggle for power following the Shah.

Involvement in a Saddam Hussein funded and supported military movement attacking Iran during the Iran-Iraq War, and in maintaining such a military movement on Iraqi soil during and after the invasion of Kuwait.

Continuing involvement in a low level struggle of terrorism and counter-terrorism with the Rafsanjani government in Iran.

Continuing to accept funds, support, bases, an arms from the Saddam Hussein government in Iraq.

Soliciting political support and funds from the Congress, American citizens, and Iranian exiles on U.S. soil under the guise of being a democratic coalition and human rights advocate when it remains an extreme leftist group whose secret agenda opposes American values and the security of Israel.

The only way that any or all of these charges can be resolved is for the FBI to provide an unclassified report that comprehensively addresses each of these points. If the FBI finds that the PMOI is innocent on all the above counts, then it deserves our support as a legitimate democratic movement. It should be free of the kind of indirect charges made by the State Department and other executive agencies, that do not provide formal charges, but indicate that it may be associated with Iraq, with violence, with attacks on Americans, and with terrorism. No group operating in American politics should be forced to live in limbo, or in a climate where U.S. officials informally criticize it, if it is innocent.

If the facts are uncertain, then the Congress, the American people, the media, and

Iranian exiles in America deserve to know the truth about such uncertainties, and make their own judgments. If the PMOI is guilty of any or all of these charges, then we must not treat it as a legitimate opposition to Iran's current government until it has fundamentally changed its character and leadership.

I also wish to point out that an important precedent is involved here. We must never do anything to abridge the First Amendment rights of any group, foreign or domestic. We must continue the struggle for democracy and human rights. We must encourage and support every group that truly advocates freedom and the rule of law that opposes any regime that denies such progress, whether it is Iran, Iraq, or anywhere else in the world.

But, we cannot afford to have a situation where groups can lobby Congress and the American people in the name of democracy, human rights, freedom, and the rule of law whose true nature is very different or who have undisclosed ties to foreign governments, those who use violence, and those who use terrorism. We cannot afford to allow such groups to raise funds in the United States without the Congress and the American people knowing their true nature.

Ironically, we have strong rules designed to deal with this situation by requiring Americans who lobby for foreign countries to register with the U.S. government. At the same time, we lack a mechanism that requires the State Department and FBI to maintain a list of groups with suspect ties to foreign governments, movements with a history of attacking U.S. and other nationals, movements with ties to military or terrorist movements, or which covertly advocate violence, extremist ideologies, or which otherwise use the First Amendment in ways that abuse the very causes they claim to defend.

This is also a case where the Executive Branch cannot hide behind the need for national security. First, it is possible to summarize the results of U.S. government investigations without disclosing sensitive sources and methods. We have seen this confirmed in countless government reports which provide such data when it is convenient to support a given policy or program.

Second, groups which really defend the causes we believe in deserve to be free of indirect charges or innuendo. We must never cloud the reputation of any group with indirect charges that cannot be answered or justified.

Third, we are already living in a post Cold War era filled with groups with conflicting agendas that all use the rhetoric of the post-Cold War era, but many of which repackage themselves without having forsworn violence, extremism, or attacks on the things we believe in. We must be able to distinguish the true nature of foreign groups, or groups with foreign ties, if we are to support the groups that really do advocate freedom and human rights, we must know the nature of the wolves who wear freedom's flag.

Accordingly, I again repeat my formal request for an FBI report that will resolve this issue. At the same time, I would like to have your views as to how you intend to address the broader issues involved.

I would be grateful if you could provide my with such a report, and your views on this issue no later than February 15, 1993, so that the report could be circulated to members of the new Congress. I also wish to make it clear that if we cannot resolve this issue on

a timely basis, it is my intention to seek legislation that will require such reporting on a comprehensive and regular basis.

Sincerely,

JOHN MCCAIN,
United States Senator.

FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, May 11, 1993.

Hon. JOHN MCCAIN,
United States Senate, DC.

DEAR SENATOR MCCAIN: Thank you for talking with me this morning about your January 25, 1993, letter requesting additional information regarding the People's Mujahedin of Iran (PMOI). When your staff arranges an appropriate briefing, we can discuss the matter further.

In discussions between FBI Congressional people and a member of your staff, it was indicated that the report which you asked the FBI to update was originally prepared by the FBI from public source information. The FBI, unlike the Congressional Research Service, Library of Congress, does not generally disseminate such reports beyond appropriate law enforcement and intelligence agencies.

As Inspector John E. Collingwood indicated in his letter of January 15, 1993, your request involves certain factors which may restrict the amount of information available for public disclosure. The Privacy Act, Title 5, United States Code (U.S.C.), Section 552a(b)(9), the classified nature of counterterrorism investigations, the possibility of compromising ongoing investigations, and the lack of authority to release information from other agencies/countries, all severely restrict the information available for public disclosure.

The FBI is very sensitive to issues raised during the investigation of any group within the United States, particularly when the alleged criminal activity may be commingled with activity protected by constitutional and statutory safeguards. The conduct of such investigations is governed by Attorney General Guidelines which require a certain level of predication before investigative activity can be conducted.

The maintenance of a list of suspect groups as you suggest has diplomatic implications, which may necessitate the involvement of the Department of State.

Given this mix of factors, the FBI believes that much thought should be given before requiring that the FBI maintain a "list" of offending groups, as suggested by your letter. In this respect, I agree that our position raises a "basic public policy issue" and, therefore, have forwarded your letter to the Department of Justice and Department of State for their consideration. You may wish to contact them directly.

You have always been a great supporter of the FBI in particular and law enforcement in general, and I know your comments are based upon your sincere desire to provide the American people with as much information as possible. I, too share your goal. However, as Director of the FBI, I must abide by existing statutes and guidelines in determining the extent of information available for public release, and insure that public disclosures does not unnecessarily damage the interests of the United States. In this particular case, without policy direction to the contrary, I believe that a public briefing may not serve those interests.

I have directed my staff to maintain contact with your office in order to determine if other alternatives, such as a classified briefing, a Chairman request—as per Title 5,

U.S.C., Section 552a(b)(9), or a Freedom of Information Act request, might be appropriate. Should you wish to discuss this matter further please contact me directly or through Supervisory Special Agent Patrick L. Connolly of the FBI's Office of Public and Congressional Affairs, at (202) 324-8381.

Sincerely,

WILLIAM S. SESSIONS,
Director.

U.S. SENATE,
December 15, 1992.

Mr. WILLIAM S. SESSIONS,
Federal Bureau of Investigation,
Washington, DC.

DEAR MR. SESSIONS: I am concerned that the People's Mujahedin-E-Khalq is playing an active role in lobbying the U.S. Congress, and in presenting its views on Iran, under conditions where members have no way to learn the history of this organization. I am particularly concerned with its role in terrorism, and its financial ties to Iraq.

Back in 1987, the FBI developed an open source review of this group which provides strong indications that the People's Mujahedin-E-Khalq is a terrorist movement that has participated in the assassination of American citizens and receives most of its funds from Iraq. I have attached a copy of the report to this letter.

I would be grateful if you could have your staff review this report, and provide me with an updated version that could be circulated to members of the Senate and House. If possible, I would like to have such an update no later than January 15, 1993, so that the report could be circulated to members of the new Congress when it comes back into session.

Sincerely,

JOHN MCCAIN,
United States Senator.

FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, January 15, 1993.

Senator JOHN MCCAIN,
United States Senate, Washington, DC.

DEAR SENATOR MCCAIN: Director Sessions has asked that I respond to your letter to him dated December 15, 1992, which requested that the Federal Bureau of Investigation update a report which you enclosed with your letter.

A review of our files indicates that the enclosed report was not prepared by the FBI. However, the FBI would be happy to provide you and other Senators or Staff Members with a briefing regarding the People's Mujahedin-E-Khalq.

As you probably know, the information that the FBI can discuss will depend upon whether your request comes from a Chairman of a Committee with appropriate jurisdiction. With a Chairman request, the FBI can provide you information which would otherwise be protected by the Privacy Act. (See, Title 5, United States Code, Section 552a(b)(9).)

In addition, as a general rule, our counterterrorism briefings may contain classified information which would restrict further dissemination and require that attending staff members have the appropriate security clearance(s).

If you would like to discuss this issue further, please contact Supervisory Special Agent Patrick L. Connolly of my staff at (202) 324-8381.

Sincerely yours,

JOHN E. COLLINGWOOD,
Inspector in Charge,
Office of Public and Congressional Affairs.●

A TRIBUTE TO LEECO, INC.

● Mr. MCCONNELL. Mr. President, I rise today to congratulate Leeco, Inc., of Jeff, KY. This outstanding company has recently been presented with an Excellence in Surface Mining Reclamation Award from the U.S. Department of the Interior, Office of Surface Mining.

The Excellence in Surface Mining Reclamation Award gives recognition to companies that produce creative and innovative accomplishments in restoring coal-mined land to its natural state. In addition, this national award encourages those companies to envision and undertake innovative concepts that will allow the land to become productive once again.

Leeco, Inc., earned this distinct honor for reclaiming a site in the steep, mountainous terrain of eastern Kentucky. Leeco received the award for the innovative design and operation of a preparation plant and refuse disposal area. A unique feature of the refuse disposal system is a 400-foot-high earthen dam constructed from excess spoil from the mountaintop removal at the site.

Mr. President, Leeco, Inc., deserves this highest honor based on their love for the land, solid technical know-how, a strong sense of pride, a respect for the law, and a sincere willingness to work closely with the State regulatory agency to achieve such reclamation.

I'm sure that my colleagues will agree that Leeco, Inc., has shown that it is among the best of the best. I salute their progress, and wish them added success in the future.●

REOPENING OF THE THEODORE ROOSEVELT HOME

● Mr. D'AMATO. Mr. President, I rise today to speak of an event that is going to take place on Saturday, July 3, 1993. The special event is the reopening of the Theodore Roosevelt Home at Sagamore Hill Natural Historic Site.

Sagamore Hill is the former home of Theodore Roosevelt, the 26th President of the United States. Between 1901 and 1909, Sagamore Hill served as the Nation's summer White House. In 1950, it was acquired by the Theodore Roosevelt Association [TRA] and opened to the public in June 1953. In 1963, the TRA presented Sagamore Hill to the American people. It is administered as a national historic site by the National Park Service.

The NPS has focused its interpretation of Sagamore Hill on the 1901-09 period when it was the summer White House. The goal is to recreate for the visitor the atmosphere of the TRH during this period. This is done by presenting the rooms as they appeared during the President's lifetime.

The preservation of the Theodore Roosevelt Home [TRH] began in 1980, when the library, drawing room, and

dining room were restored to their original appearance. In the 1980's, a historic structures report and a historic furnishing report were prepared by NPS staff. These studies provided the historic information and physical evidence on which the 1992 furnishing plan was based.

The 1993 project focused on five rooms on the second floor and the hallways on the second and third floors of the TRH. Work has been done to facilitate the installation of the new furnishing plan. The furniture, objects, and artwork in all of the rooms have been returned to their original arrangements.

I would like to pay tribute to the Sagamore Hill Natural Park Service and the Theodore Roosevelt Association for their hard work in restoring this historic site. It is because of their perseverance that visitors will now be able to see the home of Theodore Roosevelt as it was when he lived there. I ask my colleagues to join me in saluting this monumental accomplishment, which will benefit our entire country.●

NORTH VALLEY PARALEGAL SERVICE OF ARIZONA

● Mr. MCCAIN. Mr. President, the good work that Ms. Fran Forgan is doing through the North Valley Paralegal Service of Arizona was recently brought to my attention. I would like to congratulate Ms. Forgan on all that she has accomplished in helping others while also overcoming great personal hardship.

Mr. President, as a resident of Arizona, Ms. Forgan has set a fine example in Arizona for her dedication and commitment to community service. Mr. President, I would like the Senate to take note of the work that is done by the North Valley Paralegal Service of Arizona. It is a nonprofit agency which specializes in working with the disabled, elderly, and people of low income offering them a unique form of paralegal assistance to people in the community who cannot afford an attorney.

Mr. President, I would like Ms. Forgan to know how much I appreciate

her commitment to the many people in Arizona who would otherwise be unable to receive legal aid.

Mr. President, I am pleased to have brought Ms. Fran Forgan to the attention of the Senate and I wish North Valley Service of Arizona every success in the future.●

COMMENDING THE 126TH ANNIVERSARY OF B'NAI B'RITH DISTRICT 5

● Mr. WARNER. Mr. President, as we survey the socio-political landscape of the day, we are confronted by the various horrors, injustices, cruelties, and blights—domestic and foreign—which dominate newspaper stories and television broadcasts. In this very chamber, we work to effectively address many of those issues. Fortunately, we are not alone in the effort to promote the causes of freedom, democracy, and human rights.

One organization that has been at the forefront of promoting those democratic ideals is B'nai B'rith. Next month, B'nai B'rith District 5 will celebrate the 126th anniversary of its founding, and I would like to take a moment to comment on the good work of this organization.

B'nai B'rith is the largest Jewish organization in the United States and was the first established international service organization in this country. Its mission is to defend freedom and democracy, to combat racism and bigotry, and to promote human rights.

These broad reaching goals are approached from many directions. Through cultural and educational programs, the B'nai B'rith Youth Organization and the Hillel Foundation helps young people to develop the values and skills that enable them to become better citizens and effective community leaders. Volunteers support hospitals and philanthropies, they provide assistance to victims of natural disasters, and they carry on a broad program of community service. B'nai B'rith District 5 provides housing to senior citizens.

In short, the members and leaders of B'nai B'rith are daily involved in the quest for freedom and human dignity.

On this important anniversary, I am proud to commend the fine work of B'nai B'rith District 5, and to offer my congratulations to Eugene Margolis, who will be installed as president of the district.●

SUBMARINE INDUSTRIAL BASE EXTENSION

● Mr. D'AMATO. Mr. President, earlier this year I challenged industry to come up with ideas to reduce the cost, yet retain the capability, of current submarine systems or components.

Hughes Corp. has put together a short briefing, "Options and Alternatives for Submarine Production beyond 1993," that outlines potential cost savings that could be applied to improved *Los Angeles*, *Seawolf*, or *Centurion* class attack submarines. For reasons of space, I will include only the final table from the presentation, but I would be happy to make the full package available to any of my colleagues who are interested.

I cannot vouch for feasibility, desirability, or acceptability of any of the initiatives, but I applaud Hughes' effort. Frankly, I have been very disappointed at the lack of creativity displayed by both the Navy and industry in coming to grips with cost issues. The pat answer seems to be: if you want to pay less, strip out capability. That is unacceptable.

A wristwatch today costs less than one 20 years ago, and, whereas an old watch only marked the passage of time, a watch today does everything but cook your dinner. The *Seawolf* is a quantum leap in submarine technology. Now we need to come up with another quantum leap within that *Seawolf* technology pool in terms of savings. Hughes has taken the first step. I hope others will follow.

I ask that the table I referred to be inserted into the RECORD immediately after my remarks.

The table follows:

SUBMARINE INDUSTRIAL BASE EXTENSION—SSN688 I PLUS OPTIONS

(Comparison matrix, planning estimates)

	Weapons launch system (WLS)	Torpedo data converter	Combat control system	Prototype cots (WLS)	Integrated ship ((CTRL)	Hull mounted array
Recurring cost savings (per system)	\$3,200,000	\$600,000	\$900,000	\$6,000,000	\$10,000,000	\$10,000,000
Nonrecurring cost investment	500,000	100,000	100,000	18,000,000	6,000,000	25,000,000
Degree of risk	Low	None	None	Medium	Medium	Medium
Footprint savings (square foot)	8	4	None	8	8	8
Space savings (Cubic foot)	40	16.1	None	50	40	40
Weight savings (pounds)	500	900	None	1,500	1,000	40,000

PANAMA AID

● Mr. LEAHY. Mr. President, in 1990, the Senate approved an enormous emergency aid package to Panama. At close to half a billion dollars, it was the largest per capita AID Program of

the fiscal year. I visited Panama while the aid package was still under consideration. In my report on the trip, which was submitted to the Appropriations Committee on March 5, 1990, I discussed many of the problems I had

with the aid package and listed several concerns with how the appropriation was being handled.

In May of this year, the GAO released a report entitled "Foreign Assistance: U.S. Efforts to Spur Panama's Econ-

omy Through Cash Transfers." This report bears out many of the concerns I had earlier expressed.

In my trip report, I maintained that despite the Panamanian leaders' insistence on the need for a large-scale dose of external assistance, ultimately only private enterprise could deliver the requisite funds to revive the economy. I also warned that the severe structural problems that plagued Panama's economy would not be eradicated by a sudden infusion of cash. They would require major long-term reform.

The GAO report reveals both that the impact of the economic assistance is questionable at best, and that Panama is still in need of economic reform if economic progress is to continue. The Panamanian economy was well on its way to recovery in the short term before the emergency funds were ever disbursed. Although the money did stimulate credit lines, it is uncertain whether credit expanded beyond the actual amount of aid. GAO also stresses the fact that unaddressed economic reforms continue to hamper Panama's continued progress and growth.

The 1990 stimulus package for Panama offers an important lesson for future foreign assistance programs. Emergency economic aid should not be used as a political expedient as it seems to have been in Panama. There was never any careful examination of how much money was actually necessary, or what the money would be used for. The Bush administration named an arbitrary figure and handed the money to AID to determine its best use. AID in turn passed the money to the Panamanian Government, choosing not to participate fully in the decision-making process of how the funds were to be used.

Foreign aid should never be understood as merely a vote of confidence. In these times of fiscal restraint, emergency economic assistance should only be granted in emergencies, and when the expected uses and desired results of the aid can be clearly outlined. None of this was the case in Panama. The purposes for the funds were cloudy, the expectations unclear, and predictably, the results were uncertain. We must be careful to avoid this type of rash action in the future.●

THE MOUNT SOPRIS TREE NURSERY LAND EXCHANGE PROPOSAL

● Mr. BROWN. Mr. President, I am pleased the Senate has approved S. 341, legislation introduced by Senator CAMPBELL, of which I am a cosponsor.

S. 341 provides for the exchange of land between the Forest Service and Pitkin and Eagle Counties in Colorado. Similar legislation passed both the House and Senate last year. Changes were made at the request of the Forest Service to provide for more boundary

latitude and to place control of State-appropriated water rights consistent with historical management. The Pitkin and Eagle County commissioners are agreeable to these modifications.

This exchange is truly a win-win situation for both the agency and the counties. One hundred and thirty-two acres of the Mount Sopris Tree Nursery currently owned by the United States has been identified by the General Services Administration [GSA] as surplus to Government needs. Conversely, Pitkin and Eagle Counties currently own 1,307 acres of inholdings within the White River National Forest. S. 341 would facilitate the exchange of the county-owned inholdings for the Forest Service's tree nursery. Both counties and the Forest Service support this legislation.

S. 341 also ensures that the land acquired by the county will be used solely for public purposes, otherwise the land would revert back to the U.S. Government. In cases of clouded title to the county-owned lands, the bill requires would-be claimants to file quiet title actions within 6 years. In addition, if any claim were to be successful, the counties would be required to reimburse the Forest Service with land or cash.

This land exchange is another example of how cooperation between Federal and local governments can benefit everyone. The people of Eagle and Pitkin Counties will acquire the site of Mount Sopris Tree Nursery which will be used for various community facilities, while the Federal Government improves its ability to manage existing wilderness. We ought to be encouraging such land exchanges which can put surplus Federal land toward a good public use.●

OMNIBUS BUDGET RECONCILIATION

● Mr. KERRY. Mr. President, I voted for the Omnibus Budget Reconciliation Act. But I did so with great ambivalence. My ambivalence is twofold. First, I feel that the bill does not contain enough of the tough choices we need to make in order to eliminate waste in Government spending and which we should have made before we asked for an additional penny of taxpayer money. Second, this measure does not authorize the kind of major shift toward investment that we so urgently need to jumpstart our ailing economy. It is only a downpayment on spending cuts and on investment, and a small downpayment at that.

I decided to support the bill after much consideration. In the end I was swayed by the fact that the bill will cut a total of \$516 billion from the deficit by 1998. And by the fact that it is the only package with any hope of enactment into law that cuts this much money from the deficit. If deficit re-

duction is our goal, and I think that it is, then we have no choice but to support this bill.

If this bill becomes law, the deficit should be lower next year than it is this year, and lower the year after that. By the year 1998, the deficit will be one-half the percentage of GDP that it is today. This bill represents the largest deficit cutting package proposed by any American President in history. Despite all the rhetoric, no Republican President ever offered this many specific spending cuts. They proposed process changes—caps in entitlement growth and balanced budget amendments—but those were all gimmicks designed to put a gun to the heads of Congress, and the President to force us to make the hard choices—later—they didn't themselves contain any specifics on how to cut spending. In this package we have actually made some of those hard choices—now, not later.

As my colleague Senator HOLLINGS said so well, the interest that Americans currently pay on the debt—\$1 billion every day—is a tax. It is the tax the middle class must pay for the profligacy of the 1980's. It is a tax that eats away at our ability to finance programs to help our most needy, to combat crime on our streets, to invest in technology, and to improve our roads and bridges. It is a tax that grows as our debt grows—every day that we have a budget deficit. The net interest on the debt is now about 14 percent of our budget. If we do not adopt the Omnibus Budget Reconciliation Act and do nothing to address the deficit; if we continue to pretend that deficit reduction does not entail painful decisions; if we prefer to play politics than to shoulder our responsibilities to the voters who put us here; then the interest on the debt will grow to almost 18 percent of the budget by the year 2003.

This reconciliation bill addresses this tax by reducing the deficit. It makes painful cuts to many programs that in an ideal world, in which there were no deficit, we would not want to cut. I commend President Clinton and my colleagues for their bravery in offering and voting for these cuts which will certainly not be popular back home but which are absolutely necessary if we are finally to tame the deficit which threatens the living standards of our children.

The bill also raises taxes—75 percent from those who make over \$100,000 and 25 percent from those who make between \$30,000 and \$100,000. I wish that we did not need to raise taxes, but every serious economist, including Robert Stockman, Director of the Office of Management and Budget, has admitted that the budget cannot be balanced without increasing taxes somewhat.

The plan that the Senate voted on also contains provisions designed to increase investment in families, in infrastructure, and in job creation. These programs are worthy of our enthusiastic support. The bill provides funding for a number of programs designed to bolster the family, such as the earned income tax credit—which is the first step toward welfare reform and making work pay—and the childhood immunization program.

The reconciliation bill makes permanent the low-income housing tax credit which increases the housing stock for low-income individuals and it expands the mortgage revenue bond program.

And it includes a number of provisions that will create jobs. It extends the R&D tax credit, though unfortunately it does not make it permanent—something I hope will be corrected in conference and increases expensing for small businesses. It repeals some of the passive loss rules to provide some relief to the Nation's ailing real estate industry. In addition, this legislation, if signed into law, would end finally the so-called luxury tax on boats which has compounded the devastation of the boat industry brought about by our sick economy.

My major complaint with this bill is that it does not go far enough to cut waste from the Federal budget and that it does not contain several important investment provisions included in the President's original proposal.

I was deeply disappointed that we did not do more to cut unnecessary programs and subsidies to the wealthy from the Federal budget. The taxpayers know, and so do we, that there is still room to cut the budget without gravely harming our ability to meet pressing national needs. There are programs that reflect economic priorities of the past, programs designed to protect the United States against cold war dangers, programs that were initiated only to satisfy powerful political constituencies, and many other programs that persist despite the fact that they benefit the few at the expense of the many.

When the bill was on the floor, I offered, with Senators BRYAN and REID an amendment to eliminate one of these programs: the wool and mohair price support program. I would have thought that, given the rhetoric in Congress about the need to cut more, this amendment would have won easily. This program has been vilified in the *New York Times* and the *Washington Post* as an egregious example of pork-barrel spending. Yet our amendment received only 52 votes and, because 60 were required, it failed. This is just one example of the kind of parochial politics that gets in the way of true budget reform but that we must be willing to take on if we are to restore taxpayer confidence in our budget process.

The President's original investment plan attempted not only to attack the budget deficit but to take on the investment deficit as well. However, several of his job-creating investment proposals were lost in the political dealmaking over the past few months. I was especially sorry the bill voted on in the Senate did not include the targeted capital gains tax incentive for investment in small businesses on which Senator BUMPERS, chairman of the Small Business Committee, and I have worked over the past several years and which was included in President Clinton's original economic package as well as in the House bill. I will work with Senator BUMPERS to ensure that this provision is included in the final bill that emerges from the conference committee. On the floor of the Senate, I worked to amend the reconciliation bill so that it would include a permanent extension of the R&D tax credit and exempt small businesses who are classified as subchapter S corporations from the increased individual income tax. We succeeded in adopting a recommendation that the permanent R&D tax credit be adopted but failed to exempt small businesses from the higher taxes.

Mr. President, this bill is far from perfect. There is much more that needs to be done to cut Government spending and to reorient our spending toward job-creating investment. I voted for it knowing that it constitutes only the very first steps of a strategy, but knowing as well that we have no choice but to take those steps.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 103-8

Mr. MITCHELL. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention on the Marking of Plastic Explosives for the Purpose of Detection (Treaty Document No. 103-8), transmitted to the Senate by the President today; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

The message follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention on the Marking of Plastic Explosives for the Purpose of Detection with Technical Annex, done at Montreal on March 1, 1991. The report of the Department of State is also enclosed for the information of the Senate.

The terrorist bombing of Pan Am 103 in December 1988 with the resultant

deaths of 270 (including 189 Americans), and the terrorist bombing of UTA flight 772 in September 1989 with the resultant deaths of 171 (including 7 Americans), dramatically demonstrate the threat posed by virtually undetectable plastic explosives in the hands of those nations and groups that engage in terrorist savagery.

This Convention is aimed at precluding such incidents from recurring, as well as others where plastic explosives are utilized, by requiring States that produce plastic explosives to mark them at the time of manufacture with a substance to enhance their detectability by commercially available mechanical or canine detectors. States are also required to ensure that controls are implemented over the sale, use, and disposition of marked and unmarked plastic explosives.

Work on the Convention began in January 1990 under the auspices of the International Civil Aviation Organization (ICAO) on the basis of an initial draft prepared by a special subcommittee of the ICAO Legal Committee. That work was completed, and the Convention was adopted by consensus, at an international conference in Montreal in March 1991. The United States and 50 other States signed the Convention. Early ratification by the United States should encourage other nations to become party to the Convention.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification, subject to the declaration described in the accompanying report of the Secretary of State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, June 29, 1993.

NOMINATION OF RICHARD SCOTT CARNELL TO BE AN ASSISTANT SECRETARY OF TREASURY

Mr. MITCHELL. As if in executive session, I ask unanimous consent that nomination of Richard Scott Carnell to be an Assistant Secretary of Treasury, received today by the Senate, be referred at the close of business, Wednesday, June 30.

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

TRAUMA CARE AMENDMENTS ACT OF 1993

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 93, S. 1113, a bill to revise and extend trauma care programs; that the bill be advanced to third reading and that the Senate then proceed to the consideration of Calendar No. 92, H.R. 2205, the House companion; that all after the enacting clause be stricken and the text of S. 1113, be inserted in lieu thereof, the bill be deemed read a

third time and passed; the motion to reconsider be laid upon the table; and that S. 1113 be indefinitely postponed.

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

So the bill (H.R. 2205) was deemed read three times and passed.

THE CALENDAR

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of Calendar No. 99 and No. 100, that the committee amendments be agreed to, en bloc, that the bills be deemed read three times, passed and the motion to reconsider laid upon the table, en bloc; that any statements relative to these measures appear in the RECORD at the appropriate place.

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

EAGLE AND PITKIN COUNTIES LAND EXCHANGE

The Senate proceeded to consider the bill (S. 341) to provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes which had been reported from the Committee on Energy and Natural Resources with amendments; as follows:

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

S. 341

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Eagle and Pitkin Counties in the State of Colorado (hereinafter in this Act referred to as the "Counties") are offering to convey to the United States approximately one thousand three hundred and seven acres of patented mining claim properties owned by the Counties within or adjacent to the White River National Forest (hereinafter in this Act referred to as the "National Forest inholdings"), including approximately six hundred and sixty nine acres of inholdings within the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass Wilderness Areas;

(2) the properties identified in paragraph (1) are National Forest inholdings whose acquisition by the United States, would facilitate better management of the White River National Forest and its wilderness resources; and

(3) certain lands owned by the United States within Eagle County comprising approximately two hundred and seventeen acres and known as the Mt. Sopris Tree Nursery (hereinafter in this Act referred to as the "nursery lands") are available for exchange and the Counties desire to acquire portions of the nursery lands for public purposes.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide the opportunity for an exchange whereby the Counties would transfer

to the United States the National Forest inholdings in exchange for portions of the nursery lands;

(2) to provide an expedited mechanism under Federal law for resolving any private title claims to the National Forest inholdings if the exchange is consummated; and

(3) after the period of limitations has run for adjudication of all private title claims to the National Forest inholdings, to quiet title in the inholdings in the United States subject to valid existing rights adjudicated pursuant to this Act.

SEC. 2. OFFER OF EXCHANGE.

(a) OFFER BY THE COUNTIES.—The exchange directed by this Act shall be consummated if within ninety days after enactment of this Act, the Counties offer to transfer to the United States, pursuant to the provisions of this Act, all right, title, and interest of the Counties in and to approximately—

(1) one thousand two hundred and fifty eight acres of lands owned by Pitkin County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 1-53 on maps entitled "Pitkin County Lands to Forest Service", numbered 1-11, and dated April 1990, except for parcels 20 (Twilight), 21 (Little Alma), the Highland Chief, and Alaska portions of parcel 25 depicted on map 7, and parcel 52 (Iron King) on map 11, which shall remain in their current ownership; and

(2) forty-nine acres of land owned by Eagle County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 54-58 on maps entitled "Eagle County Lands to Forest Service", numbered 12-14, and dated April 1990, except for parcel 56 (Manitou) on map 14 which is already in National Forest ownership.

(b) EXCHANGE BY THE SECRETARY.—Subject to the provisions of section 3, within ninety days after receipt by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") of a quitclaim deed from the Counties to the United States of the lands identified in subsection (a) of this section, the Secretary, on behalf of the United States, shall convey by quitclaim deed to the counties, as tenants in common, all right, title, and interest of the United States in and to approximately one hundred and thirty-two acres of land (and water rights as specified in section 7 and the improvements located thereon), as generally depicted as tract A on the map entitled "Mt. Sopris Tree Nursery", dated October 5, 1990.

SEC. 3. RESERVATIONS AND CONDITIONS OF CONVEYANCE.

(a) RESERVATIONS.—In any conveyance to the Counties pursuant to section 2, the Secretary shall reserve—

(1) all right, title, and interest of the United States in and to approximately eighty-five acres of land (and improvements located thereon), which are generally depicted as tracts B (approximately twenty-nine acres) and C (approximately fifty-six acres) on the map referred to in section 2(b);

(2) water rights as specified in section 7(a); and

(3) any easements, existing utility lines, or other existing access in or across tract A currently serving buildings and facilities on tract B.

(b) REVERSION.—It is the intention of Congress that any lands and water rights conveyed to the Counties pursuant to this Act shall be retained by the Counties and used solely for public recreation and recreational facilities, open space, fairgrounds, and such

other public purposes as do not significantly reduce the portion of such lands in open space. In the deed of conveyance to the Counties, the Secretary shall provide that all right, title, and interest in and to any lands and water rights conveyed to the Counties pursuant to this Act shall revert back to the United States in the event that such lands or water rights or any portion thereof are sold or otherwise conveyed by the Counties or are used for other than such public purposes.

[(c) EQUALIZATION OF VALUES.—(1) Within one hundred and twenty days after the date of enactment of this Act, the Secretary of Agriculture shall complete appraisals of the lands to be exchanged pursuant to subsections (a) and (b) of section 2 of this Act, taking into account any effects on the value of such lands resulting from the use restrictions and reversionary interest imposed by subsection (b) of this section and any other factors that may affect value. The sum of \$120,000 shall be deducted from the value of the Counties' offered lands to reflect any adverse claims against such lands which may be adjudicated pursuant to section 5 of this Act.

[(2) The appraisals shall utilize nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.

[(3) On the basis of such appraisals, the Secretary shall make a finding as to whether the values (after the deduction described in paragraph (1)) of the lands to be exchanged are equal and shall immediately notify the Counties as to such finding. If the values are not equal, any cash equalization which would otherwise be owed to the Counties by the United States shall be waived. Any equalization amount which may be owed to the United States by the Counties shall be satisfied through conveyance to the United States, within five years of the date of transfer of the nursery lands to the Counties pursuant to section 2(b) of this Act, of additional lands or interests in lands, acceptable to the Secretary, which the Counties own on the date of enactment of this Act or may acquire after such date. Such additional lands shall have a value as approved by the Secretary at least equal to the amount owed plus annual interest on such amount or un conveyed portion thereof, as applicable, at the standard rate determined by the Secretary of the Treasury to be applicable to marketable securities of the United States having a comparable maturity. Interest shall accrue beginning on the date the nursery lands are transferred to the Counties pursuant to section 2(b) of this Act.]

(c) EQUALIZATION OF VALUES.—*Values of the respective lands exchanged between the United States and the Counties pursuant to this Act are deemed to be of approximately equal value, without any need for cash equalization, as based on a statement of value prepared by qualified Forest Service appraisers and dated February 12, 1993.*

(d) RIGHT OF FIRST REFUSAL.—The Secretary may convey any or all of the nursery lands reserved pursuant to subsection (a) of this section for fair market value under existing authorities, except that the Secretary shall first offer the Counties the opportunity to acquire the lands. This right of first refusal shall commence upon receipt by the Counties of written notice of the intent of the Secretary to convey such property, and the Counties shall have sixty days from the date of such receipt to offer to acquire such properties at fair market value as tenants in

common. The Secretary shall have sole discretion as to whether to accept or reject any such offer of the Counties.

SEC. 4. STATUS OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM LANDS.—The National Forest inholdings acquired by the United States pursuant to this Act shall become a part of the White River National Forest (or in the case of portions of parcels 39, 40, and 41 depicted on map 9, and a portion of parcel 54 of map 12, part of the Gunnison and Arapahoe National Forests, respectively) for administration and management by the Secretary in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) WILDERNESS.—The National Forest inholdings that are within the boundaries of the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass Wilderness Areas shall be incorporated in and deemed to be part of their respective wilderness areas and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.

SEC. 5. RESOLVING TITLE DISPUTES TO NATIONAL FOREST INHOLDINGS.

(a) QUIET TITLE ACT.—Notwithstanding any other provisions of law and subject to the provisions of subsection (c) of this section, section 2409a of title 28, United States Code (commonly referred to as the "Quiet Title Act") shall be the sole legal remedy of any party claiming any right, title, or interest in or to any National Forest inholdings conveyed by the Counties to the United States pursuant to this Act.

(b) LISTING.—Upon conveyance of the National Forest inholdings to the United States, the Secretary shall cause to be published in a newspaper or newspapers of general circulation in Pitkin and Eagle Counties, Colorado, a listing of all National Forest inholdings acquired pursuant to this Act together with a statement that any party desiring to assert a claim of any right, title, or interest in or to such lands must bring an action against the United States pursuant to such section 2409a within the same period described by subsection (c) of this section.

(c) LIMITATION.—Notwithstanding section 2409a(g) of title 28, United States Code, any civil action against the United States to quiet title to National Forest inholdings conveyed to the United States pursuant to this Act must be filed in the United States District Court for the District of Colorado no later than the date that is six years after the date of publication of the listing required by subsection (b) of this section.

(d) VESTING BY OPERATION OF LAW.—Subject to any easements or other rights of record that may be accepted and expressly disclaimed by the Secretary, and without limiting title to National Forest inholdings conveyed by the Counties pursuant to this Act, all other rights, title, and interest in or to such National Forest inholdings if not otherwise vested by quitclaim deed to the United States, shall vest in the United States on the date that is six years after the date of publication of the listing required by subsection (b) of this section, except for such title as is conveyed by the Counties, no other rights, title, or interest in or to any parcel of the lands conveyed to the United States pursuant to this Act shall vest in the United States under this subsection if title to such parcel—

(1) has been or hereafter is adjudicated as being in a party other than the United States or the Counties; or

(2) is the subject of any [section] action or suit against the United States to vest such title in a party other than the United States or the Counties that is pending on the date six years after the date of publication of a listing required by subsection (b) of this section.

(e) COSTS AND ATTORNEY'S FEES.—(1) At the discretion of the court, any party claiming right, title, or interest in or to any of the National Forest inholdings who files an action against the United States to quiet title and falls to prevail in such action may be required to pay to the Secretary on behalf of the United States, an amount equal to the costs and attorney's fees incurred by the United States in the defense of such action.

(2) As a condition of any transfer of lands to the Counties under this Act, the Counties shall be obligated to reimburse the United States for 50 percent of all costs in excess of \$240,000 not reimbursed pursuant to paragraph (1) of this subsection associated with the defense by the United States of any claim or legal action brought against the United States with respect to any rights, title, and interest in or to the National Forest inholdings. Payment shall be made in the same manner as provided in section 6 of this Act.

SEC. 6. REIMBURSEMENT TO THE UNITED STATES.

(a) IN GENERAL.—As a condition of any transfer of lands to the Counties under this Act, in addition to any amounts required to be paid to the United States pursuant to section 5(e), in the event of a final determination adverse to the United States in any action relating to the title to the National Forest inholdings, the United States shall be entitled to receive from the Counties reimbursement equal to the fair market value (appraised as if they had marketable title) of the lands that are the subject of such final determination.

(b) AVAILABILITY OF FUNDS.—Any money received by the United States from the Counties under section 5(e) or subsection (a) of this section shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (and commonly known as the Sisk Act, 16 U.S.C. 484a).

(c) IN-KIND PAYMENT OF LANDS.—In lieu of monetary payments, any obligation for reimbursement by the Counties to the United States under this Act can be fulfilled by the conveyance to the United States of lands having a current fair market value equal to or greater than the amount of the obligation. Such lands shall be mutually acceptable to the Secretary and the Counties.

SEC. 7. WATER RIGHTS.

(a) ALLOCATION AND MANAGEMENT.—The water rights in existence on the date of enactment of this Act in the Mt. Sopris Tree Nursery, which comprise well water and irrigation ditch rights adjudicated under the laws of the State of Colorado, together with the right to administer, maintain, access, and further develop such rights, shall be allocated and managed as follows:

(1) The United States shall convey to the Counties as undivided tenants in common all rights associated with the five existing wells on the properties.

(2) If the Secretary determines that water from the five existing wells is necessary to meet culinary, sanitary, or domestic uses of the existing buildings retained by the United States pursuant to section 3(a), the Counties shall make available to the United States, without charge, enough water to reasonably serve such needs and shall additionally, if requested by the United States, make every

[future] effort to cooperatively provide to the United States, without charge, commensurate with the Counties own needs on tract A, water to serve reasonable culinary, sanitary, and domestic uses of any new buildings which the United States may construct on its retained lands in the future.

(3) All federally owned irrigation ditch water rights shall be reserved by the United States.

(b) MODIFICATION OF ALLOCATION.—If the Secretary and the Counties determine the public interest will be better served thereby, they may agree to modify the precise water allocation made pursuant to this section or to enter into cooperative agreements (with or without reimbursement) to use, share, or otherwise administer such water rights and associated facilities as they determine appropriate.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) TIME REQUIREMENT FOR COMPLETING TRANSFER.—If the Counties make a timely offer, pursuant to section 2(a), the transfers of lands authorized and directed by this Act shall be completed no later than one year after the date of enactment of this Act.

(b) BOUNDARY MODIFICATIONS.—The Secretary and the Counties may mutually agree to make modifications of the final boundary between tracts A and B prior to completion of the exchange authorized by this Act if such modifications are determined to better serve mutual objectives than the precise boundaries as set forth in the maps referenced in this Act.

(c) TRACT A EASEMENT.—The transfer of tract A to the Counties shall be subject to the existing highway easement to the State of Colorado and to any other right, title, or interest of record.

(d) VALIDITY.—If any provision of this Act or the application thereof is held invalid, the remainder of the Act and application thereof, except for the precise provision held invalid, shall not be affected thereby.

(e) FOREST HEADQUARTERS AND ADMINISTRATIVE OFFICES.—The White River National Forest headquarters and administrative office in Glenwood Springs, Colorado, are hereby transferred from the jurisdiction of the United States General Services Administration to the jurisdiction of the Secretary, who shall retain such facilities unless and until otherwise provided by subsequent Act of Congress.

So the bill (S. 341) was deemed read three times and passed.

INTERNATIONAL FUSION ENERGY ACT OF 1993

The Senate proceeded to consider the bill (S. 646) to establish within the Department of Energy an international fusion energy program, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments; as follows:

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

S. 646

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 "International Fusion Energy Act of 1993".

SEC. 2. FINDINGS, PURPOSES AND DEFINITIONS.

(a) FINDINGS.—Congress finds that—

(1) fusion energy has the potential to be a safe, environmentally attractive, secure and economically affordable source of energy;

(2) the United States Department of Energy's magnetic fusion energy program has made significant progress toward realizing fusion as a viable source of energy;

(3) other industrial nations have also invested in significant magnetic fusion energy programs;

(4) an integrated program of international collaboration will be necessary for continued progress to demonstrate the scientific and technological feasibility of magnetic fusion energy;

(5) there is international agreement to proceed with the engineering and design of the International Thermonuclear Experimental Reactor to prove the scientific and technical feasibility of fusion energy and to lead to a demonstration reactor;

[(6) the United States should focus the Department of Energy's magnetic fusion energy program on the design, construction and operation of the International Thermonuclear Experimental Reactor;]

(6) the United States should focus the Department of Energy's magnetic fusion energy program on elements furthering the design, construction and operation of the International Thermonuclear Experimental Reactor and a fusion demonstration reactor, including the operation of the Tokamak Physics Experiment;

(7) the continuation of an aggressive fusion energy program requires the Department of Energy, industry, utilities, and the international fusion community to commit to the International Thermonuclear Experimental Reactor as soon as practicable; and

(8) an effective United States fusion energy program requires substantial involvement by industry and utilities in the design, construction, and operation of fusion facilities.

(b) PURPOSES.—The purposes of this Act are to—

(1) redirect and refocus the Department's magnetic fusion energy program in a way that will lead to the design, construction and operation of the International Thermonuclear Experimental Reactor by 2005, in cooperation with other countries, and operation of a fusion demonstration reactor by 2025;

(2) develop a plan identifying the budget, critical path, milestones and schedules for the International Thermonuclear Experimental Reactor;

[(3) eliminate from the Department of Energy's magnetic fusion energy program those elements that do not directly support the development of the International Thermonuclear Experimental Reactor or the development of a fusion demonstration reactor; and]

(3) limit the Department of Energy's magnetic fusion energy program to elements that support the development of the International Thermonuclear Experimental Reactor or a fusion demonstration reactor, including the Tokamak Physics Experiment to be built at the Princeton Plasma Physics Laboratory; and

(4) select a candidate host site within the United States for the International Thermonuclear Experimental Reactor and to identify the steps necessary to lead to the selection of the final host site by the international community.

(c) DEFINITIONS.—

(1) "Department" means the United States Department of Energy;

(2) "ITER" means the International Thermonuclear Experimental Reactor; and

(3) "Secretary" means the Secretary of the United States Department of Energy.

SEC. 3. INTERNATIONAL FUSION ENERGY PROGRAM.

(1) OFFICE OF THE FUSION NEGOTIATOR.—(A) There is established the Office of the International Fusion Negotiator that shall be an independent establishment in the executive branch.

(B) The Office shall be headed by an International Fusion Negotiator who shall be appointed by the President, by and with the advice and consent of the Senate. The Negotiator shall hold office at the pleasure of the President, and shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code.

(C) The Negotiator, in consultation with the Secretary and the Secretary of State, shall represent the United States in negotiations with other countries relating to the design, construction or operation of the International Thermonuclear Experimental Reactor.

[(a)] (2) PROGRAM.—The Secretary shall redirect and refocus the Department's magnetic fusion program in a way that will lead to the design, construction and operation of ITER by 2005 and operation of a fusion demonstration reactor by 2025. The Department's magnetic fusion program shall be referred to as the [ITER] program and shall be carried out in cooperation with the international community.

(b) REQUIREMENTS.—In developing the [ITER] program, the Secretary shall—

(1) establish as the main focus of the Department's magnetic fusion energy program the development of ITER;

(2) provide for the development of fusion materials and other reactor components to the extent necessary for the development of a fusion demonstration reactor;

(3) eliminate those components of the magnetic fusion energy program not contributing directly to development of ITER or to the development of a fusion demonstration reactor;

(4) select a candidate host site within the United States for the International Thermonuclear Experimental Reactor;

(5) [negotiate] provide support, as requested, to the International Fusion Negotiator in negotiating with other countries involved in ITER to select a final host site for ITER and to agree to construct ITER as soon as practicable;

(6) provide for substantial United States industry and utility involvement in the design, construction and operation of ITER to ensure United States industry and utility expertise in the technologies developed; and

(7) provide for reducing the level of effort in the [ITER] program to the levels prescribed in section 4(b)(2) in the event the [ITER] program is terminated in accordance with subsection (g).

(c) MANAGEMENT PLAN.—(1) Within one hundred eighty days of the date of enactment of this Act, the Secretary shall prepare, in consultation with the International Fusion Negotiator, and implement a management plan for the [ITER] program. The plan shall be revised and updated biannually.

(2) The plan shall—

(A) establish the goals of the [ITER] program;

(B) describe how each component of the Department's [ITER] program contributes directly to the development of ITER or development of a fusion demonstration reactor;

(C) set priorities for the elements of the Department's [ITER] program, identifying those elements that contribute directly to the development of ITER or to the development of a fusion demonstration reactor;

(D) provide for the elimination of those elements of the magnetic fusion energy program not contributing directly to the development of ITER, or to the development of fusion materials or other reactor components that are necessary for the development of a fusion demonstration reactor;

(E) describe the selection process for a proposed host site within the United States for ITER;

(F) establish the necessary steps that will lead to the final selection of the host site for ITER by the countries involved in the [ITER] program by the end of 1996.

(G) establish the necessary steps that will lead to the design, construction and operation of ITER by 2005 and operation of a fusion demonstration reactor by 2025;

(H) establish a schedule and critical path, including milestones, and a budget that will allow for the design, construction and operation of ITER by 2005 and operation of a demonstration fusion reactor by 2025;

(I) provide mechanisms for ensuring substantial industry and utility involvement in the design, construction and operation of ITER;

(J) set forth any recommendations of the Secretary on—

(i) the need for additional legislation regarding the [ITER] program; or

(ii) the possibility and desirability of accelerating the design and construction of ITER or the development of a fusion demonstration reactor; and

(K) provide for reducing the level of effort in magnetic fusion to the levels prescribed in section 4(b)(2) in the event the [ITER] program is terminated in accordance with subsection (g).

(d) INTERNATIONAL AGREEMENTS.—(1) The [Secretary] International Fusion Negotiator may negotiate or enter into agreements with any country governing the design, construction and operation of ITER or facilities related to ITER.

(2) The [Secretary] International Fusion Negotiator shall seek to enter into agreements with other countries to share in the cost of the facilities and components of the [ITER] program that contribute to the design, construction or operation of ITER or to the development of a fusion demonstration reactor.

(e) REPORT ON ITER NEGOTIATIONS.—The [Secretary] International Fusion Negotiator shall submit an annual report to the Congress on the status of negotiations with other countries regarding ITER. The report shall—

(1) identify the issues to be negotiated with other countries involved in the [ITER] program;

(2) identify impediments to reaching agreement on a host site for ITER, or on issues related to the construction or operation of ITER;

(3) identify the steps needed to reach agreement on a host site for ITER or on issues related to the construction or operation of ITER;

(4) establish the timetable for agreement related to the siting, operation and construction of ITER; and

(5) assess the likelihood of reaching agreement on a host site for ITER and on issues related to the construction or operation of [ITER]; and ITER.

[(6) set forth the Secretary's recommendation on whether a special negotiator should be appointed to carry out negotiations on behalf of the United States with the countries involved in the ITER program.]

(f) CERTIFICATION.—Prior to seeking funds for construction of ITER, the Secretary,

after consultation with the International Fusion Negotiator, shall certify to the Congress that there is agreement in place or there is a substantial likelihood agreement will be reached with the countries involved in ITER on the siting, construction and operation of ITER.

(g) TERMINATION.—(1) The Secretary shall report to Congress if the Secretary determines that—

(A) ITER is no longer essential to the development of a fusion demonstration reactor;

(B) no agreement can be reached on the final host site for ITER;

(C) no agreement can be reached on the final design of ITER or on issues related to construction of ITER; or

(D) there is an insufficient commitment to the final ITER design by United States industry and utilities.

(2) Within thirty days of submission of the report under paragraph (1), the Secretary shall initiate the termination of the [ITER] program.

(3) In the event the Secretary terminates the [ITER] program, the Secretary may continue to carry out research in magnetic fusion, but only at the levels authorized in section 4(b)(2).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) LIMITATION ON APPROPRIATIONS.—No more funds may be appropriated to carry out the purposes of this Act than the amounts set forth in subsection (b). This Act shall be the exclusive source of authorization of appropriations to support any activities of the Secretary relating to magnetic fusion energy.

(b) APPROPRIATIONS.—(1) There is authorized to be appropriated to the Secretary for carrying out the purposes of this Act \$350,000,000 for fiscal year 1994, \$390,000,000 for fiscal year 1995, \$380,000,000 for fiscal year 1994, \$425,000,000 for fiscal year 1995, \$475,000,000 for fiscal year 1996, and such sums as may be necessary thereafter.

(2) In the event the Secretary terminates the [ITER] program, there is authorized to be appropriated to the Secretary \$50,000,000 for 1994, \$50,000,000 for 1995 and \$50,000,000 for 1996 for activities relating to magnetic fusion energy.

So the bill (S. 646) was deemed read three times and passed.

ORDER FOR STAR PRINT—REPORT NO. 103-66

Mr. MITCHELL. Madam President, I ask unanimous consent that Report No. 103-66, the report to accompany S. 1003, a bill to provide authority for the President to enter into trade agreements to conclude the Uruguay round of multilateral trade negotiations, be star printed to reflect the changes I now send to the desk.

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

SPRING MOUNTAINS NATIONAL RECREATION AREA ACT

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 101, H.R. 63, a bill relating to the Spring Mountain National Recreation Area in Nevada, that the committee amendments be agreed

to, en bloc, that the bills be deemed read three times, passed and the motion to reconsider laid upon the table, en bloc; that any statements relative to these measures appear in the RECORD at the appropriate place.

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

So the bill (H.R. 63) was deemed read three times and passed.

RESOLVING THE STATUS OF CERTAIN LANDS

Mr. MITCHELL. Madam President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 765, relating to relinquishment of certain lands to the United States; that the Senate proceed to its immediate consideration; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

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

So the bill (H.R. 765) was deemed read three times and passed.

Mr. MITCHELL. Madam President, I further ask unanimous consent that Calendar No. 103 the Senate companion be indefinitely postponed.

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

ORDER TO PRINT THE BUDGET RECONCILIATION BILL—H.R. 2264

Mr. MITCHELL. Madam President, I ask unanimous consent that H.R. 2264, the budget reconciliation bill, be printed as passed by the Senate.

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

ORDER FOR STAR PRINT—SENATE RESOLUTION 124

Mr. MITCHELL. Madam President, I ask unanimous consent that there be a star print of Senate Resolution 124 to reflect the changes I now send to the desk.

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

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

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

ORDERS FOR WEDNESDAY, JUNE 30, 1993

Mr. MITCHELL. Madam President, I ask unanimous consent that when the

Senate completes its business today, it stand adjourned until 9 a.m. on Wednesday, June 30; that when the Senate reconvenes on Wednesday, June 30, the Journal of proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired and the time for the two leaders reserved for their use later in the day; that there then be a period of time for the transaction of routine morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each, with the following Senators recognized for the time limits specified: Senator GRAMM of Texas for up to 10 minutes, Senator GRASSLEY for up to 35 minutes, Senator FEINSTEIN for up to 30 minutes, and during the period from 10 a.m. to 10:30 a.m., Senators BUMPERS and BOREN be recognized for up to 15 minutes each; and that at 10:30 a.m., the Senate return to executive session to resume consideration of the Frampton nomination.

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

ADJOURNMENT UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Madam President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned until 9 a.m. on Wednesday, June 30, 1993.

The motion was agreed to; and at 7:19 p.m., the Senate adjourned until Wednesday, June 30, 1993, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 29, 1993:

DEPARTMENT OF COMMERCE

LORETTA L. DUNN, OF KENTUCKY, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE MARY JO JACOBI, RESIGNED.

DEPARTMENT OF JUSTICE

JAMES PATRICK CONNELLY, OF WASHINGTON, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF WASHINGTON FOR THE TERM OF FOUR YEARS VICE WILLIAM D. HYSLOP, RESIGNED.

JOHN THOMAS SCHNEIDER, OF NORTH DAKOTA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF 4 YEARS VICE STEPHEN D. EASTON, RESIGNED.

DEPARTMENT OF STATE

ALAN H. FLANIGAN, OF VIRGINIA, A CAREER MEMBER FOR THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

ROBERT GORDON HOUEK, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ERITREA.

JOHN T. SPROTT, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SWAZILAND.

ROLAND KARL KUCHEL, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ZAMBIA.

DEPARTMENT OF THE TREASURY

RICHARD SCOTT CARNELL, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE JOHN CUNNINGHAM DUGAN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. GARY H. MEARS, U.S. AIR FORCE.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

- JOHN D ANDERSON
KATHRYN L BOEHMKE
DEXTER D DEWITT
STEPHEN M GARRAMOND
FELIPE E VIZCARRONDO
LAWRENCE R WHITEHURST
PERCEY P CY...

To be lieutenant colonel

- CHARLES W COTTA
LEO M HATTRUP
DAVID E HRNCIR
RICHARD A PETERSON
RUTH A ROBINSON

To be major

- DAVID P ASCHER
LAURA A TORRESREYES
RUSSELL A TURNER

To be captain

- DOUGLAS J SWANK

DENTAL CORPS

To be colonel

- MICHAEL T POTTER

To be lieutenant colonel

- HENRY S BOYARS
GERALD R CRANE
WILLIAM C FISHER
CHARLES W HENDERSON
CRAIG A LOUDENSLAGER
JOHN P RAMEY
LARRY D SHEEHAN

To be major

- JOEL B ALEXANDER, II
DIANE M BEECHER
BARBARA G BISANG
EDWARD O ERKES
DENNIS C FUREY
THOMAS J GRIMM
GRANT R HARTUP
DENNIS W KELLY, III
JAY C SMITH
WILLIAM F TROLENBERG, II
KRAIG S VANDEWALLS
RICHARD P VIDUNAS, JR

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 593, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

- STEVEN L ARNOLD
STEPHEN T BATHMAN
KARL A BERNHARD
GREGORY S BIRSH
WILLIAM D CLARK
JOHN F FACINOLI
DANIEL N KULUND
JOHN M MCNAMARA
JOHN G MEYER
MICHAEL E NISHITANI
MICHAEL E SOLIN

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

BIOMEDICAL SCIENCES CORPS

To be major

- WANDA P. C. ADKINS
SUSAN K. ANDREWS
KRISHENDATT BALJNAUTH
JAMES B. BALDWIN
MICHAEL D. BARNE
JOHN S. BELL
STEVEN L. BENTS
STEVEN F. BERGONZONI
ALAN L. BRANKLINE
REBECCA L. BROWN
JEFFREY L. BRYAN
FRANK C. BUDD
ROBERT C. BUSWELL, JR
RANDAL V. CARLSON
HENRY L. CASHEN
MICHAEL D. CLAWSON
JOHN W. COHO
YVONNE D. CORPETTIS
FRANCIS CROSBY, JR
STEVEN G. DAVIS
DONALD A. DIESEL
GUY A. DIETEL
ALAN W. DOOLEY
JESSE W. EMERSON
KALI K. FESSENDEN
JAMES F. FORREST
KAREN S. FOSTER
CHARLES D. FROST
DEBORAH A. GALASIA
MICHAEL G. GAUVIN
KELLY H. GIESBRECHT
DONALD E. GODDARD
DOUGLAS E. GRAHAM
CHERYL E. GREGORIO
JOSEPH K. HADDAD
RICHARD D. HANDLEY
ROBERT C. HAROLDSON
ALAN J. HELYER
EDWARD C. HEYSE
GREGORY S. HOUSTON
JOHN D. JAMES
ALAN E. JESSE
DONNA M. JOHNSON
MARK D. JOHNSON
DONNA M. KEFFEL
LARRY T. KIMM
WILLIAM E. KINKADE, II
KENNETH C. KOMYATHY
WAYNE K. KORN
EDWARD L. KRUMANAKER
RICHARD F. LAMACCHIA
MARIA R. LAMAGNARIELLO
NANCY D. LAWSON
JOHN G. LONG
JOSEPH F. LONGOFONO
ROBERT M. LUCANIA
ANDREW T. MACCABE

- MICHELE M. MARSHALL
MICHAEL S. MCCONNELL
RICHARD P. MCCOY
VIRGINIA M. MCKINLEY
JAMES M. MEREDITH
PHILEMON R. MERRILL, JR
DEAN L. MESSELHEISER
GARY D. MEYER
ALICE L. MILLER
IRA D. MILLER
MICHAEL D. MILLER
ARTHUR G. MILLS
THOMAS L. MILLS
DALE C. MOSS
JOSEPH T. NELSON
DONALD L. NOAH
REBECCA L. OCHS
BURL M. OLSON
ALAN L. PETERSON
RIC D. PETERSON
MONEE P. PIKE
JOHN W. PITTMAN
GARY N. POTEAU
PATRICIA A. REILLY
BERT R. REITSMAN
WILLIAM M. ROGERS
CARL R. ROBOCK
GEORGE W. ROOSE
DONALD E. RUSHER, JR
GREGORY W. RUSSIE
PHIL L. SAMPLES
FABRIZIO SARACENI
JOSEPH A. SCHURHAMMER
ERIC J. SCOTT
ROBERT A. SEEGMILLER
DAVID A. SELF
TIMOTHY J. SHEEHAN
CHRISTOPHER P. C. SHERMAN
BILLY W. SIGREST
MICHAEL K. SIMPSON
KERRY L. SITLEY
RICHARD P. SKIDMORE
HEATHER M. SLIMON
MARK H. SMITH
JOANNE M. SPAHN
JOHNNY J. SPLAWN
RONALD G. STEELE
ANTHONY V. STOCKUS
HOMER D. STOUT
ALLAN D. STOWERS
JOHN M. STROH
KRISTIN N. SWENSON
RUTH D. SYLVESTER
MICHAEL B. TALEBURI
VICKI S. TANNER
MICHAEL A. TAYLOR
EARL R. THOMPSON
MARK G. TIEDEMANN
DONALD R. TOCCO
JO ELLEN TOMLINSON
STEVEN D. TONEY
DARI R. TRITT
DANIEL R. TURPIN
RICHARD E. VAN ANSDER
DANIEL L. WELCH
DONALD J. WHITE
DAWN E. WILSON
THOMAS L. ZIEMANN

CONFIRMATION

Executive nomination confirmed by the Senate June 29, 1993:

DEPARTMENT OF DEFENSE

ASHTON B. CARTER, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF DEFENSE. THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.