SENATE—*Wednesday, October 6, 1993*

(Legislative day of Monday, September 27, 1993)

The Senate met at 9:30 a.m., on the expiration of recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

Let us observe a moment of silence in prayer for Joseph Belvedere, restaurant manager, who had double bypass surgery yesterday.

Ask, and it shall be given you; seek, and ye shall find; knock, and it shall be opened unto you: For every one that asketh receiveth; and he that seeketh findeth; and to him that knocketh it shall be opened.—Matthew 7:7–8.

Gracious God our Father, Jesus was very precise in His invitation to prayer. Midst all their struggle with imponderable issues, lay upon the hearts of the Senators the need to pray. Busy as they are, help them to find time, to take time, to make time for a few minutes of prayer each day.

We are reminded of the poetic words, "More things are wrought by prayer than this world dreams of." Though prayer does not absolve us from responsibility, it can help us be more efficient. And we have God's assurance that He hears and answers.

In the name of Him Who prayed, "* * * not my will, but thine, be done." (Luke 22:42). 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 bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 6, 1993.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 2750, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2750) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) D'Amato (for Bond) amendment No. 1014, to make funds available to repair and rebuild airports damaged as a result of the Midwest floods of 1993.

(2) Boxer/Feinstein amendment No. 1021, to provide additional emergency relief resulting from the Loma Prieta Earthquake.

The ACTING PRESIDENT pro tempore. The pending question is the Boxer amendment numbered 1021.

Mr. PRESSLER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

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

HUMAN RIGHTS IN KOSOVA

Mr. PRESSLER. Mr. President, I have been concerned about human rights in Kosova. The United States has sent troops to Macedonia. In so doing, the United Nations and the United States have drawn an imaginary line, sort of giving approval to Serbian control of Kosova.

I know the whole situation regarding the former Yugoslavia is very complex. But this issue of the Albanian group in Kosova has been overlooked by many in the whole Yugoslavian conflict. Kosova has been quieter or not in the news as much as certain other parts of the former Yugoslavia. But if a disturbance occurs in Kosova, it could very well bring several other countries into that war, including Greece, Turkey, and others.

So I think it is of great importance that we watch very closely what happens in Kosova, one of the autonomous regions within the former Yugoslavia.

Yesterday, in the Foreign Relations Committee, I asked the Assistant Secretary of State what the United States policy was regarding Kosova. I received a somewhat mixed answer. I have asked for more details in terms of what our policy will be.

But the problem is that we have drawn sort of an imaginary line by putting troops into Macedonia. By virtue of that, there is a signal that that is the line beyond which the Serbs cannot go. There is a signal that perhaps there is an acceptance in the West that Kosova will belong to Serbia. That is not my interpretation and it should not be our policy.

I hope we get a very clear policy definition from this administration that we do not accept Kosova being under Serbia.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. D'AMATO. Mr. President, I ask unanimous consent to proceed as in morning business. I would like to make a brief statement.

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

TRAGEDY IN SOMALIA

Mr. D'AMATO. Mr. President, I along with, I think, many of the Members of Congress, have made our observations about the tragedy that is taking place—and I say tragedy—in Somalia: The death of 12 soldiers; the wounding of 70-plus; the fact that there are some who may be missing, 8 unaccounted for; we know at least 1 who has been taken hostage; the fact that bodies have been desecrated in a savage manner—these things are very disquieting; the fact that these Rangers were pinned down for 9 hours before help finally got to those many wounded, and 12 dead.

We can second-guess how we got to this position, what should have been done. But I have to tell you and share with you publicly that this morning I read an account that the U.S. general in charge asked for tanks to be sent, heavy armor to be sent to deal with the problems of protecting his troops and giving him the firepower necessary.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The request by the American commander for those tanks, reportedly, was disapproved by the Secretary of Defense, Mr. Aspin.

I have to tell you I believe in civilian control of the military. Indisputably, undeniably it has been one of the great strengths of this democracy, of our Nation, that the military command absolutely is subservient and must take its orders from the civilian Government. That is as it should be.

Having said that, there is a proper relationship that must not be breached, and we should not have civilians determining what kind of gun or weapon will be used to defend a position. And in this situation, to have the Secretary of Defense denying—denying—military hardware that a commander on the field feels is necessary to protect his troops, is unconscionable, and to suggest that the Congress of the United States, that there would have been a backlash if we had sent tanks there is nonsense. I did not know that we were going to place our young men in a position and then deny them help because we were afraid there might be a backlash from the public or from the Congress. How dare we send young men into a confrontation, or a possible confrontation, and not see that they are adequately supplied.

If that report is accurate—and I have every reason to believe that it is—then shame on us. I think the Secretary owes us an explanation as to why he denied tanks that a commander asked for that conceivably could have saved the situation and conceivably would have lessened the loss of life and the wounding and the damage that took place. When we attempted to reach the outfit that was pinned down, they had to suspend for a number of hours because we did not have the armored personnel carriers or the vehicles to get us through the fire of the enemy.

I have to tell you, this is not something that instills confidence in the American people or in this Senator in what we are doing in Somalia.

I am going to take this opportunity to also touch on another subject. Before we find ourselves again involved in a situation where we set up some noble name—we are now nation-building. What the heck do they mean by nation-building? Who are we to determine how a nation is going to be built? Do we really think that we are the magic people who are going to rebuild a nation? It is one thing to give aid to people who are starving, give them food—we understand that—make it possible for food to get there. But nation-building?

Now we have something new: Peacekeepers. It sounds nice: peacekeepers. But if you have under the name of peacekeepers a situation that exposes tens of thousands of U.S. service personnel to a hostile environment, I do not call that peacekeeping. I have to tell you, it is a nice name, but this Senate is going to be opposed to sending any troops into an area where we have belligerent parties on each side that have far superior firepower than we do. And to send 25,000 soldiers as peacekeepers into Bosnia is absolute madness. Maybe this terrible tragedy that took place in Somalia has a silver lining to the extent that it opens our eyes up to what we may be getting into as it relates to Bosnia.

I do not think we should be compelled because of inaction of the past administration as it relates to Bosnia, in allowing that situation to get well beyond control where we have no impact and could have none without risking tremendous casualties. The fact of the matter is that we had better discuss very clearly what sending 25,000 troops abroad in a hostile environment means. I suggest it would be replicating what is taking place in Somalia today. I am talking about what took place this past week.

The fact of the matter is 25,000 is almost insignificant in that hostile terrain, in that hostile area where we have hundreds of thousands of people who are under arms at the present time. I would be very, very, very skeptical of going forward or permitting that to take place.

So, Mr. President, I feel we had better get this out on the table now. I do not want to see a repeat of what is taking place in Somalia, even under the laudatory purposes of calling someone peacekeepers.

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

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

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). Without objection, it is so ordered.

Mr. EXON. Madam President, would the Chair kindly advise the Senator from Nebraska as to the pending matter before the Senate.

The PRESIDING OFFICER. The pending amendment is by Senators BOXER and FEINSTEIN.

Mr. EXON. I see that a quorum call was in effect. I would like 5 minutes to discuss the Somalia situation. If the managers of the bill would agree, I ask unanimous consent for 5 minutes to proceed as in morning business, with regard to some remarks that I think are appropriate on Somalia.

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

The Senator from Nebraska is recognized.

THE SITUATION IN SOMALIA

Mr. EXON. Madam President, there is a very wrenching concern facing America today. I attended a meeting of House and Senate Members with the Secretary of Defense yesterday. The Secretary of Defense was accompanied by the Secretary of State. I have to say that this was somewhat of a rancorous meeting, where frustration and doubts—many of them very sincere—were raised.

I suggest that while I think all of us at this time are concerned about how America is going to extricate itself from the very serious situation that faces our troops, and any of our troops there who are now captive—prisoners of war, hostages, call them what you will—let us not forget them in our consideration as to what we do.

I recognize and realize that with the horrors that we have seen there now, and indeed including the briefings that I have had as a member of the Armed Services Committee, I am very much concerned, if not somewhat frightened, about the prospects that face our forces there right now.

There is a great deal of talk today about cutting and running. Some people say that would be the courageous thing to do under the circumstances. That certainly is something that I think should be listed as an option. Before we rush to judgment on this matter, I think we better first recognize, as I think all Americans would agree, that before we cut and run, we should make sure that we are not abandoning one or more prisoners of war, captives, hostages, call them what you will. We have a responsibility to them as well.

Madam President, I simply say that I hope this is a time when we would not rush to knee-jerk reactions. I hope that we can recognize and realize that the Senate has already passed legislation that requires the President of the United States to report back to us within 9 days as to what his plans are.

As one Senator who is very much concerned about the situation there, who believes that our troops there at the present time are in more peril, I think, than most people realize, I am worried about the chain of command; I am worried about the ineffectiveness of our forces, regardless of command, to come to a more prompt relief of our rangers, rather than a 7-hour delay. These are all very legitimate concerns.

However, I really believe that it is time for all of us to sit down and talk and think very cautiously and very carefully about any abrupt action, however well-intentioned, by the House and Senate, venting their frustrations about the serious situation we find ourselves in there.

As an example, we hear that the President may be sending additional troops and additional equipment. I hope that any additional troops or equipment sent in there can be justified on the grounds that it is protecting the troops that we already have there, which I think is a major concern of many of us today.

So I simply say that while extricating ourselves from the situation that is of paramount importance, I do hope that we can approach this with some caution, with some understanding that we had better know where we are going and what we are going to do. The way we take and extricate ourselves from that situation is one that should be given careful consideration. I, frankly, am looking forward to a situation where the President of the United States, within 9 days or sooner, will send his message to the U.S. Senate, as we have requested, about some kind of a timetable that we can work on to extricate ourselves from that situation.

I simply say that precipitous action on our part, without knowing the pros and cons, the pluses and minuses, is something we might look back on and regret as we look back on the situation that I am afraid is going to be with us for some time. I am pleading for a little bit of understanding, a little more discussion, a little more time for the President and the command authorities of the United States in working with the United Nations to try and work our way out of this in a quick fashion, but in a fashion that would not make us look back with regrets on some precipitous action that we might take in a matter of hours that might in the future be looked back on as not one of the finer moments of the U.S. Senate.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The minority leader, the Senator from Kansas, is recognized.

Mr. DOLE. Madam President, first let me say I think the Senator from Nebraska makes a great deal of sense.

It is not a time for panic. I think we need to come to a resolution over what is happening in Somalia, but we should not do it in any way that would either now or later impact on the integrity and the honor of American forces.

So I hope that we will give the President the time we said we would give him. We passed a resolution saying to report by October 15. That is a week from Friday. That is not very far.

I do think there are a number of questions the Senator from Nebraska has pointed out that should be raised and should be answered, but I think the underlying concern of the American people is whether or not we are in charge or the United Nations is in charge.

I am waiting for the American plan, the President's plan, not Boutros Boutros-Ghali's plan. He may have a different view of America or our interest in Somalia than we have. I know he is an outstanding person. I have no quarrel with that. But this is an American problem. It is American lives, American dollars, American blood, one American POW or more, and I think that means that it should be our decision and our plan.

If the President or the Secretary of Defense and the Secretary of State, the command structure, are prepared to give us a plan, I think they will find fair treatment in the Congress on both sides of the aisle.

NAFTA

Mr. DOLE. Madam President, we are entering a decisive phase for the North American Free-Trade Agreement. In less than 1 month, the President expects to submit to Congress legislation to implement NAFTA, which is the North American Free-Trade Agreement. This trade agreement is going to pass because it is good for the United States. People are beginning to recognize this.

North American Free-Trade Agreement opponents went several laps before we even finished lacing up our shoes. Now that has changed. A lot of change is happening, and we are now finding, in polls taken—in fact, last Friday, the L.A. Times' poll showed 42 percent of Americans who closely follow the issue favor the North American Free-Trade Agreement, with 37 percent opposed. But it is changing, and the change is in the right direction. Once the American people get the facts, it makes a difference.

We are all entitled to our views, but we are not entitled to our facts. Whether it is Ross Perot or someone else, they are not entitled to their facts. The facts are the facts, and the facts are that this agreement is good for us and good for American workers. I think, as we continue to spell out the pluses in the North American Free-Trade Agreement, the support is going to continue to rise because people are beginning to see that the so-called jobs flight argument against NAFTA is a red herring and a fraud.

As the Washington Post noted earlier this week, look at what happens when an auto manufacturer like BMW has to choose a location for a major new plant. They did not choose Mexico. BMW never chose Mexico. All the arguments opponents make would apply. Why did they not choose Mexico, with all the cheaper labor? They chose South Carolina.

Mercedes-Benz also needed a new plant. Where will that new plant and those jobs be located? Not in Mexico. They will be in Alabama.

So all the reasons all these people say everything is going to move to Mexico has just been disputed, rather, I think, successfully, by facts—not by someone's statement, not by some biased opponent of the North American Free-Trade Agreement.

The reason they are located in the United States is that the United States workers are among the most productive, highly skilled in the world. U.S. transportation is first class, and access to technology and supplies is assured.

NAFTA does not undermine the reasons for choosing the United States. It reinforces the reasons people come to the United States. NAFTA brings down barriers to our products, and it also eliminates incentives for some companies to locate in Mexico in the first place. Those companies and those jobs will come back to the United States.

Let us not forget one basic fact. Again, it is a fact; it is not BOB DOLE's fact or someone else's fact, or someone's view. It is a fact we have 700,000 jobs in America where we are, in effect, creating products we sell to Mexico. It is 700,000 jobs. Under NAFTA, that number is going to approach 1 million within 2 years. Since 1986, we have gone from a $5.7 billion trade deficit with Mexico to a $5.6 billion trade surplus.

Look at Japan. There is a high-wage country. People say wages in Mexico are not high enough; that is why we cannot deal with Mexico. We have about a $60 billion trade deficit with Japan, where the average hourly wage is around $14 or $15 per hour.

For all the reasons I hope to explain on a daily basis on the Senate floor, I hope we can consider NAFTA and pass NAFTA before Thanksgiving. We are not going to be exporting jobs to Mexico. We will just be exporting—exporting goods, exporting things that we make in the United States, exporting farm product. It is going to mean more jobs, and more jobs, and more jobs.

Yes, for Mexico, as their economy is going to get better. As it gets better, they are going to buy more from the United States. That means more jobs, and more jobs for people who live in the United States of America.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, before the distinguished Republican leader leaves the floor, may I just compliment him on his remarks this morning, and suggest in his presence here that if we have been, in the last 5 years, exporting more American goods and services to Mexico than ever before, thus creating jobs here, I wonder if he would share his logic as to what happens if we take down the trade barriers.

Americans must understand that right now there is an inhibition for American products to go to Mexico because they have tariffs that are, in most cases, three to five times higher than ours. So our businesses are penalized.

If we take those down, I ask my friend, Senator DOLE, what does he think would happen? Which is, in essence, what we are going to do with the trade agreement—take those tariffs down over time. What does he think would happen?

Mr. DOLE. Madam President, I think the conclusion is obvious. We are going to trade more and export more. Right

now, there is a little wall down there. It is a Mexican wall, not our wall. Our tariffs are very low. All this wringing of hands, how terrible it is going to be, that it means job flight and all that, they tell us in Detroit—and I was in Detroit a couple weeks ago—that in the first year after the agreement is reached, we were going to sell 1 billion dollars' worth of automobiles in Mexico. That is 12,000 to 15,000 new jobs right there.

You have to keep in mind that Mexico is not as big as the European economy—not much smaller; only 86 million people. But it is our third largest trading partner. Every time we spend a dollar in Mexico exporting goods, 70 cents comes to the United States. It is going to get better as the Mexican economy improves.

In my view, this should be, I guess—with Michael Jordan retiring—a slam-dunk, this agreement; but it is not.

Mr. DOMENICI. I think the Senator is right. I think when the American people understand all we can do is increase the things we sell to that country, thus creating jobs, they are going to be on our side.

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. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1021

Mr. DOMENICI. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. What is the business before the Senate?

The PRESIDING OFFICER. The pending question is the Feinstein-Boxer amendment, amendment No. 1021.

Mr. DOMENICI. Madam President, I will not speak long, but I want to address the amendment just briefly, and I am not managing this bill for the Republicans; Senator D'AMATO is. Obviously, Senator DOLE is concerned about this amendment, and a number of people on our side of the aisle are. Let me try to explain why.

First, in all deference to our two colleagues from California, led by Senator BOXER, who is here, I have worked with Senator BOXER for many years. She was on the Budget Committee in the House when I was working on our budgets here. But I do believe this amendment raises more questions than it answers.

Monday, on the morning that the Transportation appropriations bill was scheduled to be considered by the Senate, the administration sent up an—I do not want to say alleged; if they want to call it an emergency, they can—but they sent up a so-called emergency request to be offered as an amendment. This proposal calls for the appropriation of $315 million to be used in the reconstruction of a highway damaged in the 1989 California earthquake known as Loma Prieta.

The President has declared this $315 million dollars to be an emergency spending, and that is pursuant to the 1990 budget agreement. This earthquake occurred in 1989. In 1990, we created within the budget process a way that we could spend money in excess of our budgets without paying for it if it is an emergency. So if it is an emergency, you spend the money, and the deficit goes up because you are not required to pay for it as you would if you were going to add something that was not an emergency over and above the budget. That would be subject to a point of order. This will not be, if it is an emergency. We will just spend $315 million, adding directly that much to the deficit of the United States.

Now, the President can declare an emergency and ask Congress to concur that it is. But frankly, it was pretty well defined in the 1990 agreement what an emergency was and is; and I have very great doubts, based on the facts as I understand them, that this is an emergency contemplated by that 1990 agreement. Certainly, as I attempt to review it, I have serious difficulty on the facts as to whether we should pay this $315 million.

Now, frankly, that just leads me to the conclusion that we ought not do it on this bill. Frankly, it has waited a long time already.

In fact, I think the facts in that part of California, included citizens there saying you should not build it where it was but move it elsewhere, which I understand costs $200 million. And I understand that not by way of any hearing. I do not know if there has ever been any hearing on this issue. But I think Senator FEINSTEIN, who is now here on the floor, indicated in a statement yesterday that it costs $200 million for a new right-of-way alone.

Now, a new right-of-way means that we are not going to build this freeway like it was where it was, but somewhere else. Now, maybe that is the right thing to do. But I am not sure that is an emergency, when you move it from one place to another. It may just be what people want in the area.

Is that an emergency? If they want to build a freeway in a totally different direction and say we are not going to rebuild the one that was broken up by the earthquake, is the added cost for that an emergency? I am not saying today that it is not, but what I am saying is, these facts were known for a year and a half. That is my understanding. If I am wrong on the facts, whatever the distinguished Senators from California say with reference to when it was found out and what it is for, I am willing to listen to.

But it does not change the fact that you should not declare it an emergency when you have had facts and the evolution of this problem for a year and a half about an earthquake that occurred in 1989, with estimates of its reconstruction costs occurring not last week but a long time ago, and then take an appropriations bill and add one piece of a disaster and say, "Here, this is an emergency."

Frankly, if this is an emergency, it is the thought of the Senator from New Mexico that there are going to be other additions to the various disasters we have had. Why do we not wait and have hearings on them and pool them and declare an emergency for a number of them after we know precisely what we are doing?

The mere fact that this President sends a letter up saying it is an emergency does not necessarily mean that, without understanding precisely why, we ought to rubberstamp that.

And I might say that there are many wondering why we should pay for this—that it is not an emergency; that a substantial portion of it is not even an emergency under the 1990 act—because citizens wanted to change its route. And I understand that has been stated here, although part of the new costs might be because you need different engineering. Those things ought to come out in due course. This is serious.

While it is important that we do things like this and we help where we can, you know, we do pass budgets with caps, saying you cannot spend any more than this without taking a consequence.

Incidentally, Madam President, if you exceed the legal cap, the consequence is that you pay for it, you pay for that program that exceeded the cap.

How do you do it? Arbitrarily, the OMB Director—the Office of Management and Budget Director—by law, cuts all the programs of a similar type by an amount necessary to get that expenditure back down, not an inconsequential part of our attempt to keep the deficit under control; a pretty significant philosophy, theory, and reality check for everybody.

So, I believe that we understand this to be the case. We appropriated $2.8 billion for relief of this earthquake. One billion dollars of that was to the Federal Highway Administration. We did that some time ago, as we should have. Now we have a request for $315 million for added costs to the freeway and its reconstruction needs.

Now, as I understand it, the community there was instrumental in winning a relocation question. And, as I indicated, Senator FEINSTEIN yesterday said that the $200 million for the right-of-way was part of that cost that we are being asked to defray here today.

So, Madam President, from this Senator's standpoint, I do not like the way we are appropriating or budgeting for national emergencies. I think we ought to have a rather substantial portion of the moneys each year set aside for emergencies, even if we use some average of the last 4 or 5 years. It ought to be a rather large amount, so we do not have to exceed our budgetary caps every time a disaster comes along by finding it an emergency. We do not have to find it an emergency if we have the money to pay for it. It is just we do not have the money to pay for it, and we find an emergency and borrow.

Having said that, just so everyone will know, this becomes a rather big part of the American deficit, not just the $315 million. Since that 1990 budget agreement, domestic emergency spending has totaled about $14.3 billion. About $12.2 billion of that is already spent. Thus, we have added to our agreed-upon deficit that amount of new expenditures.

And, again, I am not trying to put this $315 million out of any proportion. But what I am saying is, these little bits kind of add up, such that we are exceeding our caps by almost $13 billion and we have done that by seeking emergency designations. So it becomes a rather significant experience in the budgetary prospects and processes of this country.

Again, I clearly recommend this amendment not be offered in this way; that it be pooled, and that in due course, if it and others are to be declared emergencies before we leave this year, before we adjourn, that it be done in an urgent supplemental appropriations bill of sorts that pools more of them and has some time for looking at them, having hearings on them and the like.

There are other Members on this side, and I would say quite a few, who are very concerned about using the emergency designation under these circumstances. This Senator, as best he can, suggested it ought not be offered here or that we ought to find a way to pay for it if it is going to be done here. And if it is truly an emergency when scrutinized, and we want to make decisions that facts like these do yield an emergency for spending, then we ought to do it with a little more thoughtfulness, a little more investigation. Because these are not normal facts regarding an emergency, nor was it just found out 2 or 3 days ago and thus brought to the floor as an emergency on this bill.

I thank the Chair and yield the floor.

Mrs. BOXER. Will the Senator be willing to yield to me, because I would very much appreciate asking him a question.

Mr. DOMENICI. Sure. I will be pleased to.

Mrs. BOXER. If the Senator just has a few minutes? If I can make a few comments and then get to my question, will he be willing to stay for about 5 minutes?

Mr. DOMENICI. I had not planned to, but I will.

Mrs. BOXER. Thank you very much, I say to my friend.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, first of all I really want to compliment my friend from New Mexico, who is certainly one of the leading experts on budget matters, for his comments and for the tone of his comments which I really take to heart. The Senator is raising legitimate questions that he has, yet he is leaving the door open. He is basically saying: Prove it to us, that this is an emergency. So I would like, before asking the Senator a question, to just go through briefly a couple of facts.

In October of 1989, northern California suffered a very severe earthquake. As the Senator probably remembers, it was the day of the World Series, so all of America saw the impact of that Loma Prieta earthquake on the San Francisco Bay area.

I have here a picture. It is not easily seen, but it is a picture of the Interstate 880, the Cypress link which, if the Senator might remember, collapsed. It was a double-decker freeway and the upper level collapsed; 42 people were killed. Very soon thereafter we had an emergency declaration which the entire Congress went along with. It was very timely. It was under President George Bush's leadership that we got that emergency designation.

The New York Times caption says, "Old structures fell, skyscrapers just swayed," and it is the picture of the freeway collapsing.

At that time we knew it was our obligation, the Federal Government's obligation, to move in and rebuild the Federal structure.

I want to make just a couple of points to the good Senator. This is a critical phase in the rebuilding of this structure, as Congressman RON DELLUMS pointed out in his letter that I put into the RECORD:

> The $315 million is the appropriation currently being sought. This is expected to cover the remaining needs to complete the Cypress project. There may be additional funding required for remaining work to be done in the city of San Francisco—the Embarcadero project and the terminal separation structure. The $315 million would probably complete most of the Cypress repairs.

I know the Senator raises questions, "Why did you not build it exactly the way it was before it went down? It might have been less expensive." I want to make this point clear to the Senator. He may be right. Maybe we will hold hearings to bring in the engineers. But there was consensus that in an area that is prone to earthquakes you do not want to rebuild a double-decker freeway. What you want to do is not have that double-decker situation where you can have a collapse of one level on another. So the decision was then that we will make a broader freeway. And when you made that broader freeway you realized you were splitting a community in half and you have to buy up so many businesses and homes, it was too expensive.

So they said OK, let us keep it in the same place and tunnel it. So then they took the estimates to tunnel it compared to moving it, and they found out it was $35 million more to tunnel it in the same area.

So I say to my good friend, this is not an easy rebuild situation. It took a long time for the environmental impact statement under Federal law—2 years. If the wheels of Government moved quicker I would not find myself in this situation, nor would Senator FEINSTEIN. We would have finished this.

This is a complicated situation when a Federal freeway collapses and I hope to God we never again face it anywhere, in New Mexico, in New York, in Illinois, in San Francisco, in Los Angeles. It is brutal. I hope we are not going to punish a community because it took that long a time to get everything done so we can rebuild this thing in a way that is safe and sound and we are never going to face this again.

So my question to the good Senator is this. If we were to hold some hearings, if we were to bring in the experts, if the Senator was satisfied that this is—as this Senator says it is—the final phase, would the Senator be open to going along with the spirit of Public Law 101-130 that we passed at the time that said, "Such other amounts that will be made available as required?"

In other words, the door was left open because we knew we might not know exactly what it would cost. I ask the Senator that question.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me say to my colleague Senator BOXER, first, interestingly enough I looked at the picture. I walked over there to see it because my mind's eye has a Giant baseball game occurring on that evening. Is that right?

Mrs. BOXER. It was the World Series. It happened to be, as I remember it, Oakland versus San Francisco at Candlestick Park.

Mr. DOMENICI. That is right.

Mrs. BOXER. The whole country saw that whole night. This particular freeway has a lot of significance for this Senator because my husband had gone over that freeway about 20 minutes before it collapsed.

Mr. DOMENICI. I also remember, in all deference to a great sportscaster—I do not want to belittle his long reputation—but that night made him a hero—that was Al Michaels Night— from the standpoint of the broadcasting industry. Everybody found out he was a very versatile reporter, as I recall. People thought he had that marvelous voice and he was good at reporting baseball games. It turned out he told the whole world about an earthquake. Then we saw this happening. But it was not until the next morning they found all those cars where the freeway had fallen down on them. So I recall it all. I am not standing here today saying there was not a great disaster and the U.S. Government should not do its share.

What concerns me is that this emergency designation—maybe not yours—but, the emergency clause, is the one way to avoid budget discipline. You might even recall—I do not want to bring up old wounds—but the President's whole stimulus package was brought before the Senate under that same provision. It was said we do not have to pay for it either. My recollection is it was $16 billion over time—is that a fair rough guess? If it would have passed there would have been the same little clause that gets the Senator's amendment in the door. And all of that money would have been spent by our Government without regard to the previous caps.

So it is not just something that I raise because it is $315 million and a California issue. We are going to be beset with this for the next 4 years. There is now another series of caps which we sold the American people as budget discipline. And we also said they are just as binding as they were in 1990. We also said if you exceed them you get an across-the-board cut on everything. So it is somebody's responsibility to look down here and say, "Wait a minute, we have to be very sure we are doing the right thing for all the people."

We could pay for that out of my colleague's allocation. That would not necessarily be fair. Or we could, say, pay for it by cutting other things. That is what the Senator would like to do and that would be perhaps most consistent with her sense of fairness.

On the other hand, to answer the Senator's question, if she were asking, if we had time for hearings and we had a chance to look at this, would the Senator from New Mexico keep an open mind on this being a disaster that we ought to pay for and use that escape clause? The answer is unequivocally "Yes." If the Senator is trying to do that in this bill by suggesting we do not have to put dollar numbers in but rather "such sums," frankly, I think that would almost be worse. So I really would not support that, because that would mean not only $315 million, but perhaps $500 million or $600 or $700 million? We ought not do that, and I hope that answers the Senator's question.

Mrs. BOXER. It is very helpful. I will say this amendment does cite a specific number. We do not leave the door open. I was merely quoting from Public Law 101–130 which was passed and signed by President Bush that only related to these natural disasters and not the same one that the stimulus package would have been under, which is a different clause. That is a painful wound. The last thing I want to do is debate that issue.

But this clearly came from President Bush's disaster relief bill, which we all voted for and he signed. Understanding that we did not know exactly what each project would cost to rebuild, the door was left open with that.

I say to the Senator, I am going to carefully think about what he has stated. I am going to talk it over with Senator FEINSTEIN. I am going to talk it over with the chairman of the subcommittee, Senator LAUTENBERG, and with Senator D'AMATO. After giving it some due consideration, I may go along with your idea, but at this point, I want to think it over a little longer and check with my colleagues.

Mr. DOMENICI. Madam President, might I speak for a moment without Senator BOXER losing her right to the floor?

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

Mr. DOMENICI. Madam President, let me say, that language, as I now understand, was the declaration of an emergency. But I believe it would be commonly understood in the Senate that when you put the flesh on that general statement, "this much and such sums," that you really are not declaring an emergency for anything other than the sums you appropriate then. And if there are more specific funds, you have to declare them an emergency again. Otherwise, every time we did that, there would be a total open-ended situation with reference to how much we would be willing to use the emergency clause for.

So as I understand it better, I would give you my interpretation that you still are going to have to get the actual $315 million appropriated, and if you do not pay for it, it is going to be an emergency, as you are proceeding now. I am willing to work with you. I hope we do not put it on this bill.

Mrs. BOXER. I thank the Senator very much. Just in concluding my remarks before the Senator goes off to his many obligations, I will say, this is a little bit reminiscent of perhaps a patient hurting his back and needing three treatments for the back and suddenly the insurance company says at the end of the second one, "Sorry, we are not going to pay for the third one."

This is the next and perhaps final payment of rebuilding Interstate 880. I will work with the Senator and will be back to the Senator to let him know how I will proceed.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, having listened carefully to Senator DOMENICI's concerns, and having followed the presentation of my colleague and friend from California, Senator BOXER, I join in urging her to pursue the possibility of an alternative course. I believe that it will result in a fuller appreciation of the damage, of the cause for this emergency being put forth in the manner in which it will encourage total support. I think we can do it quickly through a supplemental appropriation. It may be there are other Members who are concerned with other emergencies that have taken place. In concert, working together, plus hopefully, with the help of the administration and OMB, we may be able to resolve this. And, we can do it in a manner that really does the business of the people in a way in which we can all be proud, without being counterproductive in saying, "Well, why now? How come on this routine appropriations bill? How come at the last second?" et cetera. All those are questions that people legitimately have raised.

I urge my colleague and friend to pursue that course, and I can tell her that I know not only would Senator DOMENICI be supportive, but I certainly would be supportive of that kind of effort. Let us have that hearing, not to poke holes, but rather to have a full explanation, like the one you just put forth about the delay: Why it is that the administration requested $315 million in emergency aid at this time. We need to know that it is not simply a visit by the President to California that produced an emergency request for funds. I believe you do have a good case to put forth in a manner in which we can get a speedy resolution. Not to delay, but rather to encourage, that we go forward in a spirit of cooperation, therefore, I urge the Senator to consider that approach.

Mrs. BOXER. Madam President, I would like to say to my friend from New York, I greatly appreciate the spirit of his remarks. I know that we are going to be able to make a very clear-cut case for this. When he says "the business of the people," he is right. A lot of businesses are relying on us in California to rebuild this freeway. We have a horrible situation with 150,000 cars a day that are now going on to other freeways, frankly, putting a tremendous overload and burden on them. Our business at the Port of Oakland is suffering. Business is crying to get this done.

I look forward to being able to present a case. I was going to do it in the context of this debate, but hearing the concerns of my colleagues, I am going to pursue an alternative route.

At this time, I think the best course for me to take is to consult with my colleagues and make a decision shortly thereafter.

I ask the Senator this question: When does he foresee a supplemental appropriation coming to the Senate floor?

Mr. D'AMATO. I think that we can come up with some kind of a timeframe within the course of our deliberations. We, of course, must speak to the chairman of the Appropriations Committee, Senator BYRD, as well as to Senator HATFIELD, to get their advice and counsel. Certainly, I think it could be a matter that can be quickly accomplished. I do not want to conjecture and say a week or weeks, but I certainly do not think we are talking about next year.

Mrs. BOXER. So more than likely, without holding the Senator to this, it would hopefully be before the end of the fiscal year?

Mr. D'AMATO. Certainly before the end of the next fiscal year. But I think it can be done before we go out of session.

Mrs. FEINSTEIN. Will the Senator yield for a moment?

Mrs. BOXER. I will.

Mrs. FEINSTEIN. I have just been conferring with the chairman of the Appropriations Committee and the administration. I wonder if we might have a quorum call and be able to confer for a moment. 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.

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

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

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, because the chairman of the Appropriations Committee is on the floor, I wanted to have an opportunity to thank him for helping us with this problem. Both he and I have spoken with Mr. Panetta. I believe what is going to be worked out is that the measure will come through as part of a supplemental appropriations. Senators DOMENICI and D'AMATO have been most gracious.

I want to thank the chairman of the Appropriations Committee very much for his willingness to be helpful and his cooperation. I think we have a matter straightened out with the sense of timing that will be much more constructive to producing a positive outcome.

I want to thank my colleague, Senator BOXER, very much.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia, the President pro tempore, is recognized.

Mr. BYRD. Mr. President, I congratulate the two Senators from California. They are looking out for their people, looking out for the interests of their State. I am very sympathetic with their need.

The timing of this matter has created some problems, with the hearings and the markup on the bill having proceeded to the point now that the bill is about to pass the Senate. I have talked with Mr. Panetta and suggested to him that if the need is absolutely there for moneys, additional moneys this year, I suggested that another supplemental be started in the other body providing for this emergency.

He said that he would check it out. And he called me back, and said that the supplemental in the early part of next year could be acted upon in sufficient time to actually meet the need of the situation in California.

I discussed this with the two Senators, as has Mr. Panetta, I believe, by now. And it has been agreed that the matter be brought up in a supplemental.

I want to assure the two Senators from California that I will do everything I possibly can to be helpful, and I am sure the chairman of the subcommittee will be likewise. I just think that the timing is so important at this point that it will be better for us to wait until the supplemental.

I thank the Senators from California for their understanding, for their cooperation. And I appreciate the fact that they discussed this with me and the fact that they want to do what is best for their State and for all concerned at this point. They certainly will have my support as we move into a supplemental. I will do all that I can to expedite the action on that bill and to help them in every way.

I thank them.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG] is recognized.

Mr. LAUTENBERG. Mr. President, as we review the discussions that have taken place on this matter, I do want to say that I as the chairman of the subcommittee tried very hard to enable the Senators from California to present their case because I view what they have presented and the information we have gotten generally, staff to staff, as well as having a case that really is deserving of the kind of attention that it has been getting.

I worked very closely—when Senator BOXER introduced this legislation last night we were obviously aware of the fact that there was going to be some question about whether or not we could pass it. So I just want to assure the Senators from California that I, who have the responsibility for moving this legislation through appropriations, have a very sympathetic ear. We will try, if it is deemed necessary, to hold or to have hearings available. I understand the ranking member made some commitment or some suggestion as to that. But I as chairman will have a word to say in the process.

I am glad that Senators from California took my recommendation and discussed their ideas with the chairman of the Appropriations Committee and other people in leadership so that we could resolve this as amicably as we can despite the disappointments. I know that is considerable. But I want to assure the Senators from California that I will again be as helpful as I can be if a supplemental is proposed. I know that a commitment was made by the administration. Thusly, we know that that was a very serious commitment. We want to be able to help the process of that promise.

So I commend the Senators from California for their diligence and for their ever-vigilant review of things that affect their State, affect the transportation. They come to me frequently, as you can imagine. We have discussions about their needs.

It is kind of the opposite of New Jersey where we have the most densely populated State in the country and we have to kind of guard every inch. They have the same congestion problems, the same traffic, and the same transportation problems. So we have a kinship, and I enjoy working with both Senators from California. I look forward to trying to do so to get this very important matter done at the earliest opportunity.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I am awaiting a conversation with the majority leader, and then I will withdraw my amendment. He has asked that I hold off until he has a chance to discuss with both Senator FEINSTEIN and myself what the commitments are here.

I want to say in behalf of myself and Senator FEINSTEIN, who spoke eloquently for herself, how appreciative we are to the Senators from both sides of the aisle for their understanding.

I do not think anyone will forget the scene of that collapsed Cypress Freeway, that interstate freeway that killed 42 people. I do not think anyone in the Senate is going to walk away from the responsibility of finishing that rebuilding effort.

I was prepared, as was my good colleague, Senator FEINSTEIN, to put forward the merits of our case, which we feel are absolutely solid. But it is very clear that process here is intervening in that, and we feel the good will of the Senators on both sides of the aisle—Senator DOMENICI, Senator D'AMATO, Senator DOLE, and certainly on our side, Senator BYRD, Senator LAUTENBERG, and Senator MITCHELL.

So we feel very confident today that this freeway will be rebuilt. Before I withdraw that amendment, I just ask the chairman, Senator LAUTENBERG, if he would not object, or if Senator D'AMATO would not object to laying my amendment aside for the moment so they can continue on with the pressing business they have, I make that unanimous-consent request.

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

Mr. DOLE. Mr. President, does the manager want me to offer my amendment?

Mr. LAUTENBERG. Yes.

Mr. DOLE. I say to the manager, I think there is my amendment and maybe one other, which I understand may be acceptable. Then I think we would be ready for the vote.

Mr. LAUTENBERG. If the Republican leader will yield, I think there are two others. But we are now at a point where we can move this along and conclude the debate, get a vote and get this transportation bill on track.

Mr. DOLE. Mr. President, the managers might be able to finish this bill within the hour. I admonish my colleagues, if you have amendments, let us try to accommodate the managers. They have been here waiting most of the morning. If there are any Republican amendments, let us come to the floor. We are not encouraging any more, but if there are some, bring them in.

AMENDMENT NO. 1023

(Purpose: To appropriate funds for the payment of legal expenses of certain former employees of the White House Travel Office)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. BOND, proposes an amendment numbered 1023.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, insert between lines 11 and 12 the following:

For the necessary legal expenses of the 5 former employees of the White House Travel Office who were placed on paid administrative leave during calendar year 1993, $150,000 to be made available to the Office of the General Counsel: *Provided*, That such funds shall be deposited in a Fund established by the General Counsel: *Provided further*, That the General Counsel shall disburse a portion of such funds to any such employee—

(1) after submission of a valid claim for reimbursement of necessary legal expenses incurred as a result of an investigation conducted by the Federal Bureau of Investigation of the operations of the White House Travel Office during calendar year 1993; and

(2) upon notification or finding by the Department of Justice that such employee is not a subject of such investigation.

On page 3, line 14, strike out "$1,538,000" and insert in lieu thereof "$1,388,000".

Mr. DOLE. Mr. President, the White House tried gamely to ground the so-called Travelgate affair when it prepared its own management review last July. But, in the final analysis, this internal report offered few answers and raised even more troubling questions—questions about conflicts of interest, and about the political manipulation of the FBI and perhaps the IRS.

The exhaust fumes from Travelgate linger even today.

Since July, calls for congressional hearings have gone unheeded. Deputy Attorney General Philip Heymann has flatly rejected my request for the appointment of a special counsel. And the General Accounting Office, which was directed by Congress to initiate its own Travelgate investigation, has issued an interim report that is short on findings and long on the bureaucratic obstacles encountered by GAO investigator.

Perhaps coverup is too strong a word, but it appears that both the White House and the Justice Department are giving the GAO something close to the stiff-arm treatment.

REMEMBER THE VICTIMS OF TRAVELGATE

But, for a moment, let us forget about coverups and culprits, and remember the real-life victims of Travelgate.

The victims of Travelgate are the five travel office employees who woke up one May morning only to hear their good reputations smeared on national television by an incompetent White House staff. After the slanderous TV attack, the employees were summarily fired from their jobs, accused of gross mismanagement, and told they were the subject of an FBI criminal investigation.

As it turned out, the only ones guilty of gross mismanagement were the White House staffers themselves, who tried to hide their own misconduct by pinning the blame on the very people whose livelihoods they were jeopardizing.

Five of the travel office employees have since been placed on paid administrative leave. They are in the process of being reassigned to other jobs in the Federal Government. And they have been told by the Justice Department that they are no longer the subject of an FBI investigation at this time. Their good names have been restored.

The story, unfortunately, does not end here. Like most Americans who have had the discomforting experience of being targeted by the FBI, the travel office employees immediately sought legal help and as most of us know, hiring a good lawyer can be expensive.

News reports indicate that each of the five travel office employees has incurred a legal bill of $30,000 or more, for a combined total bill of approximately $150,000. This $30,000 bill is nearly half of each employee's annual salary.

News reports also indicate that White House Chief of Staff Mack McLarty had considered paying the legal bills from a Justice Department fund for litigation-related settlements, but declined to do so when he learned that certain legal requirements had not been met.

Now, this amendment can never make the travel office employees completely whole nor should we expect them ever to forget the unforgettable Travelgate experience.

But, by appropriating $150,000 for a Travelgate legal defense fund, this amendment would relieve some of the financial burden imposed on the employees and their families.

The fund would be administered by the Office of the General Counsel in the Department of Transportation. Payment would only be made for necessary legal expenses and upon presentation by each of the five employees of a valid claim for reimbursement. Payment to each employee would also be contingent on notification by the Justice Department that the employee is no longer a subject of an investigation.

As an offset, the amendment reduces by $150,000 the appropriation for the Transportation Department's Office of Public Affairs.

This amendment will not clean the Travelgate slate entirely. But it is a small gesture of goodwill to those five American citizens who have experienced Government at its very worst and indeed most frightening.

Mr. President, I ask unanimous consent that an editorial that appeared in Monday's edition of the Washington Times be inserted in the RECORD immediately after my remarks.

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

[From the Washington Post, Oct. 4, 1993]

FOOTING THE LEGAL BILL FOR TRAVELGATE

The scandal of the White House travel office will not, despite the Clinton administration's best efforts, stay put under the rug. The latest eruption occurred Sept. 17, when White House Chief of Staff Thomas F. "Mack" McLarty refused a request from Rep. Frank Wolf to pay $150,000 in legal bills incurred by five of the office employees who were summarily fired in May.

To refresh our memories as to the circumstances of that firing: Bill Clinton's cousin, Catherine Cornelius, and his friend Harry Thomason, got together last spring to reorganize the office. Miss Cornelius, who had her eye on the directorship of the office for herself, went to work in the office and "overheard" conversations that led her to believe its employees were living beyond their means. Mr. Thomason, who has a financial interest in an aviation consulting company and lots of friends in the travel charter business, was hearing complaints from them that they couldn't get a financial foot in the travel office door. The two took their suspicions and complaints to Mr. McLarty's staff, who called in an outside accounting firm and the FBI. When evidence was supposedly found of gross mismanagement of office funds, all seven veteran travel employees were ordered out of the office, with only hours' notice.

The extreme fishiness of Ms. Cornelius' and Mr. Thomason's role, the rather premature involvement—at the behest of the White House—of the FBI, the release of unsubstantiated accusations against the travel office staff, and its summary firing aroused a flurry of demands for an investigation. So Mr. McLarty, with the aid of Office of Management and Budget director Leon Panetta, conducted one. The subsequent report laid the whole mess at the door of overzealousness, ineptitude and "insensitivity" in the White House. The director of the travel office and his deputy retired from government service and remain targets of an FBI investigation—though after four months, charges have yet to be filed. The other five, who had no financial responsibility in the office, quickly had their status upgraded from "dismissed" to "on paid administrative leave." Last week, all were offered new jobs in the government—though not in the travel office.

In the meantime, though, all five had hired lawyers to protect themselves from the White House slanders against them, and to ensure that those new jobs would indeed be forthcoming. Their legal bills, $30,000 apiece, amount to more than half a year's salary for each of them. In his letter to Mr. McLarty, Rep. Wolf, a Northern Virginia Republican, asked "How can mid-level federal employees afford such fees? Why should federal employees who have been found to have done nothing wrong be subject to such financial and emotional havoc?"

Mr. McLarty's response: "We believe that we have worked painstakingly to find appropriate positions for each of these five employees and that we have tried very hard to be responsive to their interests and concerns. We wish that this matter had been handled differently, but we do believe we have made diligent efforts since that time to be fair and reasonable." Though he had considered paying the bills from a Justice Department fund for "litigation-related settlements," it turned out, he said, that the "program has certain specific requirements that have not been satisfied here." In other words, tough luck.

Mr. McLarty ought to try a little harder to find a way to help these people, whose present difficulties stem entirely from the high-handed arrogance of his own staff—not to mention the sleazy behavior of his boss' friend and relative. If no government money is available, he might consider passing the hat among the president's cabinet—all people of considerable means. Perhaps even Harry Thomason, who has never blushed to boast of his own financial standing, could be induced to cough up a few bucks to redress the injury his machinations did these "mid-level federal employees."

Mr. LAUTENBERG. Mr. President, we can accept the Senator's amendment.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

So the amendment (No. 1023) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1014

Mr. D'AMATO. Mr. President, I believe an amendment on behalf of Senator BOND has been laid aside.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. Mr. President, at this time, I ask unanimous consent that that amendment be taken up and that it be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 1014) was withdrawn.

Mr. BOND. Mr. President, due to the terrible flood conditions in the Midwest this summer, 15 airports in Missouri have suffered damage currently estimated at nearly $14 million. Another wave of flooding over the past 2 weeks has put several of these airports under standing water again, meaning that the cost of repairing the damage will likely escalate.

Mr. President, I heard from airport directors of aviation and from Missouri State officials about the problems and expense associated with the damage. With one exception, each of the 15 airports was under 10 to 20 feet of water for a period of weeks. Six of the eleven St. Louis area airports were flooded and four of these six are designated by the Federal Aviation Administration as reliever airports for St. Louis-Lambert International. The Spirit of St. Louis Airport is the second busiest airport in the four State region of Iowa, Kansas, Nebraska, and Missouri—second only to Lambert. I was told that in the St. Louis region, over 1,100 aircraft were forced to be relocated raising significant safety issues to both ground and air operations. Significant damage was also sustained at Rosecrans Airport in St. Joseph which is home to an Air National Guard unit, the Jefferson City Memorial Airport in my State's capitol, Perryville Municipal, and other important facilities.

Unfortunately, the emergency supplemental flood relief bill agreed to by Congress in August provided no special funding for flood-damaged airports. As the President knows, special money was provided for roads and bridges and rail and levees, but not for airports. Further, FEMA will not pay for damage that is eligible for FAA funding such as runways, taxiways, and lighting systems. This situation left airports and the State of Missouri in the position of having to absorb $4.8 million in damages—beyond what the State will finance already. Mr. President, it is simply unfair that this situation developed in the first place and critical that it be corrected to restore the air operations in Missouri that are critical to the economic health of the region.

Consequently, I have proposed an amendment with Senator DANFORTH to the fiscal year 1994 Transportation appropriations bill to earmark $6 million of Airport Improvement Program dollars for the purpose of repairing and rebuilding airports damaged by the flood. I want to thank the chairman of the subcommittee and the ranking member for their cooperation and support in attempting to remedy this situation in the bill. While everyone has agreed that the situation urgently needs correcting, jurisdictional questions were raised with respect to our amendment. I understand the Senate Commerce Committee will soon be reauthorizing the Airport Improvement Program and I urge the committee to review provisions of law as they relate to disasters to ensure that FAA has the necessary money, authority, and flexibility to respond quickly and fully.

In the meantime, I have been contacted by Joe Del Valzo, the Acting Deputy Administrator of FAA. In that conversation, Mr. Del Valzo gave me a personal commitment that FAA will move swiftly to provide the $4.8 million in FAA eligible damage and gave me further assurances that FAA will be there should additional damage be eligible for FAA assistance. He assured me that Missouri will not be left holding the bag or forced to reprogram their existing AIP block grant money. In other words, Missouri will not be forced to take money away from some airports to pay for damage incurred at other airports. Therefore, flood-damaged airports can receive the Federal assistance they deserve without compromising the ongoing program to ensure safety, to maintain capacity, and to develop additional capacity where necessary.

Based on this commitment, I am pleased to announce that this matter will be swiftly, adequately, and appropriately addressed by the FAA, and therefore, I will not pursue the amendment offered by myself and Senator DANFORTH.

AMENDMENT NO. 1024

(Purpose: To initiate new State-supported train service)

Mr. D'AMATO. Mr. President, I send an amendment to the desk on behalf of Senator LOTT, and others, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. LOTT, for himself, Mr. COCHRAN, Mr. BREAUX, Mr. JOHNSTON, Mr. SHELBY, and Mr. GORTON, proposes an amendment numbered 1024.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . If any State or local interest, within one year following the date of the enactment of this Act, can demonstrate to the satisfaction of the National Railroad Passenger Corporation that such State or local interest can cover any potential operating losses, including the cost of equipment depreciation, or that the National Railroad

Passenger Corporation will not incur or absorb any part of operational losses, including the cost of equipment depreciation, due to the initiation of new State-supported service, the Corporation shall initiate such new service provided that the corporation determines equipment is available to initiate such service.

Mr. D'AMATO. This amendment would apply to new Amtrak services, provided they can cover various costs of operations and equipment depreciation, as well as there being equipment available. There will be no financial impact, and it has indeed received bipartisan support. A number of Senators, whose names I believe are included on the amendment, are also supportive.

Mr. LAUTENBERG. Mr. President, the committee has typically taken a firm position throughout the entire process to reject all attempts to oppose any additional operating losses on Amtrak.

We have had several requests from Senators in many regions to initiate new train service that will add to Amtrak's operating loss. We have rejected them all.

As the committee report makes clear, Amtrak's deteriorating revenues have led to dire consequences to railroad service around the Nation.

Even though the committee recommendation provides $20 million more than the budget request for Amtrak operation, the amount provided is a freeze at the 1993 level. And even at this level of funding, Amtrak has made clear that it will be required to impose service reductions in 19 States across the country, and many of those States have Senators in this room.

I have a letter from the President of Amtrak insisting that we turn down all amendments that will add to the operating loss of the railroad.

I ask unanimous consent that the letter that I received from Mr. Claytor be printed in the RECORD.

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

NATIONAL RAILROAD PASSENGER CORPORATION,
Washington, DC, September 29, 1993.

Hon. FRANK R. LAUTENBERG,
Chairman, Subcommittee on Transportation and Related Agencies Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your efforts to provide Amtrak with the best possible funding level. I appreciate your strong support for rail passenger service.

I recognize that you have done everything you possibly can to provide $351 million for Amtrak operations. There is no question that the mechanism for scoring outlays for Amtrak operating funds makes it much more difficult to improve on what you have already done.

As you know, even at the $351 million level, Amtrak is preparing to reduce service on a number of routes throughout the national system. Also, I have asked every function within Amtrak to reduce their operating costs for a total additional savings of over $20 million. Therefore, I would urge you to resist any amendment that would require Amtrak to operate more service than we are able to do at the proposed $351 million funding level.

We want to be able to operate the safest and most efficient rail passenger system that we possibly can, and I know you understand that we cannot do that if Congress attempts to impose costs on Amtrak that are not realistic.

Again, thank you for your strong support.

Sincerely,

W. GRAHAM CLAYTOR, Jr.,
President.

Mr. LAUTENBERG. However, the Lott amendment takes a different approach to initiating new Amtrak service. The Lott amendment requires that the affected States and local communities demonstrate that Amtrak will encounter absolutely no operating losses in initiating new services, or the States and localities will be required to finance all such operating losses, including the depreciation costs of Amtrak's equipment.

Moreover, the Lott amendment will allow for the initiation of new service only in those instances that Amtrak confirms that equipment is already available for the initiation of such service.

In summary, Mr. President, the Lott amendment allows new service when it is absolutely at no net cost to Amtrak, and as such I am prepared to accept the amendment.

Mr. GORTON. Mr. President, I am pleased to cosponsor the amendment offered by my distinguished colleague, Senator LOTT.

The committee has included a provision in this bill which prohibits the initiation of State-supported Amtrak service for fiscal year 1994. This provision could effectively bring much-needed Amtrak projects, such as the Seattle to Vancouver, BC, route, to a screeching halt.

This amendment takes a reasonable approach to addressing the committee's concern that Amtrak would be footing the bill for the operating losses a new route may incur initiation, while at the same time, allowing projects, such as the one in the Pacific Northwest, to stay on the fast track to implementation. Under this amendment, States must guarantee that they will underwrite any operating losses the route may incur, or demonstrate that the new route will not incur operating losses. Should they meet this requirement, they will be able to initiate the new service.

We are holding onto an optimistic estimate of being able to initiate Seattle to Vancouver, BC, service next summer. Without this amendment, we will be forced to wait until Congress considers this program again for 1995. The transportation alternatives available to northwesterners are few, and yet the need for them is acute. As we move forward with our rail projects, we must have the ability to initiate service at the earliest possible date. This amendment will give us the authority to do so.

I encourage my colleagues to support this reasonable amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

So, the amendment (No. 1024) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1025

(Purpose: To make a technical correction concerning the route of a high priority corridor of the National Highway System.)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of Senator JOHNSTON and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. JOHNSTON, proposes an amendment numbered 1025.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 68, between lines 5 and 6, insert the following new section:

SEC. 345. Paragraph (18) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032) is amended to read as follows:

"(18) Corridor from Indianapolis, Indiana, through Evansville, Indiana, and Memphis, Tennessee, traversing Arkansas and Louisiana, to Houston, Texas.".

Mr. LAUTENBERG. Mr. President, this is a technical amendment. It has been reviewed with my colleague, the ranking member of the subcommittee, and unless he has a statement I would urge the adoption of the amendment.

Mr. JOHNSTON. Mr. President, this amendment is designed to clarify language presently contained in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA]. Under the present language of ISTEA, questions have been raised within my home State of Louisiana as to what potential routes for the proposed extension of Interstate 69 Indianapolis, IN, to Houston, TX, and beyond to the United States-Mexico border, may be considered. In an effort to clear up these questions, the Federal Highway Administration has held numerous talks with the Louisiana State Department of Transportation and Development and has stated in writing that all feasible routes for I–69 within Louisiana, as in all other affected States, will be considered equally. Nevertheless, questions persist.

Therefore, I am submitting this amendment in an effort to clear up these enduring questions. The clarifying language in my amendment does not change any outcome or previous directive under section 1105(c) of ISTEA. Moreover, this amendment does not require the allocation of any funding for this proposed project nor does it have any effect whatsoever on the bill's 602(b) allocation. What is does do is to clearly and unequivocally state that all feasible routes within Louisiana, as determined by the Federal Highway Administration in coordination with the Louisiana Department of Transportation and Development, will be equally considered for the proposed extension of Interstate 69.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

So, the amendment (No. 1025) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 50, LINE 22 THROUGH LINE 25 AND THE COMMITTEE AMENDMENT ON PAGE 59, LINE 13 THROUGH LINE 21

Mr. LAUTENBERG. Mr. President, I know of no further debate on the two remaining committee amendments, and I urge their adoption.

The PRESIDING OFFICER. Without objection, if there is no further debate the two remaining committee amendments are agreed to.

So, the committee amendment on page 50, line 22 through line 25, and the committee amendment on page 59, line 13 through line 21 were agreed to.

Mr. DOLE. Mr. President, I understand the Senate Appropriations Committee did not include any earmarks for buses and bus facilities in the Transportation appropriations bill. The House of Representatives, however, earmarked over half of the entire amount allocated to this account. I hope that when the bill is in conference, the conference committee either eliminates all earmarks or divides the earmarks fairly between the Senate and the House.

If the conference does decide to earmark specific projects in conference, I would like the Members to give special consideration to two projects. The first is $10.75 million for the Topeka Metropolitan Transit Authority to purchase 30 handicapped accessible buses, $7.5 million; to build a covered downtown transfer center, $2.5 million; and to provide modifications to the bus garage, $750,000. These funds are urgently needed by Topeka to enable the city to conform to the Americans With Disabilities Act.

The second funding request is $4.5 million for Corpus Christi, TX. The project is funded in the House report, and I urge the Senate conferees to support it in conference. A portion of the funds would be used to purchase nine experimental low-floor buses that would provide accessibility to the handicapped at a more modest cost than current bus designs. Chance Coach in Wichita, KS, will design and build these buses.

Mr. LAUTENBERG. I appreciate the Senator bringing these projects to my attention. As he knows, as we stated in the report, we believe that the Federal Transit Administration should give high priority consideration to those transit properties that need discretionary bus funds to meet Federal requirements imposed by the Clean Air Act and the Americans With Disabilities Act.

Mr. D'AMATO. I agree with the Republican leader that should the conference committee on this bill report back earmarks in the transit discretionary bus program that important Senate projects, like those in Kansas, should be included. As we know, the House earmarked over 70 percent of this program and the Senate version included only one earmark for Hawaii. Many States have important bus projects that deserve consideration in our report. New York, for example, needs more clean burning alternative-fueled buses. I have requested funds to provide about 46 alternative-fueled buses for Nassau County, and I intend to push for these funds in conference. I am in agreement with the views expressed by Senator DOLE and other colleagues who have urged this committee to fund Senate bus projects on an equal footing with House bus projects.

Mr. SIMPSON. I would thank my colleagues on the Transportation Appropriations Subcommitee for their consideration of a particular need of ours in Wyoming—the Sweetwater County Transportation System—and our request for support in creating a commuter bus line.

As I expressed to the ranking member and the chairman of the subcommittee in a letter this past summer, my fine Wyoming constituents in Sweetwater County must travel greater distances than most other people on a daily basis to get to and from work.

This Wyoming community's efforts to obtain a bus system have persisted for many years. I stand in strong support of their tireless work. I understand and support the committee's efforts to reduce earmarking funds except in the most urgent circumstances, such as the tragedy resulting from the hurricane in Hawaii.

I would ask the ranking member, however, what process he would suggest we pursue to ensure that this very worthy commuter project is addressed by this legislation? It was my understanding that this is exactly the type of project for which these discretionary, section 3 grant Federal funds are allotted.

The U.S. Department of Transportation, the Transportation Committee, and the Wyoming State Department of Transportation were all under the impression that these funds could be allocated through the earmarking process. I would inquire of my colleague if there is a manner to address this matter in the conference committee, and if he believes the committee would work to help us meet the funding needs of this project?

Mr. D'AMATO. I thank my colleague. I will work closely with Chairman LAUTENBERG during the conference process to assure that the Senate's needs for bus projects, such as the one mentioned by my colleague from Wyoming, are appropriately addressed.

ADVANCED LANDING SYSTEM

Mr. HATFIELD. Mr. President, I would like to engage the chairman of the subcommittee in a colloquy concerning the advanced landing system.

As the chairman is aware, last year the subcommittee included language in its report directing the Federal Aviation Administration [FAA] to work with the Defense Department to provide assistance that would support the commercial viability of the advanced landing system. This innovative new technology is a low-cost landing system designed to improve the safety and utilization of aircraft in all-weather conditions at airports and heliports. It was the topic of outside witness testimony received by the subcommittee earlier in the year.

Is it the chairman's understanding that the intent of the subcommittee was to continue to direct the FAA to monitor the work being undertaken by the Defense Department with regard to the advanced landing system?

Mr. LAUTENBERG. The Senator is correct.

Mr. HATFIELD. Further, is it the chairman's intent to pursue the inclusion of language similar to that contained in last year's report when he meets with the House in conference?

Mr. LAUTENBERG. The Senator is correct. The subcommittee will take this matter up in conference with the other body.

Mr. HATFIELD. I thank the chairman for his assistance in this matter.

FUNDING FOR STATE ROAD 153

Mr. DECONCINI. Mr. President, I would ask if the manager of the bill, Chairman LAUTENBERG, if he would entertain a colloquy concerning the State Road 153.

Mr. LAUTENBERG. Mr. President, I would be very pleased to do so for my good friend and distinguished colleague from Arizona.

Mr. DECONCINI. I wrote to Chairman LAUTENBERG in July of this year requesting funding for a very important multimodal project benefiting the passengers and air cargo users of Sky Harbor International, the country's 14th

busiest airport. The appropriation for the construction of State Road 153 provides an efficient connection between Sky Harbor Boulevard, the airport arterial road, and the East Papago, Hohokam, and Maricopa Freeways serving east Phoenix and the cities in the east valley.

When the city approached me with its request, city officials indicated that the State and the city would be contributing $15 million in related construction projects. The Federal funding requested was for a bridge across the Salt River on the Hohokam Expressway between University Drive and Sky Harbor Boulevard and part of the roadway at both ends of the bridge. I requested a fiscal year 1992 appropriation for $19.6 million for the project.

Thanks to your assistance, the committee provided $5 million for the project for fiscal year 1992 and was very helpful again last year by providing another $6 million for fiscal year 1993. My fiscal year 1994 request asked that $8 million be provided to complete the funding package for the project.

I ask the chairman to provide the city with a final funding allocation for fiscal year 1994. When we first approached the committee in 1991, I understood that it would be best to spread the funding for the project over several years. I recognize as a member of the Appropriations Committee that there is some risk associated with counting on annual appropriations. However, the committee has been most helpful in this regard and I ask that my final request for this project be included in your bill.

Mr. LAUTENBERG. My good friend knows that I understand the importance of this project to the city of Phoenix and other cities served by the freeway system to the east of Sky Harbor International Airport. I understand that the money for this project has not been spent on the project and the rationale for delaying the overall construction bid. In these times of scare funds and budget reductions, I am obligated to make sure that available dollars are spent on the projects with the highest need. How soon will the project start construction?

Mr. DECONCINI. The city has acted wisely in my judgment by waiting to actually start construction of this project. First, the city had begun to look at the realignment of the roadway about the time that we first appropriated money for the project because of the possibility of making more land available for a new aircraft maintenance facility east of one of the runways. The realignment was made and the city has paid all of the associated costs with the redesign. Finally, the project will be bid in early 1994 and benefit from the total be bid at one time rather than a piecemeal fashion. Moreover, the city has avoided the risk over exceeding its obligational authority which is statutory prohibited.

I recognize the chairman's interest in making sure that money be spent where it has the most impact. I assure him that the project will be consistent with that approach. Incidentally, Phoenix was selected in early September as one of two winners of the Bertelsmann Foundation Award for the best run city in the world. Bertelsmann AG is the second largest media organization in the world behind Time Warner Inc., and makes the award annually for "innovative approaches * * * that helps shape and further develop democratic societies." I know that our investment is in good hands in Phoenix.

I would ask that should the conferees consider items which have previously received appropriations, but are not currently authorized, I would hope that my good friend would give every consideration to the funding of this most important project for the city of Phoenix.

Mr. LAUTENBERG. I assure the Senator from Arizona that I will give every consideration to the request for $8 million for State Road 153.

Mr. DECONCINI. I thank the Chairman.

MICHIGAN PROJECTS

Mr. RIEGLE. I would like to engage the distinguished chairman of the Transportation Appropriations Subcommittee in a colloquy about a number of projects in my State of Michigan.

Mr. LAUTENBERG. I would be pleased to participate in a colloquy with my colleague from Michigan.

Mr. RIEGLE. As the chairman knows, recent Transportation appropriations bills have included funding for a number of discretionary projects, including four important projects in Michigan. The Michigan projects are the M-59 corridor, upgrading the road around Detroit's Metro Airport, building Bristol Road as part of the effort to rehabilitate Bishop Airport in Flint, and upgrading Walton Boulevard. These are from between one-half to three-quarters completed; in fact, construction is underway and causing traffic delays in some cases. Most could be completed with 1 more year of funding. Unfortunately, none of them has received funding in this bill. And while the State of Michigan has included them in their plan, State resources are inadequate to fund them because Michigan is a donor State under ISTEA.

As the distinguished chairman knows, my preference would be to offer an amendment to this legislation to provide funding to allow these projects to be continued as they meet important needs in their communities.

Mr. LAUTENBERG. As my colleague from Michigan knows, this committee has supported these projects in previous fiscal years. As my colleague from Michigan knows, I would like to be able to accommodate his request. However, our 602(b) allocation was extremely tight this year and did not allow us to fund some projects we had previously supported unless they were specifically authorized to receive general funds including those cited by the Senator from Michigan.

Mr. RIEGLE. Would the chairman be willing to consider supporting restoration of funds for these projects in conference? As the chairman knows, Michigan is a donor State under ISTEA and these appropriations are very important to completing these ongoing projects.

Mr. LAUTENBERG. I appreciate the Senator's concern about this. As difficult as the parameters are in this situation, I will do what I can for the Senator.

Mr. RIEGLE. I understand that it is not easy to be an Appropriations subcommittee chairman and I appreciate the chairman's willingness to discuss these important projects with me.

AMERICAN AUTOMOBILE LABELING ACT

Mr. MCCONNELL. Mr. President, I rise today to express my concerns about a rulemaking currently under way by the National Highway Traffic Safety Administration [NHTSA] which would require auto manufacturers to affix on the window of new cars a label with information about the origin of a car's parts and equipment. The law which mandates that NHTSA undertake such a rulemaking—the American Automotive Labeling Act [AALA]—was attached to the fiscal year 1993 Department of Transportation appropriations bill in the closing days of last Congress.

What is becoming readily apparent, Mr. President, is that in our haste to rush something through Congress at the last minute—ostensibly designed to help consumers—we have saddled NHTSA with the job of creating a consumer information label that will confuse and mislead the car buying public.

Mr. President, let me say that I fully support disclosure of accurate and meaningful information for use by consumers in making purchase decisions. But it appears that the information on the window sticker developed by NHTSA will misinform consumers about the origin of a car's parts and components.

For example, the method for determining the origin of a car's parts is so outrageously convoluted that NHTSA's own analysis of the act indicates that the same car with identical parts could have a United States-Canadian content as high as 53 percent or as low as 11 percent. Grossly misleading information of this nature will make the label near meaningless.

Next, the act defines "carline" so that the United States-Canadian parts content of cars produced in the United States apparently must be averaged

with similar models produced in foreign countries. This will serve to understate the U.S. content of cars produced in America and overstate U.S. content in cars produced abroad. Not only will this confuse and mislead the car buyer, but it will dilute the labor performed by hard working Americans here at home.

Mr. President, it is my understanding that NHTSA will shortly be issuing a notice of proposed rulemaking. We need to follow this rulemaking closely to ensure that NHTSA promulgates a regulation with information that is accurate, understandable, and meaningful to consumers. If not, the Senate should revisit this issue and develop something that does provide the American car buyer with the best information possible.

CONCERNS REGARDING THE AMERICAN AUTOMOBILE LABELING ACT

Mr. MATHEWS. Mr. President, I rise in support of the concerns expressed by my colleague from Kentucky, Mr. MCCONNELL. When my fellow Tennesseans walk into a car dealership to purchase a car, I expect them to be given meaningful information to help them decide which car is the best one to meet their needs. Some will want to know if a car was built by their neighbors down the road in Smyrna or Springfield, TN, or up north at Georgetown, KY. Others may want to know how much of their car comes from Canada, Mexico, Japan, or the United States. These are valid questions, and if the U.S. Government is going to require that manufacturers make this kind of information available, then we should also require that the information be fair and accurately presented in a way that is useful to the American public.

Right now, as my colleague stated, NHTSA is trying to finalize its proposed rules for the legislation so hastily passed last year. I have my doubts about whether NHTSA can accomplish the mission presented it by this body last year. From what I have heard, it seems as if the law that was passed may have contained too many twists and turns in the required process for any information it mandates to be useful to the American public.

When the proposed rule comes out, as it is expected to do any day now, I plan to see whether it in fact does provide the kind of information that consumers can trust. If it does not, and if the reason it does not is because of the underlying law, then I would hope that this body would revisit this issue before the law's mandate comes into force next year.

EXTRATERRITORIAL JURISDICTION OF THE RAILWAY LABOR ACT

Mrs. KASSEBAUM. Mr. President, I would like to highlight a provision that has been included in the Department of Transportation appropriations bill that frankly has not received the scrutiny that it deserves.

Section 342 of the bill extends our Federal labor laws to U.S. licensed air carriers that operate overseas. Under this provision, flight crew members, including foreign nationals based overseas, would be covered by U.S. labor laws.

For example, Japanese pilots based in Tokyo flying on a United States carrier from Tokyo to Kyoto would be covered by United States labor law, even though the flight would never touch United States soil. They would simultaneously be covered by Japanese labor law and possibly represented by a separate Japanese labor union.

In the past, Federal courts have concluded that Congress did not intend our Federal labor laws to apply overseas. The extraterritorial application of the Railway Labor Act, which applies to airlines, raises many concerns.

The provision legislates on an appropriations bill. The Labor Committee has jurisdiction over the Railway Labor Act, and yet this provision was never considered by the Labor Committee. The appropriations committee bypassed the Labor Committee.

This is precisely the type of legislating that the American people are tired of seeing us do here in Washington, DC. We make major changes in the law by inserting a paragraph in a spending bill without any hearings in the relevant committee.

At the very least, we should have hearings on the international legal implications that this amendment might have. For instance, will financially strapped U.S. carriers be denied landing rights overseas if foreign nationals must be covered by American labor laws?

Has the State Department been advised of this proposal? It is my understanding that they have not consulted. We should be very careful about acting in areas of international law without seriously considering the potential consequences for our relations with other countries.

As a matter of policy, should our labor laws apply overseas? If the matter were reversed—for example, foreign flagged carriers operated in the United States—would we allow U.S. flight crews to be covered by foreign labor laws? What if we extended this principle to the auto industry? How would we feel if Japan extended their labor laws to allow Japanese unions to represent Honda employees working in Marysville, OH?

How long does this extension of our Federal labor laws apply? The appropriations bill applies for 1 year. Would this provision also expire after 1 year?

Mr. President, these are just a few of the questions that remain unanswered regarding section 342 of the DOT appropriations bill. We should be very careful about extending U.S. laws to cover overseas airline operations, especially when our carriers are in such a precarious financial situation.

I will not raise a point of order on this matter. However, in my view, we have not adequately examined the potential impact of the provision, in large part because the relevant committee was not afforded the opportunity to review it in the normal course of the legislative process. This is a substantial change in the law and I would urge the conferees to remove this provision from the bill.

HIGH-SPEED RAIL

Mr. EXON. Mr. President, as the chairman of the Senate Surface Transportation Subcommittee, I want to express my support for the high-speed rail, Amtrak, and local freight assistance provisions of the Senate Transportation appropriations bill.

This appropriations bill marks another landmark in the long journey to restore the viability of American passenger rail service. It moves the Nation one step closer to an advanced and enlightened rail policy. For years Federal expenditures on highways and airports were viewed as investments and Federal expenditures on rail were degraded as subsidies. Rail transportation can solve many of the transportation problems which face our Nation. It is clean, energy efficient, environmentally friendly, safe, and essential to our Nation's economy. The rail measures in this bill represent a true investment in the Nation's economic efficiency and environmental quality.

Significant challenges still remain. This legislation does not fully fund the Amtrak reauthorization bill which I introduced in the Senate and which this body unanimously passed last year. Even with the appropriations recommended by the Appropriations Committee, Amtrak has announced that cutbacks in service are necessary. Amtrak faces a difficult catch 22. It cannot attain profitability without investment and investment in the past has been withheld because of lack of profitability. There is no doubt that in recent years rail travel has become increasingly popular. Sleeper cars on Amrak are booked weeks and months in advance. Potentially profitable new service is blocked because of a lack of equipment and total capacity is reaching a critical stage. New engines and cars are desperately needed. Growth and profitability will not be possible unless new capital investment are made in modern equipment and station facilities.

When investments are made, ridership increases along with profitability. The best example of this is in the Senate's own back yard. The inspired renovation of Washington's Union Station has led to a 25 percent increase in ridership, the revitalization of a once dead corner of the Nation's Capital and the creation of jobs and economic opportunity for hundreds. The return on this Federal investment is manyfold. There are perhaps, a dozen potential Union

Stations across the Nation. Rail facility improvements should be a key part of the Nation's urban development strategy.

Similarly, when sleek new high-speed rail equipment was tested in the Washington-New York corridor, public response was terrific. When there is modern equipment, riders flock to the comfort of rail travel. Pollution and congestion created by other modes of transportation continue to make Amtrak and high-speed rail a smart investment for the future. But without investment, Amtrak will be stuck in neutral with continued operating losses.

As a proud sponsor of the President's high-speed rail initiative, I am especially pleased that the Appropriations Committee made a significant investment in high-speed rail. I have been working with freight railroads, passengers, workers and the new administration to craft an authorization bill which can win bipartisan Commerce Committee approval. I am pleased to report that we are making good progress and the President's bill should be reported from the full Senate Commerce Committee in the very near future. When that bill comes to the floor, I will discuss the merits and economic promise of high-speed rail in more detail. Suffice it to say that the Senate Appropriations Committee has done an excellent job to keep this important initiative on the track.

Mr. President, I also want to express my support for the funding of the Local Rail Freight Assistance Program. I urged the committee to fund this program because rail service to small rural communities continues to be endangered. The Local Rail Freight Assistance Program is a way to help States assure that the necessary investment are made in rural rail transportation. The need for this program is underlined by the recent devastating floods through the Midwest. Local rail freight assistance will be critical to the effort to rebuild.

In a matter unrelated to surface transportation, I want to mention my support and appreciation for funding of the essential air service [EAS]. As author of the current EAS authorization bill, I sought funding for this program because it is critical to Nebraska communities which depend on the EAS Program for transportation and economic development.

Mr. President, in conclusion, I am pleased to support the appropriations bill and applaud the chairman for his thoughtful leadership.

Mr. LAUTENBERG. Mr. President, section 325 of the Transportation appropriations bill prohibits the use of funds to implement section 1038(d) of Public Law 102-240. Section 1038(d) of ISTEA requires that every State, beginning October 1, 1993, devote an increasing percentage of its Federal funds for asphalt highways to a new technology incorporating the use of recycled rubber in asphalt pavement. When fully implemented in 1997, this provision would require 20 percent of federally funded asphalt highways to incorporate this rubber asphalt technology.

My State department of transportation has taken the lead on aggressively pursuing the development and marketing of new recycling applications to help address solid waste concerns. This work is being carried out through a strong program of formal research studies and investigations by a Recycled Materials Task Force. The task force is comprised of representatives from all operating units within the New Jersey Department of Transportation, as well as liaison representatives from the Department of Environmental Protection, the Federal Highway Administration and a construction industry trade association. In addition to pursuing technical advances to increase the use of recycled materials, the committee has engaged in a number of less traditional, marketing activities to advance the use of recycled materials. Those include the use of an incentive program for use of glassphalt and organization of a statewide conference on recycling.

Knowing of the New Jersey Department of Transportation's active role in recycling, I was concerned to learn that NJDOT Commissioner Thomas M. Downs had reservations over the immediate implementation of section 1038 of ISTEA and on the specific hot asphalt mix requirements of section 1038. I also understand that Commissioner Downs agrees on the 1-year moratorium on the implementation schedule to clarify issues like health, safety, economic impact, and materials compatibility.

Congress originally enacted this provision of ISTEA in furtherance of a worthy goal, which I wholeheartedly support: Finding ways to recycle and dispose of scrap tires. Congress concluded that State highway authorities should bear some of the responsibility for disposing of the millions of scrap tires generated by the traffic that moves along our national highway systems. This makes great sense. Scrap tires are a national problem, and the State highway authorities should be part of the solution. Moreover, we can and should solve this problem through creative recycling measures. The use of rubber asphalt technology is promising and we should encourage its development.

Unfortunately, Congress, in its excitement over the possibilities for rubber asphalt, paid inadequate attention to the implications of such a far-reaching Federal mandate. Although this rubber asphalt technology has been used experimentally for a number of years, Congress must address issues of cost, health, and environmental effects, performance quality and recyclability of the asphalt. These important questions remain unresolved.

The law required that the Department of Transportation, in conjunction with EPA, examine these issues. The report of that study provided no resolution. As Secretary Peña wrote in this transmittal letter:

> [As] the report makes clear, this material has not been tested long enough over a broad enough range of conditions for the Department of Transportation to conclude, at this time, that it is an acceptable additive to asphalt.

A few pioneering States have had some success experimenting with rubber asphalt; yet, even those States most familiar with the process are still conducting tests to determine its merits. The American Association of State Highway and Transportation Authorities, which represents the people who will have to implement this mandate, have strongly urged that Congress amend the law.

The conclusions that must be drawn is that further congressional review is warranted. The 1 year moratorium created in this bill will provide an opportunity for Congress to assess the program and enact appropriate modifications if necessary.

Numerous outstanding issues must be addressed. First, as strong supporters of recycling will agree, we need to know whether rubber asphalt itself is recyclable. Conventional asphalt, which is 100 percent recyclable, is a recycling success story. Although many States preparing for the impending mandate are conducting tests and studies on rubber modified asphalt, we lack evidence to date whether it is similarly recyclable. One of the four biggest users of asphalt—California—testified 4 months ago that it was "concerned about the lack of completed research on * * * whether asphalt pavement containing recycled rubber can themselves be recycled." It would be unfortunate if, in the name of recycling tires, Congress inadvertently created a new waste problem.

Congress also needs to better understand the costs of this mandate and should consider the benefits of encouraging competing recycling alternatives. Such a market-based approach may conserve precious highway funds. The most recent cost information—based on 1993 bids for road constructions—shows that rubber asphalt is 67 percent more expensive than conventional asphalt. Secretary Peña has estimated that the cost of full implementation of the mandate may be between $200 million and $1 billion. It is possible that these higher construction costs could be offset by greater durability. Today, however, there is no consensus among transportation engineers whether rubber modified asphalt is worse than, as good as, or better than conventional asphalt. We need an answer to

this fundamental question prior to imposing these costs on already financially strained State highway departments. I ask unanimous consent that a letter from Secretary Peña to Congress transmitting a report on this issue to Congress be inserted in the RECORD. This letter outlines DOT's reservations over the cost and other aspects of this program.

Finally, we must resolve questions concerning the effect of using this technology on the health and well-being of workers and the environment.

Congress should take advantage of the 1-year moratorium proposed by the legislation to get the answers to these critical questions and to modify the program if the answers so dictate. Although I hope and expect that 1 year will suffice, the moratorium can be extended if it does not. In light of the financial and environmental concerns that plague our times, we cannot afford to ignore these questions.

I hope, and expect, that after these questions are answered, rubber modified asphalt can play an important role in improving environmental quality and rebuilding our Nation's infrastructure. To rush forward now, however, in the absence of adequate information, would be irresponsible.

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

THE SECRETARY OF TRANSPORTATION,
Washington, DC, June 23, 1993.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The report, "The Use of Recycled Paving Material," submitted today under separate cover by Administrator Browner and me in accordance with the requirements of Section 1038 of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102-240, raises concerns that I believe need to be brought into sharp focus.

As you will recall, Section 1038 directed that the Environmental Protection Agency study "the threat to human health and the environment associated with the production and use of asphalt pavement containing recycled rubber," that the Department of Transportation study "the performance of the asphalt pavement containing recycled rubber under various climate and use conditions," and that the two agencies jointly study "the degree to which asphalt pavements containing recycled rubber can be recycled."

The problem of scrap tire disposal is a serious one, and it is important to address it. However, as the report makes clear, this material has not been tested long enough over a broad enough range of conditions for the Department of Transportation to conclude, at this time, that it is an acceptable additive to asphalt. A Congressional mandate to use a specific material for road surfacing before that material has been tested thoroughly is unusual, if not altogether unprecedented. With the limited experience available, the most we can determine is that it has not been shown to be unacceptable as an asphalt additive. Further testing is continuing and, with additional experience, the Department will be able to make a more definitive determination as it reviews the results of these tests over time and in diverse applications. The Department, of course, will advise Congress of these results when they become available. Similarly, the Department will continue to consider other possible uses for scrap tires that are more environmentally sound and enhance our infrastructure.

Although the long-term cost implications, especially assuming a larger supply, are unclear, the report points out that the current cost of asphalt pavement containing crumb rubber is between 20 percent and 100 percent higher than the cost of using asphalt without this additive. This could result in costs of between $50 million and $250 million in 1994, between $100 million and $500 million in 1995, between $150 million and $750 million in 1996, and between $200 million and $1 billion in 1997, for states and localities to comply with this mandate. Whatever the ultimate added cost proves to be, it will be substantial. Whether this is a cost-effective mandated use of Federal, State, and local highway funds, in view of both the limited available road resurfacing monies and the need for solutions to the rubber tire recycling problem, is a matter for continuing consideration.

Sincerely,

FEDERICO PEÑA.

AMENDMENT NO. 1021

The PRESIDING OFFICER. The Chair will advise the pending amendment is now the Boxer amendment No. 1021.

Mr. LAUTENBERG. 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. 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 would like to address the Senate for 5 minutes, as if in morning business.

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

VIOLENT CRIME

Mr. DORGAN. Mr. President, about a week ago, in Bismarck, ND, in the parking lot of a motel, a 60-year-old woman was apparently abducted by two people from Pennsylvania, who allegedly killed someone in Pennsylvania and who were fleeing west.

We do not yet this morning know the fate of the North Dakota woman who was abducted in Bismarck. It does not sound good. Her credit cards allegedly have been used in Montana and Nevada.

I point this out to say that violent crime and this kind of behavior by violent criminals is not limited to the inner cities of America. So far this year, in this city, our Nation's capital city, we have had 350 murders and 4,800 robberies. In this country, we will have about 27,000 murders this year. So we are in the middle of an epidemic of violent crime.

My point is, it is not just in the inner cities. It affects all of the rest of the country. It affected a woman in Bismarck, ND, a week ago Sunday, standing in the parking lot of a motel, where two people, who allegedly killed a man in Pennsylvania, were fleeing and abducted this woman. I pray that this story turns out better than many we read about, but I do not know.

I simply describe that to say that I have introduced legislation last week—and I hope my colleagues would take a look at it—dealing with one aspect of crime.

There are 100 reasons that people commit crimes—troubled childhoods, child abuse, dysfunctional families, poverty. I understand all of that, and we ought to deal with all of it. We ought to work and address all of those issues. But while we do that, we ought to take violent criminals off the street and keep them off the street.

In almost every major crime in this country, I defy you to look at the newspaper, not pull out one and find where, in almost every instance, the person that committed the violent crime is someone we know.

This is not someone we do not know. It is someone we know who has been in the criminal justice system, who has been arrested before, in a violent crime before, and put in jail before, only to be let out again.

It is time for us to understand that those who commit repeated violent acts need to be put away and they need to stay away.

Now, how do you do that?

I have introduced legislation with four pieces. One, we do not have room to put these people away. We have people in this city on early release walking the streets who are violent criminals.

We have a million people in jail in this country. Roughly 51 percent of them are in jail for nonviolent acts. It seems to me you could take a lot of them out of the prison system and put them in converted bases—we are going to close 100 military bases—convert them into prison camps of some type and take nonviolent prisoners out of prisons and put them in a camp and detain them there. Incarcerate only the violent prisoners for violent crimes, tens of thousands of them. Put violent criminals in there for their sentence and have them serve there.

There are three things we ought to do with respect to this.

One, every judge in this country, at the end of the year, who presided over criminal trials, ought to have a sentencing practice report, so we at least understand what the judges are doing with respect to sentencing practices. We are in the dark. Nobody knows.

No. 2, for violent criminals, there ought not be good time. You get a sentence, you go to prison, you serve the sentence.

We have the most perverse incentives in the world. In fact, in my home

State, for a while they were giving double good time credit. Perversely, those who are the most violent criminals and served the longest sentences get the most good time credit. That means the largest amount of credit to get out early.

We ought to eliminate good time credit for violent criminals. Put them in jail and keep them in jail for their entire term.

And, third, at every hearing—sentencing hearing and parole hearing—victims and the victims' family have a right to be heard.

The minister, the priest, the neighbor, the mother of the accused, they are all there talking about what a wonderful person he or she is.

What about the victims, or the victims' families, to talk about what that violent crime did to them? Is that not a part of the sentencing? Should it not routinely be a part of a parole hearing. In many parts of the country it is. But in many parts of the country it is not.

If we would give victims the opportunity to be present in parole hearings and sentencing hearings, if we would eliminate good time for violent offenders, if we would better understand sentencing practices by the judiciary, and if we would open up prisons, then we would have done a couple of things. We would find a place to put violent criminals. We would put them there and we would keep them there.

And, yes, let us look for all the reasons we have this epidemic and address them. But, as we do that, let us protect innocent people.

The woman in Bismarck, ND, who was abducted last week; 4-year-old Launice Smith, who was killed, shot in the head at a playground two Saturdays ago in this town; Michael Jordan's father; every single one of them by people we know, by people who committed violent crimes before, were in the criminal justice system, put in jail and let back out in order to once again commit another violent act.

It is time to protect the innocent people in this country, even as we search for reasons for these crimes.

The bill I have introduced, with these four steps, I think moves in the direction of saying: Let us find a place to put violent criminals, let us put them there, and let us keep them there.

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.

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

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

The Senate continued with the consideration of the bill.

Mrs. BOXER. Mr. President, I intend to withdraw the pending amendment, but before I ask unanimous consent to do so, I want to make a couple of comments, both on the subject of my amendment and the subject of this bill that is pending before us.

I wish to thank the subcommittee chairman, the good Senator from New Jersey, [Mr. LAUTENBERG], for his incredible assistance in including in this transportation bill extraordinary help for California to meet our critical transportation needs. As the chairman knows, California is hurting and, as our President has said many times, with California being 14 percent of the GNP of this Nation, the whole Nation is looking to California to pull out of its recession, pull out of its trouble. To do that, we really need to fund programs that make sense for the country.

When I went to the Senator from New Jersey, I knew he had to make some very tough choices. He leads the fight here for fiscal responsibility. I had to prove my case. And he listened. Within this bill are rail and mass transit and technology development programs that will help California meet its air quality needs, safety needs, and economic productivity goals.

The Senate Transportation appropriations bill affords California needed transportation improvements that will boost the State's economy, worker productivity, and air quality.

I am particularly pleased that the committee provided funding higher than the House level for critical commuter rail projects in both Los Angeles and the San Francisco Bay area.

The $190 million appropriated for Los Angeles Metro line extensions will provide more than 100,000 construction jobs and provide urgent relief for our traffic-clogged arteries of Los Angeles. I am particularly pleased to see the lines extended to communities, such as East Los Angeles, that have long supported public transit.

The $44.82 million appropriated to bay area projects is welcome news. Although the figure is not as high as we would prefer, the committee ably demonstrated that the Federal commitment to mass transit in the bay area will not ebb. The BART airport extension and the Santa Clara Light Rail Program link to the Silicon Valley have won a tremendous victory.

The bill provides $25 million for the Orange County intermodal center and transitway project, including HOV lanes, park-'n'-ride bus lots and rail intermodal center with direct access to Interstate 5.

California will receive up to $1.5 billion for highways from the highway trust fund.

The committee pointed out the need and substantial support required for protecting the Golden Gate and Bay bridges from earthquakes. The report urges the Department of Transportation to work with Caltrans, the bridge district, and the MTC to develop funding options for retrofitting these facilities in a timely manner.

There is $91.3 million for the intelligent vehicle highway systems. The smart corridor project along the Santa Monica Freeway in Los Angeles is part of this program. The Pathfinder Program has shown that current traffic condition information could be successfully transmitted to drivers through on-board systems. This system has cut travel time by 18 percent and signal delays by 44 percent. San Diego will be receiving $10 million for an IVHS project.

There is $107 million for the administration's high-speed rail initiative. Funding would further the program of high-speed rail transportation. Funding would be available for track improvements along the designated San Diego to Sacramento rail corridor.

And there is $27.9 million for the Maglev Train Prototype Development Program, another technology that will benefit California.

I would like to highlight one particular program the Senator from New Jersey was very helpful with. It is really a cutting edge program. It is a real example of what we need to do to move from a military-based economy to a civilian-based economy.

When I was campaigning for the U.S. Senate a long time ago—it seems like forever ago—I made the comment, "If you could build a bomber, you could build a bus." The implication was that the technology we have used to build a tremendous military could be used to help us meet our civilian needs. Sure enough, there is funding, $95 million in research and planning funds to the Federal Transit Administration that can be used to fund exciting new transit projects. One of these is the clean fuel, advanced technology transit bus—and I have to tell my colleagues that this bus, being developed by Northrop and other defense and transportation companies is called the Stealth bus because it uses the same skill and experience used to develop the technology that was used in the Stealth bomber, making it very light weight.

People say, is that a bus you will not be able to see? No, you will be able to see it. But the bottom line is we are using the technology that helped us win the cold war to make us competitive, to move our people and our products and our goods and our services.

So I want to just take this moment to thank the Senator for his leadership. I am extremely appreciative of it, as is California. Frankly, when the Nation knows of this bill I think the whole Nation will be appreciative to him for his leadership.

On the subject of my amendment, my amendment was going to ask that there be an emergency designation so funds could be unleashed to complete the rebuilding of the Interstate 880 Cypress Freeway structure that collapsed during the 1989 earthquake. I am convinced I could have made a very compelling case, along with my colleague from California, that this funding is necessary at this time and that this funding is absolutely deserving of that designation. After all, no one could possibly say that an earthquake is not a disaster.

But we heard from members on the other side of the aisle that they had objection to the process. They asked the Senator from California, [Mrs. FEINSTEIN, and myself if we would be willing to work with them. The Senator from New Jersey, trying to be a mediator, went between the two sides. We discussed this with the OMB Director, with the White House, and I just had a meeting with the majority leader. I personally spoke with Senator DOLE about this. I spoke with Senator D'AMATO about this, and Senator DOMENICI. I think they have every intention of working with us to make sure that we fulfill our commitment to the people of Oakland, the people of California. Because in fact this was a Federal structure that collapsed and the new design is necessary because we could not replace that double-decker freeway with another double-decker freeway because we do not want to see that collapse again. It killed 42 people. So it required a different design, and I think we will be able to make that case.

In my meeting with the majority leader, he added his voice of support for us. He says that he is going to work with us and with the Senator from New Jersey so that we can make our case, so that there is not anyone in this Chamber—Republican or Democrat—who will have any doubt in their minds that this is, in fact, a needed expenditure and one which falls under the emergency designation.

So we are going to work with our colleagues, and we are going to work toward a supplemental appropriation. We heard the chairman of the Appropriations Committee indicate he would help us. We have Members on both sides who have indicated they will work with us.

So, again, I want to thank Senator LAUTENBERG, from New Jersey, for his help and leadership.

At this time, I ask unanimous consent that my amendment be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

So the amendment (No. 1021) was withdrawn.

Mr. LAUTENBERG. Mr. President, I want to extend my thanks to our distinguished colleague from California, Senator BOXER, for her diligence, her hard work, and her fine representation that she makes, not just for her State but for the whole of the U.S. Senate.

I would have to say, this was a sea change in the U.S. Senate with the beginning of the present term. We were gratified by a change that took place in which the female population of the Senate went from two to seven Members. I have noticed some significant changes.

First of all, there is a viewpoint that perhaps once in a while it would not get bypassed but did not get quite as much attention, about the issues that affect the majority population of our country, the female population, whether it be in the areas of health or job equity or fairness, generally.

We tried, but without the special input of the female Members of the U.S. Senate, it was not quite as easy to make the points as articulately as has happened since the arrival of the women in the U.S. Senate. I would expect that that population within the Senate will continue to grow and add not only to the luster of the body, but the process by which we work, because they are very serious people; they get things done. And we saw evidence over these last couple days, as we tried to move the transportation bill forward to answer the needs of the country.

There is not a State that does not have needs or place value on transportation, whether it be aviation or highway or transit or buses. And everybody is interested in high-speed rail. But when it comes to being not only a rooter but an organizer on behalf of the State of California, Senator BOXER has distinguished herself.

With the decision to withdraw the amendment—and I know it is difficult; as a matter of fact, I think it could be described as even painful. Because no one knows better than she and Senator FEINSTEIN in this body what kind of trauma, what kind of difficulty that terrible natural catastrophe foisted upon the State of California.

The roads and the rail systems that crisscross that area have to be in good working shape. We have to continue to do the repair that is called for on this—is it called a thruway or freeway?

Mrs. BOXER. Cypress structure of Interstate 880.

Mr. LAUTENBERG. Mr. President, we are pledged, my distinguished colleague from New York and I, to try to help resolve this problem.

This State needs help. It is really a peculiar anomaly because California always looked like a land of prosperity. It was the land of sunshine. As a matter of fact, it was the land where lots of residents of my State, and I know the State of Senator D'AMATO, would make their home. People ran to California because of not only the natural beauty but the pleasant character of life, as it was, out there.

Now they have the dubious distinction of, if not the highest rate of unemployment in the country, certainly among the highest, because this was a State which produced very well for its country. They had defense industries galore. We needed the products they made. They had exploration in technology to the latest extent, and I know, because having come from the computer business and having my old company before I came here, with offices in Los Angeles, San Francisco, Palo Alto, and San Diego, I know how rich the opportunity was out there and how much talent also existed in the State of California.

So they need to be able to function and they need the jobs, and they need to return as much as possible to a normal condition —I am talking about the economic condition—and no one sees it more vividly than does the Senator from California, who is on the floor at the moment.

So we want to help, and you have our pledge to be of help. The President is committed to it. He announced that very publicly, very decisively, on a visit he recently had to California, to try and get the repairs that are necessary as a result of the earthquake.

So I thank the Senator for her kind words. The fact is that she does add a dimension of civility, as well as intelligence and ability, to this body, for which we thank her and look forward to a continuation of the dialog in the future.

I yield the floor.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. LAUTENBERG. 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. LAUTENBERG. 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. LAUTENBERG. Mr. President, there are some errors in the print that were found in the Senate Committee Report 103-150 to accompany H.R. 2750.

I send these to the desk to correct the record as it exists.

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

The corrections are as follows:

On page 90 of the report, under "Navigation and Landing Aids Improvements", the following designation was omitted: "Location: Kearney, Nebraska; equipment type: glideslope and middle marker."

On page 104 of the report, the reference to Carroll County Airport should read "MD" (in Maryland), rather than "MN" (in Minnesota).

Mr. LAUTENBERG. Mr. President, I have a letter from Citizens Against Government Waste addressed to me related to the Coast Guard allocation, and a letter from the Secretary of

Transportation giving their thanks for the work that was done on the subcommittee. I ask unanimous consent that they be printed in the RECORD.

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

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 4, 1993.

Hon. FRANK R. LAUTENBERG,
Chairman, Subcommittee on Transportation and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Administration, I would like to thank you and your subcommittee for including in the Fiscal Year 1994 Transportation Appropriations bill two key provisions that will help ensure effective use of scarce transportation funds.

As reported by your subcommittee and the full committee for floor action, H.R. 2750 contains limitations on funding that will direct Essential Air Service support to the communities that really need it—those located 70 miles or more from alternative air service at a hub airport and those where the per-passenger subsidy has not grown simply too high to justify ($200 or more per one-way trip).

The subcommittee and full committee are also to be congratulated for their restraint in not earmarking the Section 3 transit discretionary bus grants. Such action, unprecedented in recent times, will ensure that the bus funds go quickly to projects that are ready to go and that will address a backlog of bus needs.

We appreciate your subcommittee's resolve to ensure that our transportation dollars are stretched just as far as possible. Thank you again.

Sincerely,

FEDERICO PEÑA.

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, October 1, 1993.

Hon. FRANK LAUTENBERG,
Chairman, Subcommittee on Transportation, Committee on Appropriations, Washington, DC.

DEAR SENATOR: On behalf of the 550,000 members of the Council for Citizens Against Government Waste (CCAGW), I am writing to commend you for your efforts to eliminate unrequested, unauthorized and wasteful pork-barrel projects normally found in the Transportation Appropriations bill. The special interests who gorge themselves at the public trough will not doubt attempt to undercut your work.

I understand that unauthorized highway and bus projects were not included in the marked up bill, the Coast Guard Commandant's fleet of executive jets was eliminated, and the Coast Guard's Washington Air Station was closed. Also eliminated were 20 Department of Transportation headquarters vehicles, five Federal Aviation Administration aircraft, the Secretary of Transportation's private dining room, and the Washington Office of the St. Lawrence Seaway Development Corporation. We strongly support these initiatives.

CCAGW applauds, as a good first step, the adoption of a modified National Performance Review recommendation eliminating Essential Air Service Program subsidies to airports that are less than 70 miles from large or medium size hub airports. The bill also limits subsidies at airports between 70 and 210 miles from a large or medium sized hub to $200 per passenger. Program subsidies at the five airports over 210 miles away from a large or medium sized hub airport will not change.

The Transportation Appropriations bill includes some of the "change" taxpayers requested last November. Only your solid commitment to the American taxpayer allowed you to overcome Congress's bias towards continued spending. We look forward to working with you and supporting your continued efforts to make government more efficient and less costly.

Sincerely,

TOM SCHATZ,
President.

Mr. LAUTENBERG. We are now cleared to go to third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Georgia [Mr. COVERDELL] is absent due to a death in the family.

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—90

Akaka	Feingold	McCain
Baucus	Feinstein	McConnell
Bennett	Ford	Metzenbaum
Biden	Glenn	Mikulski
Bingaman	Gorton	Mitchell
Bond	Graham	Moseley-Braun
Boxer	Gramm	Moynihan
Bradley	Grassley	Murkowski
Breaux	Harkin	Murray
Brown	Hatch	Nickles
Bryan	Hatfield	Nunn
Bumpers	Heflin	Packwood
Byrd	Hollings	Pell
Campbell	Hutchison	Pressler
Chafee	Inouye	Pryor
Coats	Jeffords	Reid
Cochran	Johnston	Riegle
Cohen	Kassebaum	Robb
Conrad	Kempthorne	Rockefeller
Craig	Kennedy	Sarbanes
D'Amato	Kerrey	Sasser
Danforth	Kerry	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Simpson
Dodd	Levin	Specter
Dole	Lieberman	Stevens
Domenici	Lott	Thurmond
Dorgan	Lugar	Warner
Durenberger	Mack	Wellstone
Exon	Mathews	Wofford

NAYS—9

Boren	Gregg	Roth
Burns	Helms	Smith
Faircloth	Kohl	Wallop

NOT VOTING—1

Coverdell

So the bill (H.R. 2750), as amended, was passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two bodies, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Mr. SASSER, Ms. MIKULSKI, Mr. D'AMATO, Mr. DOMENICI, Mr. HATFIELD, and Mr. SPECTER conferees on the part of the Senate.

Mr. LAUTENBERG. Mr. President, I express my thanks to my colleagues, because in this particular bill we had a radical change from the past practice. It was not easy for the Members to reconcile a change in process that was as significant as this was. But we are on the way, I believe, to doing what is being asked of us in terms of reinventing Government, in terms of streamlining things, in terms of making certain that the taxpayers' contributions to the functioning of Government are as well spent as they can be. I think we have enhanced that process, Mr. President.

As a result of the cooperation of my colleague from New York, Senator D'AMATO, we were able to turn out a bill, despite some points of contention which we worked through in the Chamber here. I think we did it with reasonable dispatch. It took longer than we hoped, but less time than it might have been.

I particularly extend my thanks to the staff that worked so hard and diligently in a very short period of time, because this bill did not linger at all between its trip from the House to the Senate, and everybody knows that appropriations bills originate there. I want to express my appreciation to Pat McCann, our senior staffer; Peter Rogoff; Anne Miano, for her very good job. I also acknowledge the contributions of Joyce Rose, and Dorothy Pastis, and three detailees, Mr. Burt Russell, who is on leave from the Department of Transportation, Mr. Eric Marts from the General Accounting Office, and Ken Heist from the Department of Defense. I also recognize the contributions of Russell Houston of my personal office.

I yield the floor.

Mr. MITCHELL. Mr. President, I commend the distinguished Senator from New Jersey, the chairman of the subcommittee and manager of the bill, and the distinguished Senator from New York, the ranking member, for their diligence in gaining the Senate's approval of this legislation by an overwhelming margin and for the skill and perseverance with which they managed the bill through to that successful conclusion.

Mr. President, the remaining appropriations bill is the Department of Defense appropriations bill. That was reported by the full committee on Monday, and under the Senate's rules, it is not in order to be brought before the Senate unless there is a unanimous consent prior to tomorrow. I am advised that we have not obtained that consent. Therefore, we will not be in a position to proceed to that bill until tomorrow at the earliest.

I will, therefore, announce—and I have already discussed this briefly with the distinguished Republican leader and other Senators involved—what the schedule will be, and the Republican leader and I have agreed to meet. He had a prior engagement, and as soon as that is completed, we are going to meet, and I will have an announcement to make with respect to the schedule for the remainder of the day and the week.

The Senate will not be in session on Friday, Monday or Tuesday, based upon a prior announcement with respect to the Columbus Day weekend.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. MITCHELL. Mr. President, with no other Senator seeking recognition for the purpose of addressing the Senate, 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. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Wisconsin is recognized for 10 minutes.

THE NEED FOR LONG-TERM CARE REFORM

Mr. FEINGOLD. Mr. President, I rise today to comment on one aspect of the health care debate—the need for long-term care reform. I spent a great deal of the past 10 years working on long-term care issues and developing long-term care programs in Wisconsin. Over the next several weeks, I will be speaking on the floor about long-term care reform and will comment on different pieces of the long-term care reform provisions of the President's health care plan.

As chair of the Wisconsin Senate Aging Committee for 10 years, it was my privilege to participate in developing some of this country's most significant, cutting-edge health care reform. The long-term care programs developed in Wisconsin have been the basis for work done not only in other States, but in other countries. I was pleased to hear First Lady Hillary Rodham Clinton's comments about Wisconsin's long-term care programs, and it is easy to see the influence our State has had in the long-term care provisions of the President's health care plan.

Mr. President, in the coming weeks I will be looking at some of the specific provisions of the President's long-term care proposal and offering comments on those specific provisions.

Today, however, I congratulate President Clinton for including a significant long-term care reform provision in his overall health care reform plan.

The President has proposed an expanded home- and community-based long-term care benefit for any individual needing help with three or more activities of daily living, or who has a severe cognitive or mental impairment or mental retardation, or, for children under the age of 6, who are dependent on technology and otherwise require hospital or institutional care. Under this plan the States administer this new long-term care program and will have the flexibility to design their own community-based program according to their own needs.

Most importantly, the President's proposal also includes provision for consumer-oriented and consumer-directed services, and I think would be the basis for the kind of reform we most need.

Mr. President, our country is facing a health care crisis. Although there is disagreement on the specifics of reform, with over 35 million Americans lacking health care coverage and the cost of care exploding, the need for comprehensive acute care reform is widely acknowledged.

Prior to the release of the President's plan, there had been many health care reform proposals, but few of them recognized that including a meaningful long-term care reform provision was essential to achieving the goals of health care reform.

Though long-term care benefits have been included in some health care reform plans, none of the proposals prior to the President's plan offered the fundamental reform that is needed. This is a serious mistake. The demographic imperatives of health care dictate that if we are ever to get health care costs under control, we must include long-term care reform in the health care reform package.

The elderly are the fastest growing segment of our population, and those over age 85—individuals most in need of long-term care—are the fastest growing segment of the elderly.

The over 85 population will triple in size between 1980 and 2030, and will be nearly seven times larger in 2050 than in 1980.

At the same time, the working base of the country—those people whose tax dollars are supporting the growing population needing Government-financed long-term care services, and whose earnings help support family members needing long-term care—is shrinking relative to the population of long-term care consumers.

In 1900, there were about 7 elderly individuals for every 100 people of working age. As of 1990, the ratio was about 20 elderly for every 100, by 2020 the ratio will be 29 per 100, and after that it will rise to 38 per 100 by 2030.

Failure to reform our current long-term care system will mean a growing population of long-term care consumers served by a dwindling set of costly alternatives, and supported by a relatively shrinking population of workers and taxpayers.

Mr. President, in addition to facing a growing population in need of long-term care services, long-term care reform is essential if we are to control health care costs and begin to address the deficit. I know that is one of the many hopes the President has for his health care plan to make a significant contribution to deficit reduction.

Other than interest on the Federal debt and Social Security, the two Federal health care programs, Medicare and Medicaid, are the only areas of spending in our entire Federal budget where we are devoting a larger portion of our national wealth than we were 30 years ago. Those two health care programs are among the central areas of spending that we must attack if we are to make any significant headway on the Federal deficit.

Long-term care already represents 40 percent of our total health care expenditures; two-thirds of our Medicaid budget. And we can expect those numbers to grow.

At the same time, efforts to contain the cost of acute care services will be in vain unless we reform our long-term care system of the same time.

We have already seen how the health care system is adept at shifting costs. When Federal or State policymakers try to clamp down in one area, utilization will jump in another area and therefore, no real savings will be achieved.

A good example of this happening was when the Federal Government changed several aspects of Medicare reimbursements. Patients were discharged from hospitals quicker and sicker than they had been before with a resulting increase in utilization in other areas, including long-term care services such as nursing homes.

Trying to contain costs in the acute care system alone would be like squeezing only one side of a balloon.

Long-term care not only makes up an increasingly significant share of Federal health care expenditures, but failure to reform our long-term care system as we reform the rest of health

care invites the balloon effect—cost shifting from our acute care system to our long-term care system, and no net savings in dollars that is so desperately needed for deficit reduction.

We will be unable to achieve the critical goal of deficit reduction unless we can contain our growing health care costs, and we will be unable to do that unless long-term care is in the overall health care reform package.

Mr. President, long-term care reform is also the key to changing our health care philosophy, moving away from our current regulation-intensive, regulator- and provider-friendly system to one which responds to the individual needs and preferences of consumers of health care.

We are fortunate in Wisconsin to have seen how a consumer-friendly long-term care program can work. The Wisconsin Community Options Program, known as COP, has become one of the preeminent long-term care programs in the country.

COP has demonstrated two important things: First, it showed that one could establish a long-term care program that is flexible and able to respond to individual consumer needs and preferences; second, it showed that such a program could be a cost effective alternative to institutionalized care. It apparently has saved us in Wisconsin over $100 million in just 10 years.

The underlying principles of COP should be applied to our entire health care system, and including COP-based long-term care reform in the health care reform bill could lay the groundwork for changing our entire health care system.

Once COP-based long-term care programs are established, consumers will realize that they need not accept a system that dictates to them by limiting their health care choices.

An example outside of Wisconsin that I have had a chance to visit is the On Lok Program in San Francisco which has already shown what can be done at a local level by exceptionally energetic and creative people. Along with the PACE Replication projects around the country, they are demonstrating what is possible in the way of consumer-responsive comprehensive health care. And I was happy to see that the President's plan acknowledges the importance of developing these integrated acute and long-term care systems at the same time.

Mr. President, the Community Options Program and on lok point the direction in which health care can and should evolve, locally based programs that dovetail COP and on lok principles.

By establishing consumer-oriented principles in the health care package, we can take the first step in that direction. We have with the President's plan a unique opportunity to shape a long-term health care component of a comprehensive health care reform initiative in a manner that will be both cost-effective and responsive to the needs of millions and millions of Americans.

So, Mr. President, I look forward to playing a very active role in the whole health care debate as I am sure we all do and in particular in bringing up on this floor at every opportunity I get the importance of including long-term care reform as a part of the health care reform package.

Thank you.

I yield the floor.

The PRESIDING OFFICER. Does the Senator from Wisconsin suggest the absence of a quorum?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Michigan, [Mr. RIEGLE].

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for 10 minutes as in morning business to discuss the NAFTA issue.

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

NAFTA

Mr. RIEGLE. Mr. President, I have today in front of me a copy of today's Washington Post business section. The center story in the center of the page is about the loss of American jobs to Mexico which is now taking place and which is likely to get much worse if this NAFTA agreement should be passed. I want to read from the article and then comment briefly on it.

Let me now ask unanimous consent that at the end of my remarks the full text of this article be printed.

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

(See exhibit 1.)

Mr. RIEGLE. The headline on the article is "A High-Tech, Low-Wage Lure." Then the subheadline is, "Hughes's Move to Mexico Illustrates a Thorny NAFTA Issue." Here is the text, dateline Tijuana, Mexico:

When former Hughes Aircraft Co. project manager William Lewis was assigned the task in 1988 of defending a company decision to transfer high-technology U.S. defense work from Newport Beach, Calif., to a Hughes plant here in Mexico, he was suspicious.

"I had to live the lie," Lewis said in a telephone interview, referring to claims that jobs wouldn't be lost. "I knew that somewhere down the line, people would lose their jobs because of this."

What Lewis didn't anticipate was that his job would be among them.

He was one of several hundred laid-off Hughes employees who are confronting the harsh reality that their skilled jobs are just as vulnerable to competition from Mexico's low-cost labor force as are the assembly line jobs of U.S. auto workers or other blue-collar employees. They are finding that not even government contract work supported by taxpayer dollars, is immune to the lure of cost efficiency offered here in Mexico.

As Mexico joins the Clinton administration in the battle for U.S. congressional approval of the proposed North American Free Trade Agreement (NAFTA), it is finding that cheap labor and cost efficiency—two of this country's strongest economic selling points—are turning into political hand grenades in the NAFTA debate.

Labor groups and other critics say that the United States, having already lost thousands of manufacturing jobs to Mexico, would be foolish to ratify an accord that could encourage even more U.S. companies to move south.

Proponents argue that NAFTA will open up Mexico's market for the first time to a host of U.S. products and services, thus expanding employment north of the border.

That is, meaning the United States.

In addition, the agreement's defenders say the pact will help the United States to compete better against other world trading blocs, also stimulating U.S. employment.

Hughes's experience illustrates some of the economic pressures central to the debate over NAFTA.

Lewis and other former Hughes employees said that only a few years ago, the U.S. defense industry had seemed immune to the southbound trend of lower technology industries. The precision work performed by defense contractors was regarded as too sensitive to delegate to workers in a developing country such as Mexico.

But all that changed in April 1989. That's when the Air Force broke new ground by authorizing Hughes's missile systems group to transfer some production of microcircuits—for missiles, jet fighters and other defense-related products—to a maquiladora plant in Tijuana.

Maquiladora facilities are foreign-owned factories, based in Mexico, that make goods strictly for export. Hundreds of U.S. companies have used maquiladoras to lower their labor costs by shifting jobs south, and NAFTA's critics say the pact would open the door for more job losses.

"We recognize this move [to Tijuana] improves your competitiveness and ultimately benefits the government," wrote Air Force contracting officer Robert C. Smith in an April 1989 letter to Hughes.

Now, high-tech companies such as Hughes are finding that with proper training and supervision, Mexican workers are just as capable as their U.S. counterparts in manufacturing the complex microchips that go into aerospace and defense products. And the savings is significant in an industry where labor makes up 30 percent to 50 percent of production costs.

Ron E. Shaver, operations manager for Hughes's microelectronic circuits division, said the cost savings in Mexico are critical to Hughes's remaining competitive—and preserving some related jobs in the United States.

"Yes, we are taking work from the United States, but we wouldn't have the business at all if we didn't have the plant here," Shaver said. "If we can save five jobs [in the United States] by having this operation here, blending work [with U.S. plants] and holding onto

a contract, then we're saving jobs. If we lose the contract, more jobs are lost."

The starting wage in Tijuana for line operators—the people manning the microscopes and chip assembly lines—is 20 Mexican pesos per day, or about $6.40, according to plant manager Jose L. Gaitan.

I am just going to digress from the article to say that I want everybody to be clear what the worker earns in this plant is $6.40 a day. That is according to the plant manager, Jose Guitan.

A more highly trained technical has a starting wage of 35 pesos per day, or less than $1.50 per hour. By comparison, a newly hired technical at the Newport Beach plant earns about $17 per hour, a former Hughes technician said.

Inside dust-free production rooms here at Hughes's Circuitos Binacionales de Tijuana maquiladora, Mexicans from nearby dirt-poor neighborhoods don smocks and surgical masks each day to operate $100,000 machines. They produce and test tiny microcircuits whose construction is so intricate that microscopes are required to examine wiring one-eight the thickness of a human hair.

According to former Hughes employees and government documents, the finished microchips are sent back to the United States, where at least some are assembled inside weapons such as the Air Force's advanced medium-range air-to-air missile, or AM-RAAM.

Until 1989, AMRAAM microcircuits were produced almost exclusively at Hughes's Newport Beach plant. But Hughes officials said that as federal defense spending dropped with the end of the Cold War, the company begin seeking ways to cutting production costs to remain competitive.

"The government placed upon us the necessary to get into competitive bidding. [The move to Tijuana] was a sure-fire way of containing costs and maintaining competitiveness," Lewis said. A "direct cause and effect," he said, was that 300 to 400 employees were laid off in Newport Beach.

Hughes spokesman William Herrman said instead that layoffs at Newport Beach were part of an across-the-board "downsizing" plan, and even jobs at the Tijuana plant have been slashed from a 1988 high of 225 employees to the current level of 120 workers. Worldwide, Hughes has dropped from a high of 83,000 employees in the mid-1980s—when roughly 80 percent of its contracts were defense-related—to around 57,000 now.

Former Hughes employees, including some who support NAFTA, argued that the Air Force's acceptance of Hughes's move to Tijuana sent the wrong signal to defense contractors that U.S. jobs should be regarded as expendable.

"I don't begrudge the Mexicans who want to work," said Robert Dingman, a former Hughes technician who helped manage the expansion of the Tijuana plant. "But how can [Hughes and the government] justify using U.S. tax dollars to take away American jobs?"

That is the end of the article. That really underscores the issue. We are seeing the job base of the United States strip-mined steadily as these jobs are moved out of the United States down to Mexico.

This illustration has to do with defense-related production. These were jobs lost in southern California which had moved across the Mexican border and now are located in Mexico. So, in effect, it has become a jobs program for Mexico.

I think we need a jobs program for America. We ought not to be shrinking our job base in order to move these jobs down to Mexico. That will be greatly accelerated under this NAFTA agreement.

The reason for that is the NAFTA agreement provides a lot of very attractive investment guarantees for companies to go down there and take advantage of this very low cost labor, and also the fact that the workers down there are quite productive. In fact, over 300,000 young Mexican workers are now training each year to be engineers so that the production down there is ever more sophisticated and, of course, the issue then comes back to us: Well, what happens if a plant here closes and people are put out of work and the plant is moved to Mexico and Mexican workers are employed? What happens to the workers here who are without a job and oftentimes without any means of supporting their families or paying for health care expenses or any of the other necessities of life that every person and family needs?

That is the problem. But the fact that the Washington Post is featuring that today on the front page of its business section illustrates that it is already happening. It is happening. And if you, in effect, give a flashing green light that says it is OK, "Let's do more of this"—and that is what passing NAFTA would do—it would be a flashing green light to all the rest of the companies in America that it is fine for them to close their operations here in the United States, shut down American jobs and move that work down to Mexico and give that work to a Mexican worker who will work for maybe one-seventh as much, or one-ninth as much as the American worker who is losing their job.

Finally, I think it is essential that we do everything we can to strengthen the private sector job base in America. I think it is our single most important strategic move that we must make.

I am helping lead the fight for health care reform and feel strongly that the President's idea in that area is one we must pursue. But even to afford to make the health reform changes or to improve education or to improve our pension system or to fight crime, we have to have a robust economic system, we have to have more jobs, more jobs in America and have the economic strength and the incomes with which to do all these other things.

Right now we have a crime epidemic in the country. A lot of it has to do with the fact that we have a growing underclass of people who cannot find work. We see the middle class shrinking as people with even two workers in the family, a husband and wife, are out trying to make a living; people are still sliding backward; many people are only able to find part-time work. In fact, in our employment figures, if a person works as little as 1 hour a week, they are counted as employed. When you see that employment figure, that hides, masks the fact that many of those people are not working full time. Many of them, of course, are not working full time and do not have benefits to speak of—no health care, things of that kind.

So we have a very serious job problem in America and it relates to our crime problem. The more poverty we have, and we have more people on poverty and food stamps right now than we ever had in our history—people need work to provide a focus to their lives, give meaning to their lives and allow them to express their own dignity through just the value of work, the purpose and the mission of work.

But more than that, in addition to that, people need the income, people need to be able to earn a living, a decent living, to provide for themselves and their families, to see to it they can provide health care and educational opportunities for their children and job training opportunities for their children and hopefully buy homes—not just be renters all their lives—and sometime along the way be able to put enough money on the side for retirement so people can have decent retirement in their retirement years.

It is absolutely essential we nourish, enrich, and strengthen and preserve the American job base. NAFTA does exactly the reverse. It ships our jobs to Mexico.

NAFTA is essentially a process of strip mining the job base of America and shipping those jobs to Mexico to take advantage of the low labor rates, the high productivity, as this article points out, and also the absence of meaningful environmental standards and environmental enforcement. That is what has caused the rush down there, why that will greatly accelerate if NAFTA were to pass.

Also, if the Mexicans devalue their currency, as almost every economist thinks they will after a NAFTA agreement, you will see a huge trade deficit open up. So we will not only be losing the jobs, but we will have a situation where we have a serious trade deficit on our hands just back and forth between ourselves and Mexico.

We need to defeat NAFTA, go back to the drawing board, draft a new agreement, and I hope that will be the will of the Congress. I thank the Chair.

EXHIBIT 1

[From the Washington Post, Oct. 6, 1993]

A HIGH-TECH, LOW-WAGE LURE

(By Tod Robberson)

TIJUANA, MEXICO.—When former Hughes Aircraft Co. project manager William Lewis was assigned the task in 1988 of defending a company decision to transfer high-technology U.S. defense work from Newport Beach Calif., to a Hughes plant here in Mexico, he was suspicious.

"I had to live the lie," Lewis said in a telephone interview, referring to claims that jobs wouldn't be lost. "I knew that somewhere down the line, people would lose their jobs because of this."

What Lewis didn't anticipate was that his job would be among them.

He was one of several hundred laid-off Hughes employees who are confronting the harsh reality that their skilled jobs are just as vulnerable to competition from Mexico's low-cost labor force as are the assembly line jobs of U.S. auto workers or other blue-collar employees. They are finding that not even government contract work, supported by taxpayer dollars, is immune to the lure of cost efficiency offered here in Mexico.

As Mexico joins the Clinton administration in the battle for U.S. congressional approval of the proposed North American Free Trade Agreement (NAFTA), it is finding that cheap labor and cost efficiency—two of this country's strongest economic selling points—are turning into political hand grenades in the NAFTA debate.

Labor groups and other critics say that the United States, having already lost thousands of manufacturing jobs to Mexico, would be foolish to ratify an accord that could encourage even more U.S. companies to move south.

Proponents argue that NAFTA will open up Mexico's market for the first time to a host of U.S. products and services, thus expanding employment north of the border. In addition, the agreement's defenders say the pact will help the United States to compete better against other world trading blocs, also stimulating U.S. employment.

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But all that changed in April 1989. That's when the Air Force broke new ground by authorizing Hughes's missile systems group to transfer some production of microcircuits—for missiles, jet fighters and other defense-related products—to a maquiladora plant in Tijuana.

Maquiladora facilities are foreign-owned factories, based in Mexico, that make goods strictly for export. Hundreds of U.S. companies have used maquiladoras to lower their labor costs by shifting jobs south, and NAFTA's critics say the pact would open the door for more job losses.

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Now, high-tech companies such as Hughes are finding that with proper training and supervision, Mexican workers are just as capable as their U.S. counterparts in manufacturing the complex microchips that go into aerospace and defense products. And the savings is significant in an industry where labor makes up 30 percent to 50 percent of production costs.

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Hughes spokesman William Herrman said instead that layoffs at Newport Beach were part of an across-the-board "downsizing" plan, and even jobs at the Tijuana plant have been slashed from a 1988 high of 225 employees to the current level of 120 workers. Worldwide, Hughes has dropped from a high of 83,000 employees in the mid-1980s—when roughly 80 percent of its contracts were defense-related—to around 57,000 now.

Former Hughes employees, including some who support NAFTA, argued that the Air Force's acceptance of Hughes's move to Tijuana sent the wrong signal to defense contractors that U.S. jobs should be regarded as expendable.

"I don't begrudge the Mexicans who want to work," said Robert Dingman, a former Hughes technician who helped manage the expansion of the Tijuana plant. "But how can [Hughes and the government] justify using U.S. tax dollars to take away American jobs?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. We are in morning business.

SOMALIA

Mr. LEVIN. Mr. President, the loss of American lives in Somalia has caused an understandable call for the United States to immediately withdraw. When I see the chilling pictures and hear what has happened to our troops, in my heart I have the same reaction. But we have to act with our heads, not just with our hearts. And my head says that we cannot blow hot and cold on our security commitments just because of the latest terrible television images. And my head also says that if we pull out our troops precipitously, the United States would be cutting and running from far more than Somalia.

We did not enter Somalia precipitously. People were starving there for months before we acted, and we organized an international response. We went to prevent a tragedy—mass starvation resulting from chaos and anarchy. Food was being used as a political weapon by lawless gangs and warlords. The United States led an effort to halt that tragedy, and many nations of the world joined us.

Then the goal got blurred. Our purpose got fuzzy. We need clarity and a plan for removal of our troops soon. That is why the Senate and House both passed a resolution asking the President for a report on the policy objectives by October 15 and asking him to seek authorization from Congress by November 15.

Now many are saying that the humanitarian crisis is over, that the Somali want us out of their country and U.S. soldiers are dying for no purpose. I do not buy it. I do not believe that the citizens of Somalia really want anarchy and starvation, and I believe that there is a purpose, a continuing purpose to create a secure environment so that there is no return to the chaos, the anarchy, and the starvation that brought us there in the beginning. Our goal as stated in those same House and Senate resolutions must also be to seek the prompt transfer of responsibility for the operation away from a reliance on the American Quick Reaction Force.

Now, what would be the implications if we pull out precipitously? Because that is the issue. It is not whether we remove our troops; it is under what circumstances we remove our troops. Are we going to remove our troops precipitously or are we going to remove them in good order with a plan? What would be the implications if we precipitously removed our troops?

First, with Americans captive in Mogadishu and with Aideed still fighting for control of that city, precipitously pulling out now would show that the whole world is hostage to a small gang with small arms.

Aideed is basically trying to run the United Nations out of Somalia, and if the world knuckles under to him, then it basically gives up on a humanitarian mission that brought it to Mogadishu and Somalia. It would send out an unmistakable signal that one factional warlord can win against the entire world.

We would also do something else—and we would rue the day we ever did it—we would vindicate the targeting of Americans specifically and we would encourage potential adversaries to target American troops as the easiest way to get America to lose its sense of purpose.

We would also send a discouraging signal to our own troops if we pull out precipitously. The men and women of our Armed Forces need to know that when we send them into harm's way, it is for a purpose and that we will back them and give them the tools they need to do the job. A precipitous withdrawal would injure the morale of the very men and women to whom we should be giving our full support, the men and women who are wearing the uniform of the United States of America.

The international credibility of the United States to stick to its commitments and to succeed in its purpose would also be undermined if we were to precipitously pull out of Somalia, and in the longer term, if we do that, we may threaten any ability for the United States to forge effective coalitions in response to aggression, whether through NATO, through ad hoc coalitions like we did in the gulf war, or through the United Nations.

The world finally has a chance to act together after the cold war, and Somalia is one of the first places we are trying to do that. We must not be the country which fractures that effort.

What would our reaction be if the Pakistanis, who have also taken casualties in Mogadishu, decided to pack up and go home? How would we respond to the unraveling of a coalition that left us holding the bag? How can we prevail upon other nations to contribute to peacekeeping, as we inevitably must, both where the United States has a presence and in areas where we chose not to, if we do not make a reasonable effort to stand by commitments we have freely made?

We should not be in every coalition, but we need coalitions to be created and we need coalitions to work. What will we do the next time we need to face down a terrorist state that threatens the world with nuclear or chemical weapons? How are we going to convince other nations to join us then if we shrink from commitments into which we have freely entered?

We must leave Somalia, but we must leave in a way that avoids another tragedy on the ground and a larger crisis in the crucial effort to create a secure world after the cold war.

Yes, we must leave Somalia but as part of a plan where other nations, including African nations, contribute the resources and the people to leave a secure environment for food distribution in Somalia.

Gen. Colin Powell said it best less than a month ago when he said he thinks

> We should stay there for the foreseeable future to continue to play our part in the U.N. effort. And it will be very unwise for us to suddenly pull our troops out. It would be devastating to our hopes for the new world order.

And then in his retirement speech at the National Press Club, General Powell said:

> In the case of places like Somalia where the mission was nice and clear cut when we went, but it's becoming a little more difficult now, we will have to continue our calculus of political objectives * * * and sort them out.

Then he added:

> But because things get difficult, you don't cut and run. You work the problem and try to find a correct solution.

Our first priority, Mr. President, of course, is to protect our troops while they are there and to give them the force they need to perform the mission they have been assigned. And it is urgent for the President to define that mission more clearly for our troops, for the American people, and for the world.

And again, this Senate and the House have asked for that clarity. We voted almost unanimously on September 9 to urge the President to narrow the policy objectives in Somalia and to report to the American people by October 15 on a timetable for United States troop removal and transfer of peacekeeping functions to other countries.

The House of Representatives has asked for the same thing, and now the casualties of American soldiers in Mogadishu demand that clarification of policy more urgently than any speech in Congress can.

President Clinton and his advisers are developing those plans, and the President has that responsibility to articulate how we are going to help protect humanitarian assistance, the process that we have begun so that our efforts are not wasted by a precipitous withdrawal which returns Somalia to the same state of anarchy which brought us there originally.

We need articulated answers to several questions: What are we doing immediately to give our troops the force they need to carry out their mission and to protect themselves? What are we doing to recover Americans currently held by Somalia?

What preparations are we making to retaliate if they are harmed? What are we doing to focus the efforts of the U.N. mission and to narrow the role that U.S. forces are playing? How will that participation be terminated in a way that does not contribute to the recurrence of chaos, anarchy, and starvation?

For the most part, the Somalia operation has been a success. Despite violence in parts of Mogadishu, most of the country, including Kismayu, remains peaceful. In most parts of Somalia, the U.N. mission is achieving its goals: Food distribution has been reestablished, the basic building blocks of civil society are being reintroduced, including local governance, communications systems, and police forces.

A precipitous withdrawal would do more than leave Mogadishu to the warlords and the gangs and to a return to chaos and starvation.

Another tragedy that would result would be a giant retreat on the road to developing new structures for assuring peace in our world in the wake of the cold war.

In a sense, it is unfair to make Somalia a test of our ability to act in concert with other nations, to enforce peace in a war-ravaged corner of the world far from our shores. But there will be much tougher tests ahead.

This is a historic effort. It is peace enforcement. The founders of the United Nations knew this capability was needed 48 years ago when they wrote the U.N. Charter and included this authority in chapter VII. But the cold war made it impossible to implement chapter VII peace enforcement. The veto and the threat of a veto from the Soviet Union was always present. Now the Security Council, with our leadership and our vote, has decided, at least in Somalia, to authorize a peace enforcement mission.

We cannot shrink back in isolationism, and we cannot afford, nor should we try, to be engaged in every crisis around the world. If we want to be leader of the world, but not be the world's policeman, than we have to take the responsibility to assist in the creation of multinational police forces.

If the United States does not lead our allies to create multinational enforcement mechanisms the post cold war order could turn into terrible disorder. We must not squander this chance for security, the way the League of Nations was squandered.

Will there be costs? Yes. U.S. participation in multinational peace enforcement operations will require funding and troops and other resources. But investments in a solid system of preventive diplomacy, in multinational peacekeeping and peace enforcement, are investments we cannot afford not to make—they will save us resources in the long run.

What we definitely cannot afford, is to allow regional conflicts to go unrestrained, to spread, to engulf larger regions. Because then, as our direct economic and military interests become more and more affected, the United States will be drawn into conflict on even less favorable terms, with even

higher costs to American lives and to our budget.

We cannot escape because we are oceans away. The United States learned in two world wars that we cannot pull back. If we are not involved early, we often get pulled in late, with greater losses than if we had acted at the outset.

That is one of the costs of not acting, or of pulling out too soon. Gen. John Shalikashvili, the new Chairman of the Joint Chiefs of Staff, highlighted this concept in his confirmation hearing before the Senate Armed Services Committee. The cost of not acting to create peace can be very high in terms of lives, he said, and very expensive in terms of the disruption to security and the resources we might need to stem much larger conflicts if the small ones are allowed to grow.

The United States has a special responsibility, if we want to be world leaders, to help make these operations work.

Mr. Kofi Annan, the head of all U.N. peacekeeping operations, said it best:

> For an operation like this to succeed, you need unity of command, acceptance by all the contingents that orders will come from the force commander.

This operation in Somalia has shown the importance of having clear command and control, interoperability between troops of many nations, similar training and complementary capabilities, and clearly understood rules of engagement.

But most important: The mission must be clear to everyone and the command structure must be obeyed. Much of the danger in Somalia comes from the fact that the United Nations is engaged in peace enforcement under chapter VII for the first time. That is never easy, and it carries some risk. But it is risk worth taking in order to build a working system of international security in the wake of the cold war's end.

If the United Nations is going to take on multinational peace enforcement, it needs to organize better and create the modern capabilities that military operations require to be successful, and the United States needs to participate. We have the best-trained, best-equipped forces in the world. We have the excellent experience of NATO, where coordination in command and execution has been practiced and honed for years.

If the community of nations proves unwilling to enforce international law, then our tough-worded resolutions become engraved invitations for aggressors, dictators, and terrorists to wreak havoc with the international order. Weakness and lack of resolve on our part will invite the violation of borders, ethnic cleansing, enforced starvation, political bombings, and worst of all, the greatest nightmare of all, proliferation of weapons of mass destruction.

I believe the President understands the opportunity the world has before it. He spoke of it at the United Nations last month—not just the opportunities but the challenges of making multinational peace enforcement work. I believe the American people understand that at times the world needs to stand together with force when necessary. Not everywhere. Not always. But where security interests or overriding humanitarian interests compel action.

Somalia represents a serious test of the world's will and our will. On the one hand, we cannot and should not withdraw forces precipitously. But on the other hand, we cannot and will not accept an open-ended commitment, a gradual escalation or an aimless effort. The American people will not support that, and I will not support that.

Despite the discouraging events in Somalia and elsewhere, there are reasons to be optimistic: The cold war is over, which should permit the U.N. Security Council to function. The American people know that while there is a dangerous world out there, isolationism won't work. They sense the world is too small for us to remain isolated for long, even if we wanted to.

The American people sense that the world needs to act to avoid conflagrations by stopping small brush fires before they spread, and that effective, organized multinational enforcement is one way to do this. Every nation will retain the right not to participate. Forces must be freely offered by many nations for a multinational force to be effective.

The real question is, Will the United States help provide the leadership we are capable of to make international peace enforcement work? If we are not willing to do so, then we had better resign ourselves to the consequences—wider wars and greater losses later because of our failure to learn history's lesson: that the world must stand together at critical junctures.

Mr. President, the status quo in Somalia is not acceptable, but we cannot afford to fail in Somalia, either—the larger stakes for our security and the world's are too great. With the end of the cold war, we have been given an opportunity we never thought we would have. We must take that challenge and learn to do it right.

We should act on the opportunities that we have to create the possibility of a new world order and not squander those opportunities by a precipitous cutting and running in Somalia, even with all the difficulties that it presents and with all the heartache that it causes to each of us and to our constituents.

I thank the Chair. I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. I thank the Chair.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 1521 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Texas [Mrs. HUTCHISON].

UNITED STATES PRESENCE IN SOMALIA

Mrs. HUTCHISON. Mr. President, I believe that the President of the United States should have wide latitude to represent the United States in foreign policy and Congress should be careful not to undermine our President's authority in that area. That is why I supported Senator BYRD's compromise resolution on September 9, not cutting funds for our mission in Somalia, but asking the President to report to Congress on our mission there and to seek the authorization of Congress if United States participation were to continue after November 15.

The Senate sent a strong signal to the President September 9 that it had grave reservations about our presence in Somalia, but it respected his position and sought to give him a chance to formulate a policy.

Events this week have heightened the apprehension of the American people. I supported our original mission, which was humanitarian in nature and limited in scope. I can no longer support a continued United States presence in Somalia because the nature of the mission is now unrealistic and because the scope of our mission is now limitless.

Mr. President, the prestige of our Nation should never be committed in a cavalier manner. We can never escape the fact that once U.S. military power is committed to an enterprise, there are only two basic options left to conclude the endeavor.

The first option is escalation, and by this I do not mean the incremental escalation that was such a resounding failure in Vietnam. I mean an overwhelming escalation that subjects our adversary to a level of violence that makes it unacceptable for him to pursue his objectives. Desert Storm was an example of such a use of military force. Our operations in Somalia are not sufficient to meet this test.

The second option available to us as a Nation is withdrawal. We experienced humiliation when we were forced to withdraw from Beirut in 1983 following the attack on our marine barracks. But, since we were not prepared to escalate, withdrawal was our best option.

So let us look briefly at these two options today and the costs to our Nation. Before we examine the courses of action available to us, let us look at how we arrived at our current dilemma.

Unfortunately, we have allowed ourselves to be drawn into an expansion of

a limited humanitarian mission which has become a broad U.N. mission to try to build a democratic nation where none exists. For a democratic country to flourish, there are certain institutions that must exist or be created, and they must be sustainable. These institutions include, but are not limited to, a free press, an independent judiciary, the rule of law, and free and unfettered elections. None of these institutions are present in Somalia today, nor are they visible on the horizon.

Mr. President, we have traded the ideal of plurality at the ballot box for Somali citizens for the reality of burial plots for American soldiers. As a Nation, we are now faced with a choice between the two options, escalation or withdrawal.

Can we pacify Mogadishu? Clearly, yes. But are we as a Nation willing to impose the level of violence and destruction on the rebels in Somalia that we would be necessary to accomplish our objective with minimal United States casualties? I believe the answer to that question is no, especially when we must take into account the fact that our adversary makes a practice of using women and children as human shields when firing on Americans.

Mr. President, it is no small feat for a superpower to accept setback on the world stage, but a step backward is sometimes the wisest course. I believe that withdrawal is now the more prudent option.

The President of the United States has the paramount role in the conduct of our foreign policy, and I support him in that role. The President does, however, have a responsibility to consult with the Congress on matters of shared jurisdiction between the legislative and executive branches. Implicit in the Congress' constitutionally mandated authority to provide for the common defense is the responsibility for the President to consult with the Congress concerning the use of such forces even when not seeking a formal declaration of war.

Mr. President, I hope President Clinton will present a plan for withdrawal. I do not believe the American people see the mission for escalation. I do believe the American people want our Government to protect the Americans who are now there. I do believe the American people want the United Nations to make every diplomatic effort to help bring peace to the warring factions in Somalia. But, I do not believe they are willing to put American troops between those warring factions to be humiliated and tortured in the process.

I just want to end by saying to the President: President Clinton, give us a plan for an honorable withdrawal, and you will have bipartisan support.

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

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Alaska is recognized.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I would like to make a brief statement about a constituent of mine who was wounded in the conflict in Somalia.

The PRESIDING OFFICER. The Senator may speak for up to 10 minutes.

Mr. MURKOWSKI. Mr. President, it is not my intention to speak at any length.

TRAINED AS A WARRIOR, NOT A HUMANITARIAN

Mr. MURKOWSKI. Mr. President, yesterday, I had an opportunity to talk to Terry Maddox, the father of a young man from Eagle River, AK, outside of Anchorage, who was wounded in one of the initial conflicts, a firefight, that occurred in Somalia. I would like to share with you the comments of that father.

He said, "My son was trained as a warrior"—as a warrior, Mr. President—"not trained as a humanitarian in the sense of maintaining a peacekeeping force."

This young man, John Maddox, was unable to respond in relationship to the training that he had as a warrior, because he was fearful of harming innocent civilians, children, and others that were in this concentrated area where the attack occurred.

As a consequence, he bears bullet wounds and the potential loss of hearing. He is fortunate. He was not captured. He was evacuated to Germany.

But I think it bears reflecting on the lack of direction that we currently see coming from our President, from our Secretary of State, and from our Secretary of Defense.

Those of us who were in the briefing yesterday, I think came away with the conclusion that, clearly, we do not have a policy of where we are going and what we are going to do. We all agree that an objective has been met. That objective was to have a presence over there—some 24,000 troops—to address a tremendous humanitarian need; that is, the starvation of the people of Somalia. And we achieved that purpose, as evidenced by the fact that we had reduced our strength to about 4,000 from the 24,000. But, even more vividly, we had closed the food-giving stations, which were some 20 in number, closed the last one. So we had achieved that humanitarian objective.

Now, without any consultation with Members of Congress, the administration has now focused, either consciously or unconsciously, on another objective, and that is to establish some political stability.

So we have gone from a humanitarian objective to a political objective very, very easily. And now we find ourselves in a terrible dilemma of whether we simply walk away or whether we reorganize and restructure and put in a force significant enough to, basically, annihilate those who are in opposition to us.

The competency of our leaders is somewhat in question in this regard.

We have had comments from those in our Joint Chiefs of Staff. When asked what our policy in Somalia was, we heard a response: "It is somewhat muddled."

Well, the young man who was willing to sacrifice his life, and the father, and the families of the men and women in the service, deserve more. They deserve to have the assurance from our leaders as to what our policy is, what our objectives are, so that we can get on with the commitments that we must make, as opposed to the gridlock that we find ourselves in at this time.

So, I know that you share with me the compassion and the sensitivity of this young man's parents. Of course, the good news is that this young man will survive. But this young man will hold you, Mr. President, and me, and the rest of our colleagues responsible for enunciating what our policy is, because that is our obligation—to communicate to our appointed leaders and our elected President. And I think we best get on with that responsibility.

I thank the Chair and 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. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,407,913,021,123.68 as of the close of business yesterday, October 5. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share just happens to be $17,160.83. And each person owing the $17,160.83 can thank the U.S. Congress for running up that debt.

SOMALIA

Mr. HELMS. Mr. President, nearly 11 months have passed since U.S. military personnel landed in Somalia for the clearly stated purpose of alleviating suffering among so many of the pitiful people of that country. Constant and repeated scenes of starving Somalian people tugged at the hearts of most of

us, and the United States properly proceeded to deliver humanitarian aid to them.

That was the origin of our involvement in Somalia.

I had no objection to that. As a matter of fact, I approved of it, and said so at the time, just so long as we limited our involvement to humanitarian purposes. I said that over and over again on this floor and elsewhere, which does not make a prophet out of me, but I have some feeling of comfort that at least I understood what the potential could be in the wrong hands.

How things have changed, Mr. President, for the worst. On television this week, the American people have seen the bodies of two U.S. soldiers dragged through the streets of Mogadishu by a screaming, cheering crowd of Somali men and women.

They have seen video footage of a young American soldier, hurt and bleeding, taken hostage and held against his will.

A week ago, following the shooting down of a U.S. helicopter, there was the horrifying footage of Somalis brandishing pieces of burned flesh which they triumphantly boasted were the remains of an American serviceman.

The question, Mr. President, is: Are these the people our Government sent our young men and women to Somalia to save from starvation just 11 months ago? To call this a mission of "humanitarian intervention" is a tragic mischaracterization.

On December 4 of last year, President Bush emphasized to the Members of this Senate that the intervention in Somalia would be limited, assuring—and I quote the President, Mr. Bush—"Our mission has a limited objective, to open the supply routes, to get the food moving, and to prepare the way for a U.N. peacekeeping force to keep it moving. This operation is not open ended."

Well, look at it today.

Mr. President, on May 4 of this year, the United States officially turned over the operation to the United Nations, and that brings up another question that a lot of us in the Senate had questions about or doubts about. That was the placing of American servicemen under the command of foreign commanders. I never envisioned, and certainly I never approved, letting anybody with the United Nations be in charge of the lives of American servicemen. I do not think many Americans would have agreed to that in any event.

But instead of keeping the food moving as we were promised by President Bush—and he made that promise in good faith—the United Nations, led by Secretary General Boutros-Ghali, set as its objective something called nation building. Mr. President, I submit that building a nation is indeed an open-ended commitment, and that is not what we were told last December when we made the decision. So everything logical has been turned on its head, and now we have dead boys coming home in body bags.

But wait. There is more. The objectives continue to change. On Monday, after the American people learned that at least—at least—12 American soldiers had been killed and five U.S. helicopters had been shot down in a single battle, Secretary of State Warren Christopher said that the United States would not leave Somalia until a "secure environment" had been established. By whose authority did he make that statement?

Forgive me, Mr. President, but has the U.S. Constitution been rewritten while nobody was looking? Does the Secretary of State, or for that matter, President Clinton or any other President, now presume to have the authority to declare war? That is what we are talking about.

Mr. President, the families of our soldiers must not be forced to wait until a secure environment is established. They must not be forced to wait until husbands and brothers and fathers appear on the television screens as hostages or casualties dragged through the streets of a far-off land.

A few months ago, as I recall, after 23 Pakistani soldiers were ambushed and killed in Somalia, the distinguished Congressman BEN GILMAN and I joined in writing a letter to Secretary Christopher inquiring whether, in Secretary Christopher's opinion, the United States was involved in hostilities in Somalia. We received a response from Mr. Christopher assuring us that the United States was not engaged in hostilities and was not involved in "sustained military action." Maybe so. But I wonder, Mr. President, how many more American servicemen will come home in body bags before we are engaged in "hostilities." By the way, how does the State Department define the word "sustained"?

All of which means that I support the able Senator from West Virginia—who, by the way, was born in North Carolina—Senator ROBERT C. BYRD, and others in efforts to bring an end to this tragic situation. The United States did its best to deliver aid and assistance to the victims of chaos in Somalia as promised by George Bush last December. But now we find ourselves involved there in a brutal war, in an urban environment, with the hands of our young soldiers tied behind their backs, under the command of a cumbersome United Nations bureaucracy, and fighting Somalia because we tried to extend helping hands to the starving people of that far-off land.

Mr. President, the United States has no constitutional authority, as I see it, to sacrifice U.S. soldiers to Boutros-Ghali's vision of multilateral peacemaking. Again, I share the view of Senator BYRD that the time to get out is now. We can take care of that criminal warlord over there. We have the means to do it and the capacity to do it. But it ought to be done by the United Nations. I do not want to play in any more U.N. games. I do not want any more of our people under the thumb of any U.N. commander—none.

As a matter of fact, while we are at it, it is high time we reviewed the War Powers Act, which, in the judgment of this Senator, should never have been passed in the first place. The sole constitutional authority to declare war rests, according to our Founding Fathers, right here in the Congress of the United States, and not on Pennsylvania Avenue. I voted against the War Powers Act. If it were to come up again today, I would vote against it. I have never regretted my opposition to it.

Mr. President, I thank the Chair and I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The Senate is in morning business. Senators are authorized to speak for up to 10 minutes each.

"SAVE YOUR JOB, SAVE YOUR COUNTRY"—CHAPTER VII

Mr. BAUCUS. Madam President, today I take up the last chapter of Ross Perot's book, "Save Your Job, Save Your Country." This chapter is entitled, "How to Make NAFTA Work," and in it Perot lists 10 principles of trade he thinks are important with Mexico.

First, make it part of a long-term trade strategy; negotiate with integrity; do not violate national sovereignty; uphold the legal rights of Americans; increase jobs and wages for American workers; increase jobs and wages for Mexican workers; do not make Mexico an export platform into the United States; protect the health and safety of all parties; protect the environment; enforce the agreement.

Those are Mr. Perot's principles for a good long-term trade agreement. Few would argue with any of these recommendations. Our NAFTA negotiators have accomplished every single one of them. NAFTA is part of a long-term trade strategy to open markets abroad, and NAFTA does protect our national sovereignty and our legal rights as Americans. It further protects the environment, and it means jobs and good wages for American and Mexican workers. Canadians, too, by the way, will benefit from NAFTA.

Rejecting NAFTA, by contrast, would work against most of these recommendations. That is, rejecting

NAFTA would work against most of Perot's recommendations. It would cost jobs here and in Mexico. It would do nothing for worker health and safety—a major problem today before NAFTA. It would allow the environment to keep getting worse in Mexico—a problem that is now occurring without NAFTA.

But rejecting NAFTA would meet one of Perot's recommendations. It would be a long-term trade strategy—a very long-term trade strategy. It would be a strategy of protectionism, high tariffs, injury to consumers, and a retreat from competition.

Mr. Perot is quite open about this. He calls in this chapter for a so-called social tariff on Mexican products to make up for the difference between American and Mexican wages. Well, Mexican wages average about one-seventh of our American wages. The social tariff would thus have to be about 85 percent to achieve its goal—20 times as high as our present American tariff on Mexican goods.

And Mr. Perot advocates such a tariff not just for Mexico, but for every developing country. Obviously, this would not just violate the GATT, the General Agreement on Tariff and Trade—which most of the world agrees with to set basic trade principles—but this would destroy the GATT, since we as Americans would be breaking our commitments to at least 60 of the 110 GATT members.

It would also destroy American export industries and manufacturing, agriculture and services, because developing countries are the world's fastest growing market for American products, and they would respond, I believe, in much the same way. They might themselves impose social tariffs on American goods to make up the productivity differential between their countries and America.

I might add, that is exactly why their wages are about one-fifth to one-seventh of the United States, and why American productivity is 5 to 7 times greater than in Mexico. That is essentially why wages are at this low level, because productivity is one-fifth to one-seventh of that in the United States. These countries might just retaliate against us without all the fancy theory.

So in the end, Mr. Perot is not satisfied with stopping the free-trade agreement. His goal is to set off a tide of protectionism around the world, making the old Smoot-Hawley tariffs we had years ago pale in comparison.

Americans can choose for themselves if that is the long-term strategy they want. Those of us who do not want a return to the Smoot-Hawley tariff policy must evaluate NAFTA on different grounds. We must ask ourselves whether NAFTA would make America better off than it is today. And I think the honest answer to that is "yes."

Take American business. NAFTA opens an export market—a market to sell American products—of 88 million people to the American manufacturers of goods and services. High-technology companies, auto workers, steel, capital goods, and more will all benefit. Last January, the International Trade Commission found that NAFTA will raise exports of American products by at least 16 percent or more in autos and auto parts, computers and electronics, and other products. Bearings, machine tools, steel mills, pharmaceuticals, industrial machinery, chemicals, and others—the International Trade Commission found that exports in those categories will increase 6 to 15 percent when NAFTA passes.

Yesterday, the Commerce Department provided further proof. The Commerce Department found that if NAFTA passes, the American automobile industry will raise exports of American automobiles to Mexico by a full $2 billion in 1994 alone; $1 billion in trucks, $1 billion for cars—15,000 new jobs next year. If you think those jobs might be in Mexico, you might ask why GM has already decided to make the 1995 Chevrolet Cavalier in Lansing, MI, not in Mexico.

The consensus of all reputable studies is that NAFTA will create a net gain of at least 95,000 new jobs in America. It will strengthen the trends which have raised American exports to Mexico from $12.4 billion in 1987 up to $40.6 billion last year, and converted a $1 billion trade deficit we used to have with Mexico now to $5.4 billion trade surplus. And it would permanently raise American gross domestic product—that is jobs, more jobs.

Then take agriculture. NAFTA—to quote Mr. Perot himself—will allow Americans to export an unlimited quantity of feed grain to Mexico. It will remove tariffs of 15 percent on cattle, 20 percent on fresh beef, and 25 percent on frozen beef. It will allow us to solve our problem with Canada's unfair pricing and subsidy policies. Overall, it will mean an increase of $2 to $2.5 billion in American agricultural products.

Third, the environment. The environmental side agreement is a landmark in the history of American trade agreements. Nothing like this has ever been included in any other trade agreement. It sets a very high standard for further environmental protection. It sets a permanent precedent for making environmental protection a top priority in trade negotiations, which has never been done before. It allows us to use trade sanctions to retaliate when governments will not enforce their environmental laws.

The NAFTA is good environmental policy. And, I might add, it looks even better when you compare it with the status quo—that is, without NAFTA. Because without NAFTA, the Maquiladora Program will continue to grow. That is, NAFTA repeals the Maquiladora Program. Without NAFTA, the Maquiladora Program will not only continue, it will continue to grow. We will stand by and watch, just as we do today, while 24 million gallons of industrial sludge and 55 million gallons of sewage pour out of Juarez into the Rio Grande every day. Rejecting NAFTA will do nothing to solve those problems. And that is why the vast majority of American environmentalists support the NAFTA.

Then look at labor policy. NAFTA, for the first time, links labor standards with trade. The labor side agreement may not be as sweeping as the environmental agreement. And I wish that some of those who criticize it today had fought for a tougher labor agreement last spring.

But it is still a step forward. It allows us to use trade sanctions to deny NAFTA benefits to companies that use child labor, evade the minimum wage or will not keep their employees safe and healthy on the job.

A TWO-WAY FREE-TRADE AGREEMENT

Finally, look at NAFTA in a larger economic sense. Remember, today, our tariff on Mexican goods averages 4 percent; and 30 percent of all Mexican goods enter the United States duty-free under the generalized system of preferences or the Maquiladora Program.

On the other hand, Mexico's tariff on our goods averages 10 percent, 2½ times ours, Mexico has many other barriers to trade, including quotas, investment restrictions, and unnecessary inspection requirements. By eliminating them, we will turn today's one-way free-trade agreement into a two-way free-trade agreement.

That is today our barriers are virtually nonexistent. We are virtually an open book, an open market. They can ship products, invest in America. NAFTA will correct that. It will say OK, Mexico, you have to do the same thing; you have to open up; you have to lower your trade barrier; you have to open up, convert the present one-way trade agreement in Mexico's favor to a two-way free-trade agreement in both's favor.

When we looked at last year's text, many of us demanded a better agreement. We got it. President Clinton has given us a NAFTA that will be good for America. Success on this issue is crucial for him—at home and abroad. Now it is time for us to stand with our President, for growth, for environmental protection, for farmers, and for jobs.

PEROT'S ROLE IN AMERICAN POLITICS

This concludes my speeches on Ross Perot's book. I will admit, I have been pretty hard on Mr. Perot during the series. And to be fair to him, I will say that his influence on American politics has not always been this difficult. He did something good for America by making the budget deficit a top priority in the 1992 Presidential campaign.

He helped make both the Republican and Democratic campaigns more serious and more specific. In the long run, he pushed us toward the tough deficit agreement we adopted last July.

The country owes him many thanks for that. But in his campaign against the NAFTA, he has gone too far. His book distorts most of the facts, leaves out a lot of others, and invents a few more. It relies on half-truths, misrepresentations and appeals to fear. It is simply outrageous.

I thank the Senate for its patience while I have made these speeches. I welcome an honest, spirited debate on the NAFTA. And I believe that when we have that debate, NAFTA will pass.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

CANCER

Mr. MACK. Madam President, this past Monday, Senator FEINSTEIN and I cochaired the inaugural meeting of the Senate Cancer Coalition, which we formed to learn more about cancer and, at the same time, heighten awareness.

In commemoration of National Breast Cancer Awareness Month, we gathered together some of America's foremost breast cancer researchers, educators, advocates, survivors, and experts involved in strategic planning to eradicate this disease, which affects one in nine women by age 85.

I would like to take this opportunity to share with my colleagues a few highlights of this hearing.

MAMMOGRAPHY STANDARDS

Witness after witness expressed great concern over the provision of the Clinton health care plan which will change America's screening mammography guidelines.

Current guidelines recommend that women age 40 to 49 have a mammogram every 1 to 2 years. Women age 50 and older should have a mammogram yearly.

Under the Clinton plan, mammograms for women age 40 to 49 are covered only if a physician, not the woman herself, determines she needs one. And if she chooses to have a mammogram, she is faced with a big copayment. The Clinton plan also changes the guidelines to provide a mammogram every other year for women age 50 and older.

Practically all of the experts agreed this approach was a huge step backward in our efforts to educate women about the importance of early detection.

When my wife was diagnosed with breast cancer, we made the decisions about her health care and we do not want a bureaucracy to make decisions about when and where my family gets health care.

Clearly, this will be a topic for discussion as we go about reforming our health care delivery system.

RESEARCH

We are making substantial progress in genetic research. Scientists have identified a genetic cause of cancer through DNA research. Now, they are taking the next step by developing an antibody to the cancerous genes which, scientists believe, can actually be targeted to kill only the malignant cells.

In yet another area of genetic research, scientists are very close to discovering the individual gene which causes breast cancer cells to spread. They believe it is the NM-23 gene. If this is, in fact, the gene, and if scientists can develop an antibody, then we may actually be able to stop cancer cells from spreading once they are in the breast tissue.

We are very close to making significant breakthroughs—maybe the kind of breakthroughs which could have saved my brother Michael's life, who died of melanoma in 1979. Under a Government-controlled health care system with price controls, I fear that the capital for research and development will be squeezed out of the system.

EDUCATION AND PREVENTION

It has been 10 months since President Clinton took office and yet no action has been taken on the national mammography standards legislation signed into law last year. Why has not Secretary Shalala appointed the advisory board to develop these standards? Too many women are depending upon this law to be implemented to warrant such delays. I call on Secretary Shalala to move forward—now.

We all know that educating Americans about the importance of early detection will save lives. And, while we are making progress, three populations continue to be at high risk—the working poor, people who live in poor inner-city neighborhoods, and those in rural areas.

As the Congress works to reform our beleaguered health care delivery system, we must ensure that these at-risk populations are included in the system.

It is only through education that we can help people overcome the fear of getting cancer. We must accomplish this goal because with cancer, fear kills. What I am referring to is the fear that keeps people from getting a mammogram, a PSA for prostate cancer detection or a simple doctor's office visit, and we can only overcome that fear, in fact, with education.

STRATEGIC PLANNING

The President's Special Commission on Breast Cancer will soon present its recommendations for a national strategic plan to eradicate breast cancer.

For more than 11 months, the Commission has heard testimony from more than 190 witnesses from around the world.

Once this important report is issued, the President and the Congress must act quickly and decisively.

The other message which came through at Monday's hearings was one of urgency and hope.

One in nine women will develop breast cancer this year. More than 46,000 will die.

While we have a better understanding of the cause of breast cancer, scientific advances must continue.

While we have a tool to detect breast cancer early, technological advances must continue.

While we are doing a better job of reaching more women, efforts to reach the uneducated and impoverished must continue.

Finally, while America has made a significant effort to eradicate breast cancer, our resolve to conquer this horrible disease must continue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, before I begin, let me tip my hat to the Senator from Florida.

Somehow or another this country's effort on breast cancer has been unsatisfactory. Its recognition of it as a virtual tyrannical threat to women has not yielded anything in a political way that is deserving of the disease, it would seem.

I would hope that Senator MACK's hopes are fulfilled, and I hope somehow or another, as we talk about national health, the plan that has been presented to us can be changed in a way satisfactory to allow America: First, to continue research; and second, women and citizens of every stripe get the health care of their choosing at the time and the nature which they choose it.

I see no signs of that in the plan that has been laid down, at least as it was described.

So, I thank the Senator from Florida.

NO FURTHER BUSINESS IN SOMALIA

Mr. WALLOP. Madam President, we have no further business in Somalia. If we had a business—and I doubted we did—when we went, that has long been satisfied. If our business was, as it was vaguely described, to deliver food, we did, and should have left when that problem had been resolved.

But problems happen. When great nations make moves about which they have no permanent plan and no measurement against which they or the subjects of those nations can determine, then those nations begin to risk losing the one thing they have more important than anything else, and that is their sovereignty and credibility.

Madam President, when we went to Somalia, there was not laid down any sort of pattern by which the American people, the American military, or anybody else could judge when we were finished and could go home. I warned at

the time that Americans must understand that we are going to have that happen again and again and again unless there is a definition of the commitment to the troops.

What happened was predictable. As soon as the original task had been fulfilled—if that was what the original task was—to deliver food, others besides the United States began to change the role and the mission of our military. It was not done by the President of the United States. It was not done by the Secretary of Defense. It was not done by the Secretary of State.

That mission and that role has been changing, and it changed four times in the briefing yesterday afternoon. If any Member of Congress, in either House, in either party, could have come away from that briefing we had yesterday with the foggiest notion of what the United States was about, I would love to speak to them and I would publicly apologize on the floor if I can be convinced that any of us heard a set purpose.

Madam President, avoiding humiliation is not a reason for young men and women of this country to be sent to war and to be sacrificed and dragged through the streets, humiliating their bodies.

Madam President, finding a way for future section 7, as the Secretary described it, affairs for the United Nations—I assume by that he means a sort of peacekeeping role. It is not the obligation of the young men and women in our Armed Forces to make the United Nations credible or to make their future operations predictable.

Now the humiliation of which he spoke comes from having no policy, not from leaving when things are finally done.

What are we doing there? The Secretary said we have to provide some stability. After all, he told us, Somalia has not been stable for 3 years.

Well, for the information of the Secretary, Somalia has not been stable since the time of Christ. The most recent attempt at imposing stability in Somalia was Kitchener, the last cavalry charge in which Winston Churchill took part. It was not stable then. The British could not do it. Nobody has done it since then, and we are not about to do it with too few troops with no mission.

Madam President, it seems that some of us ought to ask why the Somali are not fighting the Somali; why they seem to be less worried about warlords than we do.

It also seems somewhat humiliating to be able to have the press talk to General Aideed and our military not be able to find him. This Nation will continue to lose its footing when it submits the control of its Armed Forces to the United Nations.

This Nation is about to do something which the young men and women in military uniform do not deserve to have happen to them. The longer they stay—mark my words—some television network will take pictures of some young soldier, marine, or somebody reacting to a moment's perceived threat, in which women and children end up being dead on the streets. Those will be the images that will replace the image of the dead young American being dragged naked through the streets of Mogadishu.

We are risking the reputation of people who do not deserve to be put into that position. They are too well trained; they are too brave; they are the best that we have ever had and we are putting them into a situation where—mark my words—some in the world are going to start complaining about the barbarity of American troops. They do not deserve to be exposed to that.

Some have said that we have to stay now because of the—in the wordsmithing of the administration's representatives yesterday—"detainees."

These are prisoners of war. These are hostages. They are not detainees. A detainee sounds like a damnable common criminal, and they are not. They have not been over there breaking laws. They have been trying to serve a nation whose policy they do not know, and neither do their commanders.

Madam President, word has come back to us that Members trying to talk to the families of those who have been killed or "detained"—what an ugly word to use. And when we asked how many were "detained," they said, "A handful." This Nation does not even know how many, or is unwilling to say.

But when some Members have tried to talk to the families of the dead or the "detained," they have been told that the military has told those families that they are not to talk to Members of Congress in either House. What kind of a country does that? What kind of a country does not believe that the representatives, elected by the people, have the right to talk and try to counsel, console, see if there is assistance that can be made?

Madam President, we have no further business in Somalia. We may well have—and I am perfectly willing to accept—gone there to provide humanitarian aid, and certainly we did.

But the job of American men and women in service is to secure America's national interest. They are not international police under the command of foreigners. They are not nation-builders in a country, in a continent that does not know democracy. They are not the tools of the United Nations to be used as Boutros Boutros-Ghali or others' wish. Their job is not to protect the administration from national humiliation.

If we stay longer, Madam President, we will see more hostages. If we stay longer, we will see more mutilations and the deaths of civilian women and children. This is a poisonous prescription.

Let us, by all means, seek to rescue the hostages—call them what they are—but let us provide them with no more excuses to mutilate American bodies on the streets of Mogadishu.

Madam President, I yield the floor.

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. ROTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PROFESSIONAL BOXING

Mr. ROTH. Madam President, I rise to note sadly, but not surprisingly, yet another black mark in the checkered history of professional boxing in this country. On September 10, 1993, boxing fans in record numbers turned out and tuned in to witness one of the biggest fights in recent years—former U.S. Olympic champion Pernell Whitaker, the underdog, going up against unbeaten Julio Cesar Chavez. Experts claimed the bout would decide who is the best pound-for-pound boxer in the world today.

Whitaker put on a remarkable performance and was believed by most observers to have pulled off a major upset. Unfortunately, even more remarkable was the fact that two judges scored the fight to be a draw.

While judging a boxing match is a subjective exercise, the system by which boxing is regulated in this country should not be. After investigating professional boxing for the last year and one-half, I can report that the only consistent aspect of the current boxing regulatory system is its total ineffectiveness.

For me, the problems in the Whitaker-Chavez fight have a familiar ring—one might say it is like deja vu all over again. This fight bears a striking similarity to the fight between Delawarean Dave Tiberi and James Toney, which gave rise to the Permanent Subcommittee on Investigations, of which I am the ranking member, launching its investigation of professional boxing. As a followup to that investigation, I directed my staff to investigate the Whitaker-Chavez fight.

We found that in both fights, State regulators abdicated control to private sanctioning organizations, accountable to no one but themselves. In both fights, out-of-State or out-of-country judges erroneously applied the rules resulting in unfair decisions. And in both cases, State regulators appeared incapable of effectively investigating wrongdoing.

Let me just provide a couple of examples. In the Whitaker-Chavez fight, the

private sanctioning organization—the World Boxing Council—was allowed to impose its rules, rather than have the fight judged according to Texas rules. In an interview with staff, José Sulaiman, the president of the WBC, said he advised all parties, including State regulators, that WBC rules governed the fight. Sulaiman said State regulators raised no objections.

When contacted by staff, State regulators confirmed that the fight was judged according to WBC rules, even though there was no written waiver of Texas rules, which is required by Texas law.

But even under WBC rules, a judge may only deduct a penalty point from a boxer's score when instructed to do so by the referee. Yet, following the fight, Mickey Vann, a British judge who scored the fight a draw, was quoted in the London Daily Star saying he deducted a point from Whitaker in the sixth round for a low blow despite receiving no such instructions from the referee. That point would have given Whitaker the victory.

The British reporter expressed absolute certainty about the accuracy of Vann's quote. According to the Washington Post, Vann told Texas officials that he did not even speak to any reporters after the fight. But in an interview with my staff, Vann acknowledged speaking with this British reporter following the fight. Vann said he could not recall exactly what he said to the reporter, but Vann claimed that, since he did not deduct a point, he would not have told the reporter that he did deduct a point.

Vann further undermined his credibility when he told our staff that he believed that a judge has the authority to deduct a point even without the referee's instructions—a view clearly contrary to the rules of both the State of Texas and the WBC.

Until we take the necessary steps to put in place an effective regulatory system, I fear we will continue to witness repetitions of travesties in the outcome of professional boxing matches. And while in cases like this the major harm is done to the sport's credibility, in other cases, it is the boxer's safety that is at risk.

Our investigation revealed that the current regulatory system is no better at protecting a boxer's health and safety than it is in protecting the sport from unfairness.

That is why, in July, I introduced S. 1189, the Professional Boxing Corporation Act of 1993. This legislation will create a self-funding Government corporation to work with State regulators to develop and enforce uniform minimum standards for all professional boxing matches in the United States. For the first time in the 30-year history of boxing reform legislation, Republicans and Democrats in both the Senate and the House have agreed on a consensus bill that has been introduced in both bodies.

Most boxers never make it to the limelight of a world title fight. They slug away, anonymously, day-after-day, in dreary gyms across this country, chasing a dream. If the system cannot protect the world champions like Whitaker, what chance do most boxers have? I urge my colleagues to answer the bell and join with me to pass this legislation.

I ask unanimous consent that several articles regarding the Whitaker-Chavez fight be printed in the RECORD.

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

[From the Washington Post, Oct. 3, 1993]

BOXING REFEREES: HAVE CONNECTIONS, WILL TRAVEL

(By Bill Brubaker)

Mickey Vann owns a two-man company in Leeds, England, that delivers trash barrels to businesses and residences, then picks them up when they are filled. The son of a retired circus performer and grandson of a freak show promoter, Vann spends much of his day in a 10-ton truck, hauling trash to the local dump.

"It's bloody awful work," Vann says.

But Vann has a side job that's more appealing. Every month or two he boards a jumbo jet for an all-expenses-paid trip to Asia, Africa or America, where he referees and judges championship fights for the World Boxing Council, one of four organizations that sanction world title bouts.

"It's lovely work," Vann says.

Vann, 49, is one of perhaps 100 ring officials who has won a starring role on the world boxing stage. Friday, he refereed a WBC championship bout in Cardiff, Wales, where Lennox Lewis retained his heavyweight title with a seventh-round technical knockout of Frank Bruno.

"There's only one person in 10 million who travels—and gets looked after—the way I do," Vann says.

But now Vann is at the center of a controversy that has focused worldwide attention on the integrity and competence of boxing judges and referees and on the process by which they are selected to work at championship fights.

"Now I'm in the middle of a bloody mess," Vann says.

On the evening of Sept. 10 in San Antonio's Alamodome, Vann was one of two judges who awarded a questionable draw to Mexico's undefeated Julio Cesar Chavez in his quest to win the WBC welterweight title from Pernell Whitaker of Norfolk. The draw outraged many ringside observers who saw Whitaker as the clear winner.

Whitaker's co-manager, Lou Duva, charged that the Mexico City-based WBC and its Mexican president, Jose Sulaiman, had selected judges for the fight who would protect Chavez, Mexico's No. 1 sports hero. Sulaiman is an acknowledged friend of Chavez and of Chavez's promoter, Don King.

Sulaiman said he recommended certain judges, including Vann, to Texas boxing officials but exerted no influence over their scoring. "I've done nothing wrong," Sulaiman said last week. He added, however, that he thought Whitaker won the fight.

A former boxer who traveled with circuses as a child, Vann said he judged the fight fairly and with no outside interference. Vann and a Swiss judge, Franz Marti, called it a 115–115 draw. A third judge, Jack Woodruff of Dallas, had it 115–113 for Whitaker. The majority ruled.

The verdict, announced to 60,000 Alamodome fans and a pay-per-view audience of 1 million, was widely denounced in the U.S. media. "ROBBED!" shrieked the cover of Sports Illustrated.

"It's ludicrous! People are saying Don King and Sulaiman fixed the judges," King said in a phone interview last week, his voice rising. "But if you were going to fix the judges, why would you fix the judges to have a draw? You'd go for a win!" Now King was screaming. "If you're going to get caught, you might as well get caught winning!"

In some ways, the Chavez-Whitaker fight illustrates why boxing is the most chaotic of professional sports—and the most difficult to regulate. In how many other sports does a representative of an athlete help select the referee, then pay his fees and expenses, as boxing promoters are directed to do by their world sanctioning bodies?

Vann received $2,300 from Chavez's promoter—King—to judge the fight in San Antonio, and he was scheduled to receive about $3,000 from Lewis's promoter, Dan Duva (Lou's son), for refereeing Friday's WBC heavyweight title fight. The fees are set by the WBC.

Ironically, while the Duvas bitterly criticized Vann's judging in Chavez-Whitaker, they raised no objection to his refereeing Lewis-Bruno. Bruno's camp asked Sulaiman to appoint another ref. Sulaiman refused.

"So I can't be that bad of a ring official, can I?" Vann said. "Refereeing a heavyweight championship is the pinnacle for a referee, isn't it?"

The Chavez-Whitaker furor might have disappeared quickly, as many boxing controversies do, if Vann hadn't granted a postfight interview to a London writer.

Vann was quoted in the London Daily Star as saying he had taken a point away from Whitaker for a sixth-round low blow—a point that ultimately would have given Whitaker a victory instead of a draw.

As boxing fans know, a judge cannot deduct points for low blows unless he is instructed to do so by a referee. And at that fight, referee Joe Cortez gave no such instructions.

When the interview was published, Whitaker's camp filed an official complaint with the Texas Boxing Commission, asking that Whitaker be declared the winner.

Texas officials say Vann has told them he didn't deduct a point from Whitaker for a low blow and didn't speak to any reporters after the fight.

But Vann told The Washington Post last week he had spoken to the London writer. "But I didn't tell the writer I'd deducted a point," Vann said. "The writer misinterpreted me, I think. I don't know. To be honest, it's history. I don't bloody remember."

Now the U.S. Senate has stepped into the ring, announcing that as part of its ongoing investigation of boxing, it will look into Chavez-Whitaker and a controversial draw awarded the same night to WBC super featherweight champion Azumah Nelson.

Although his fight with James Leija of Texas was exceptionally close, Nelson retained his title when a judge from Ghana—Nelson's Home country—scored the bout solidly in his favor. The WBC had appointed the judge even though he had been suspended briefly from the 1992 Olympics for not being able to operate a scoring keypad.

"We didn't know about that Olympic problem," Sulaiman said last week from Tokyo,

where he was attending a boxing convention. "He was an inappropriate choice. I accept responsibility."

Since early last year the Senate's Permanent Subcommittee on Investigations has interviewed 130 boxing insiders, from doctors and promoters to fighters and referees. The probe has linked boxers and managers to organized crime figures and questioned the neutrality of judges and referees, some of whom accept gifts from promoters.

In July, Sen. William Roth (R-Del.) introduced legislation that would create a self-funding government corporation to develop and enforce minimum standards at U.S. boxing matches.

"Professional boxing is ripe for corruption and unfair judgments," Roth said after the San Antonio fights, "and these situations will continue to occur until the sport is cleaned up."

No one has suggested that the officials who worked Chavez-Whitaker were offered any bribes. What Whitaker's camp suggests is that the judges felt pressure to please Sulaiman—who decides which fights they'll be working—by giving Chavez the benefit of every doubt.

"Fights should not be judged by people who owe allegiance to anyone or who care so much about future appointments," said Pat English, the Duvas' lawyer. "In this particular fight there was heavy pressure on any WBC judge to vote for Chavez by virtue of Mr. Sulaiman's acknowledged closeness to Chavez."

Vann chuckled. "You've got to love boxing to take all the rubbish that you sometimes have to take," he said by phone from his rubbish clearance company. "Maybe the Duvas would like to hire me to take away all the bloody rubbish they've been talking."

Ring officials come from all walks of life: There is Lawrence Cole the insurance agent. Terry Smith the district attorney. Harry Gibbs the retired dock worker. Richard Steele the casino pit boss.

What they share is an evident passion for boxing—many were fighters—and willingness to travel the world, stay in luxury hotels and receive fees ranging from $1,000 to $8,000 per bout.

Like many ring officials, Vann began his career judging low-level club fights. "Now I've done 20-odd championships in 18 countries," he said. "It's nice. I go into my local boozers or whatever you want to call them—you know, the pubs—and people say, 'Oh, I saw you on the telly.' You know, that's lovely. That's a bonus for me."

But from London to Capitol Hill the Chavez-Whitaker fight has raised questions about how judges and referees are selected to work at world championship bouts.

"The big problem in boxing is: Who is running these fights?" said Dan Rinzel, the lawyer who is leading the Senate investigation. "Is it the state commissions or is it the sanctioning bodies? Who picks the judges and referees?"

The sanctioning bodies generally attempt to choose the ring officials for title fights. Often, to give an appearance of neutrality, they select officials from countries other than the contestants'. Other times, they select one judge from each fighter's country.

Outside the United States, the WBC's recommendations often are accepted without question. But in this country, state commissions, which are charged by law with regulating boxing, usually insist on having a say.

"We are not dictated to by anybody," said Rick Valdes, Texas's boxing coordinator. "No sanctioning body can usurp the Texas law."

For the Chavez-Whitaker fight, however, two of the three judges—England's Vann and Switzerland's Marti—were chosen from recommendations made by the WBC.

"At my request, the WBC sent me a list with 11 judges' names," Valdes said. "I added eight or nine names to the list after speaking to a lot of people around the country."

Who did Valdes consult?

"Aficionados," he said.

Such as?

"They were aficionados. People who keep tabs on officials," Valdes said, "That's all I'll tell you."

Valdes, in two recent interviews, declined to discuss what experience, if any, he had in the sport before becoming Texas's boxing director last year. "I'm just going to leave that one open," he said. "Keep going to the next question."

After conferring with these "aficionados," Valdes gave the Whitaker and Chavez camps names of five prospective judges. (The two sides already had agreed on Cortez, of Las Vegas, as referee.)

"I gave each side the opportunity to strike one name from the list, so we'd be left with three," Valdes said. Whitaker's side scratched a Puerto Rican judge. Chavez's camp didn't strike any names.

"Don King indicated to me he was spokesman for Mr. Chavez," Valdes said. "Mr. King said whatever we decided was fine with him as long as it was okay with the WRC president, Mr. Sulaiman."

From the four remaining names, Valdes selected Vann and Marti—two of the WRC's recommendations—and Woodruff, 64, a Dallas private investigator who would be working his first world title fight.

"We have a policy in which we try to put one Texas judge in every title fight," Valdes explained.

After learning that an American was on the judging panel, Sulaiman told Valdes that, in fairness to Chavez, a Mexican should be appointed.

Valdes rejected Sulaiman's demand. "My position is: We do not look at ethnic backgrounds when we're selecting judges," he said.

"Not allowing a Mexican judge was an act of discrimination against Latin American people," Sulaiman said.

Chavez was the overwhelming favorite of the Alamodome crowd, which was dominated by Mexicans and Mexican Americans. But the crowd frequently was silenced by Whitaker.

Sulaiman collected the judges' scorecards after each round—a role some ringside observers felt was inappropriate for the WBC president, given his friendship with Chavez.

"But this is my job!" Sulaiman said over the phone from Tokyo. "This is my organization!"

When the scorecards were tallied, only Woodruff had voted in favor of Whitaker. Vann and Marti had it even. The three judges had agreed on only five of 12 rounds.

"I've never seen a fight where the judges scored with more diversity," said English, the Duvas' lawyer. "They're supposed to be seeing the same fight."

Sulaiman said he supported the judges' decision. "But if you forced me against the wall and put a gun on me and said, 'You tell me who won,' I'd say Whitaker," he added.

King said Chavez was the clear winner. But he proposed adopting overtime rounds at future title fights so that draws can be eliminated.

"To me, especially when it's a title fight, I don't like to score any round even," Woodruff said. "To me, somebody has the edge. So that's the way I saw this fight. Like I told Jose Sulaiman after the fight—I said, 'Jose, I'm sorry your boy lost.'"

Marti could not be contacted for this story. Vann said his judging was not influenced by Sulaiman or the promise of another title fight. "To be honest, I don't think I'll be invited back to judge in the States anytime soon," he said. "That's all right. There are a lot more countries in the world than the United States."

As a circus child Vann said he learned the show must go on. His father is Hal Denver, once billed as the world's greatest knifethrower. His late grandfather was Tom Norman, a freak show owner.

"Have you heard of the Elephant Man over there?" Vann said, referring to Joseph Merrick, the 19th century Englishman whose disfiguring disease forced him into carnival sideshows. "Well, my grandfather was the showman they depicted in the film, 'The Elephant Man,' as the con merchant who mistreated Merrick."

Vann fell silent for a moment, then continued, as if further explanation was needed.

"I prefer to believe what other old-time showmen have said about my grandfather: that he treated Merrick very well," Vann said. "Merrick wasn't exploited. He was paid. And he was shown."

Now, almost a century later, Vann seems proud to be continuing his family's showbiz tradition.

"In boxing, just like my granddad's business, people give you a lot of crap sometimes," he said. "Like in my pub the last few weeks, they've been ribbing me, saying, 'Oh, here's bloody controversial Mickey Vann again!'"

Vann chuckled. "But that's bloody all right because that's boxing, isn't it? And besides * * *" Vann lowered his voice, as if he was ready to share a secret. "I'd rather be a Mr. Controversial than a Mr. Nobody."

[From the Washington Post, Oct. 3, 1993]

TOKENS OF APPRECIATION BEG QUESTION OF ETHICS

(By Bill Brubaker)

The organizations that sanction world title fights have rules that forbid ring officials from accepting gifts from boxers and their representatives. But the rules often are ignored.

"A prominent referee has told me that in the Far East promoters take boxing officials on shopping trips," said Dan Rinzel, a lawyer who is overseeing the U.S. Senate's investigation of boxing.

"I've heard from credible people stories of rampant abuses in the Orient where money, clothes and women are offered by promoters," said Jimmy Binns, lawyer for the World Boxing Association.

"In Japan I once received a camera," said Mickey Vann, a British judge and referee. "I was referee for that fight and the judges received cameras too."

Ring officials are among the least regulated people in boxing, as Rinzel discovered in his December 1992 interview with the referee, whom he declined to name.

As if to justify his acceptance of gifts, "the referee told me he always makes sure that all the officials involved in the fight are going on the shopping trip before he goes himself," Rinzel said. "And he said the promoters only buy them small gifts, nothing like televisions or VCRs."

The referee's comments should not surprise people in the boxing business, where promoters have long sought to curry favor from judges and referees.

As a perk for ring officials from foreign countries, U.S. promoters usually do not deduct federal income taxes from their paychecks, according to industry sources.

"In general, they're all subject to 30 percent withholding," said a source familiar with one promoter's operation. "But it's never done by a promoter. They don't want to 'inconvenience' the judges and referees."

"It's a touchy issue," said Dino Duva, vice president of Main Events Inc., a boxing promotions company. "Technically, yes, you're supposed to withhold taxes."

Dino Duva said ring officials often attempt to squeeze little—sometimes not so little—extras out of his company.

"They've come up to me before a fight trying to get reimbursed for a first class airplane ticket from say, South America," he said. "It's a difficult situation, arguing with one of the judges who will be judging your fighter's fight. It sounds crazy but you have to worry about them getting even with you, you know what I'm saying?"

At championship fights, promoters are required by sanctioning bodies to pay ring officials' fees and expenses.

"Is it a conflict of interest? No, I don't think so," said Jose Sulaiman, World Boxing Council president.

Don King disagrees, and last week the promoter said he'll no longer pay ring officials with his company's checks. "It just looks bad," he said. * * * From now on we're going to cut one check to the sanctioning body or the state commission, and then they'll pay them."

Vann said there's nothing wrong with accepting a small gift from a promoter if the fight's supervisor is informed.

"Usually the referee and judges receive the same gift," Vann said. "In Italy once we all received a small statue of a wolf and two children. We told our supervisor and everything was fine."

[From the New York Post, Oct. 6, 1993]

DON KING FACING ONE-TWO PUNCH

(By Jack Newfield)

Boxing promoter Don King is facing federal indictment for fraud and tax evasion, The Post has learned.

A Manhattan-based team of FBI and IRS agents believes it already has banked enough evidence to obtain an indictment against the flamboyant promoter—but it has expanded its probe because two former King business associates have become cooperating witnesses, according to well-placed sources.

U.S. Attorney Mary Jo White's office has asked King to provide a handwriting sample under oath to determine if documents crucial to the investigation contain his signature or forgeries, the sources said.

Prosecutors also have told King to hire new lawyers because his attorneys have become subjects of the expanding probe and it would be a conflict of interest for them to continue representing him.

Aides to King said he was in New York yesterday and would return messages to The Post. He did not.

The King probe, begun 15 months ago, has picked up steam in recent weeks, sources said.

They noted that several witnesses have already testified before a Manhattan grand jury hearing evidence in the case.

Sources said one element of the fraud case against King involves phony insurance claims and padded bills King allegedly submitted to Lloyd's of London, the prestigious but financially troubled 305-year-old British insurance syndicate.

Investigators are examining nearly $1 million in claims submitted to Lloyd's for two 1991 fights that were not held on their scheduled dates.

King was paid for claims on both fights.

One Lloyd's-insured bout, between Mike Tyson and Alex Stewart, was postponed from September to December.

King filed a $400,000 insurance claim with Lloyd's and was paid—but most of the expenses claimed were padded, according to sources close to the probe.

Lloyd's also insured a King-promoted bout between Julio Cesar Chavez and Harold Brazier that was postponed and never rescheduled.

King's $600,000 Chavez-Brazier insurance claim is believed to have included bogus travel and publicity expenses, sources close to the probe told The Post.

Executives of Lloyd's have been cooperating with federal investigators, providing copies of contracts, memos, faxes and invoices.

The IRS, which has assigned four agents to the King investigation, also has developed substantial evidence that King helped several boxing champions evade U.S. taxes, and that Don King Productions has filed false withholdings statements with the federal government.

King was prosecuted for tax evasion in 1985. He was acquitted, but the vice president of his company, Constance Harper, was convicted and sentenced to prison.

Sources said one of the new insider witnesses against King is Duke Durden, 57, who served King's company as an officer and consultant until the two had a falling-out when Durden tried to become Chavez's promoter.

Sources said Durden is providing information about King's dealings with the World Boxing Council and other boxing organizations that sanction championship bouts.

The ongoing investigation began when Joseph Maffia, the former chief financial officer of King's company, submitted a series of sworn affidavits in civil suits against King.

Maffia then became a cooperating witness against King, bringing his encyclopedia knowledge of King's finances to the government.

In his affidavits, Maffia alleged that:

"Oftentimes fighters were required to pay Carl King [Don's stepson] a 50 percent managerial share" of a boxer's pay, although the rules clearly state that managers can take only a 33 percent share.

"False declarations were filed with the Nevada State Athletic Commission" by King on the amounts paid to his fighters.

King improperly siphoned more than $3 million out of Tyson's accounts and used the funds to pay salaries to King's children; pay for his own maid service; refurbish his office; gain promotional control of other boxers, and pay legal fees incurred by Don King Productions.

King deducted $100,000 from Tyson's share of his fight with Razor Ruddock as a WBC "sanction fee" even though it was not a championship fight and no sanction fee was necessary.

Last summer King filed a complaint against Maffia with the New York State Board of Regents challenging his former comptroller's license as an accountant.

Maffia was exonerated of any wrongdoing.

The federal grand jury has heard from several King employees who contend that any insurance fraud was committed by Maffia on his own, not by King.

But after investigating that possibility, including a probe of Maffia's finances and compensation, the feds are now convinced King is their proper target.

[From the New York Post, Oct. 6, 1993]

"PUPPET" MAKES OFF WITH SCORECARDS FROM HOTLY DISPUTED BOUT

(By Colin Miner and Jack Newfield)

Scorecards from a hotly disputed championship bout have been hijacked to Mexico by the president of the World Boxing Council—who refuses to turn them over to Senate investigators, The Post has learned.

WBC president Jose Sulaiman—long described as a puppet of flamboyant promoter Don King—took the three scorecards from the Sept. 10 Pernell Whitaker-Julio Cesar Chavez bout to his Mexico City headquarters.

For the last three weeks he has steadfastly refused to allow anyone to see them—including probers from the Senate's permanent subcommittee on investigations.

Frustrated by Sulaiman, three senators who are sponsoring legislation to clean up boxing plan to make impassioned floor speeches condemning Sulaiman and the mysterious circumstances surrounding the bout in San Antonio.

Every ringside reporter—including those from Mexico, where Chavez is a national idol—overwhelmingly scored the 12-round fight in favor of Whitaker. Yet the fight ended in a draw, which protected Chavez's unbeaten status and marketability in King's stable.

A Post investigation of the fight has uncovered the following evidence that Whitaker may have been cheated of his victory:

At a secretive meeting held hours before the fight in Sulaiman's suite, the WBC president instructed the judges to reward aggressiveness—guidance that favored Chavez rather than Whitaker, the faster, more-elusive fighter.

Photocopies of the official scorecards, obtained by The Post, show British judge Mickey Vann's score for the controversial sixth round was suspiciously placed in a different column than the 11 other rounds.

Sulaiman fueled these suspicions by collecting the scorecards at the end of each round—and had total control of the cards before the decision was announced.

After the fight, Vann told three British writers he had deducted a single, critical point from Whitaker in the sixth round for a low blow, depriving Whitaker of victory.

But under WBC and Texas boxing rules, only the referee is authorized to penalize a fighter—and he did not do so.

Also, after the bout, the lone judge who voted for Whitaker felt so guilty about it that he apologized to Sulaiman for his scoring, sources said.

The Texas Boxing Commission, which is expected to close its investigation Friday, refused to accept testimony or evidence from Whitaker's lawyer.

Other evidence uncovered by The Post revealed a web of conflicts of interest and business relationships involving King, the judges and the WBC itself:

Only days before the fight, Vann became Sulaiman's handpicked choice as referee for Britain's biggest fight in a generation—last Friday's championship bout between Lennox Lewis and Frank Bruno.

The assignment meant money, prestige and potential commercial endorsements for Vann.

King directly paid the Whitaker-Chavez judges' expenses and salaries, including their first-class airfare to and from Texas, lavish $750-a-night suites and room-service bills totaling more than $24,000 during a five-day stay.

The flamboyant promoter also paid for Sulaiman's $1,000-a-night hotel suite as well as his expenses.

King and Sulaiman did not return repeated phone calls seeking comment.

An examination of this one fight—witnessed by a million viewers who paid $30 each for the pay-per-view telecast—provides a window into a sleazy underbelly of professional boxing.

It also marks the second time many believe Whitaker has been robbed by WBC judges under Sulaiman's control.

Whitaker's only loss before his match-up with Chavez was a controversial 1988 lightweight title decision to Jose Luis Ramirez.

Events in the latest bout began unfolding in early September.

On Sept. 4, six days before the fight, Sulaiman contacted Vann in England and told the London sanitation worker—from a family of carnival barkers—that he, Vann, would referee the prestigious Lewis-Bruno bout.

The following day, Vann and the two other judges, Franz Marti of Switzerland and Texan Jack Woodruff, arrived in San Antonio.

Awaiting them were luxurious suites at the Marriott River Center Hotel, which adjoins a shopping mall where they apparently shopped at King's expense.

Hotel employees told The Post how they were kept hopping filling the judges' room-service orders.

Incredibly, this incestuous financial arrangement between promoter and judges is not prohibited by WBC rules.

In fact, the opposite is true. This conflict of interest is mandated Section 10 of the WBC constitution, which states:

"The promoter must pay room and board, transportation and necessary expenses of the officials appointed to a world title bout."

With fight time less than 24 hours away, Sulaiman hosted a WBC meeting between judges and representatives of the fighters at which the universally accepted "rules of engagement" were agreed upon.

But the next day, just six hours before fight time, Sulaiman hosted an unsanctioned second meeting in his suite.

Sources at the meeting said Sulaiman told the judges the unofficial WBC policy is to favor aggressiveness—which would help Chavez, the relentless, forward-moving fighter.

Conspicuously absent from this session were officials from the Texas Boxing Commission, who in theory were regulating the fight.

One member of Texas panel told The post, "This was a WBC fight by WBC rules."

He defended the absence of his agency's representatives at the meeting, saying their sole role was to serve as "impartial observers."

At 11 p.m. New York time, the two champions entered the ring.

While many of the rounds were obviously won by Whitaker, the sixth became the most controversial when Whitaker hit Chavez below the belt.

Referee Joe Cortez—the only person with authority to order a point deduction for a flagrant foul—warned Whitaker about the low blow, but did not order a point penalty.

The following day, three widely respected British boxing writers quoted Vann as saying he deducted the penalty point because of "an appallingly low blow . . .

"The referee did not issue an official warning . . . but I took it away from him anyway," Vann told the writers.

Confronted with the WBC rule book Vann denied deducting the points and said he had been misquoted by the British journalists.

The three writers, Ken Gorman, James Lawton and Hugh McAlvaney, have provided Whitaker's lawyers with sworn affidavits detailing what Vann told them.

But the Texas commission said it won't look at the documents before closing its probe on Friday.

PROMOTERS ADD PUNCH TO JUDGING SCANDAL

(By Tim Kawakami)

Charges flew, complaints were set to be filed, and the boxing world continued to convulse Tuesday in the wake of the controversial Pernell Whitaker-Julio Cesar Chavez majority-decision draw last Friday.

In a conference call with reporters, Whitaker's promoter, Dan Duva, said he will file a formal protest with the Texas Department of Licensing and Regulation, which oversees boxing in the state. The fight was held in the San Antonio Alamo dome.

At issue are quotes attributed to one of the judges. Mickey Vann, to the effect that he deducted a point from Whitaker in the sixth round for a low blow.

Although the referee, Joe Cortez, allowed Chavez about 30 seconds to recover from the blow, he ruled that it had been unintentional and that no point should be deducted.

According to Texas, World Boxing Council and universally understood boxing rules, only the referee can decide whether a point must be deducted for a penalty.

Vann, a referee in England, gave the round to Chavez, 10–9.

"I . . . deducted a point from Whitaker for an appallingly low blow in the sixth round," the London Daily Express quoted Vann as saying after the fight.

Vann, speaking by telephone from England on Tuesday, told the Associated Press that he had done nothing of the kind.

"I deducted no points on any round and I told no one that I deducted a point," he said.

Because Vann was one of two judges who scored the fight a draw—the other scored it for Whitaker—one point added to Whitaker's total on Vann's card would have given Whitaker a majority decision and set Chavez to his first non-reversed defeat in 88 fights.

A spokesman for the Texas commission said there would be no action taken until an official complaint was filed. Duva has been sent a form to file, though Tuesday afternoon he said he had not yet received it.

Meanwhile, Las Vegas promoter Bob Arum, who was not associated with the fight, fired his own salvo at Don King, who promoted Friday's fight and also is Chavez's promoter, and the WBC, which oversaw the bout.

Calling King's relationship with the WBC and its president, Jose Sulaman, a "criminal conspiracy" and a "cancer which has plagued the sport," Arum said he and Duva would soon be joining forces to try to weaken the influence of the WBC and King.

"There's no doubt in my mind that [the Chavez-Whitaker draw] is a continuation of what's been going on for over 10 years," Arum said.

Arum said he will ask the Nevada Boxing Commission, one of the most powerful in the country, to refuse to sanction WBC fights unless the WBC has nothing to do with the choosing of judges or anything else involving specific fights.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I want to congratulate Senator ROTH for his leadership and hard work on this important issue. He has looked extensively into the problems in the professional boxing industry. He has been personally involved and has been a true leader. Senator ROTH's legislation, in my view, goes a long way toward curing the ills of a sport that the famous author, Damon Runyon, described as the red light district of sports.

Damon Runyon offered that opinion back in the 1920's. Unfortunately, professional boxing still suffers from extensive connections to organized crime, exploitative financial agreements, and inadequate health and safety measures, which, in my view and, more importantly, in the view of the experts, puts the health of boxers at great risk.

Madam President, just a few weeks ago, a fight took place in San Antonio that was viewed by many and purported to be one of the greatest fights in the last 10 or 20 years between two of the most outstanding boxers in boxing. I am referring to Pernell Whitaker and Julio Cesar Chavez. Mr. Chavez was an undefeated Mexican boxer and one who is outstanding in many respects. I believe Julio Cesar Chavez had an 87 and 0 record. Pernell Whitaker, I believe, had one loss, and they were billed as, pound-for-pound, the two greatest fighters in the world.

Unfortunately, what transpired was aptly described on the cover of Sports Illustrated, which showed a picture of the two boxers with the word "Robbed" underneath in large letters.

Madam President, the draw decision reached in the Whitaker-Chavez bout was a terrible decision which deprived an outstanding fighter of his just rewards, which are not monetary in nature, but being recognized unequivocally as a champion. There are so many aspects of that fight that reveal much of the illness in the professional boxing industry. I would like to just mention a few, according to today's New York Post:

At a secretive meeting held hours before the fight in Sulaiman's suite—

Jose Sulaiman, I might add, is the president of the so-called World Boxing Council—

The WBC president instructed the judges to reward aggressiveness—guidance that favored Chavez rather than Whitaker, a faster and more elusive fighter.

Photocopies of the official scorecards * * * show British judge Mickey Vann's score for the controversial sixth round was suspiciously placed in a different column * * *

After the fight, Vann told three British writers he had deducted a single, critical point from Whitaker in the sixth round for a low blow, depriving Whitaker of victory.

But under WBC and Texas boxing rules, only the referee is authorized to penalize a fighter—and he did not do so.

Also, after the bout, the lone judge who voted for Whitaker felt so guilty about it that he apologized to Sulaiman for his scoring.

The Texas Boxing Commission, which is expected to close its investigation without a corrective judgment, refused to accept testimony or evidence from Whitaker's lawyer.

It goes on and on. Don King, who has close ties to Sulaiman, directly paid the Whitaker-Chavez judges' expenses and salaries, including their first-class airfare to and from Texas, lavish $750-a-night suites, and room service bills totaling more than $24,000 during their stay.

The problem in boxing, Madam President, is that it is crooked and corrupt. One of the reasons why I mention the Chavez-Whitaker fight is because millions of Americans spent tens of millions of dollars on Pay-Per-View television in the belief that they were seeing a legitimate match. In fact, they did not.

In my view criminal conduct, improper financial arrangements, inadequate safety precautions, and weak regulatory oversight continue to undermine professional boxing at virtually every turn. The Whitaker-Chavez fiasco is merely the latest incident and, unfortunately, there will be many more.

Madam President, there has also been much evidence before the Senate's Permanent Subcommittee on Investigations concerning the intrusive and disturbing involvement of organized crime in professional boxing. Furthermore, and perhaps most tragically, evidence that the health of so many young men is being jeopardized and in some cases destroyed.

I received a letter from a long-time Arizona boxing trainer who said that he knew of fighters who had been knocked out five times in 6 weeks, all in different cities. Some boxers even fight under different names.

That cannot continue. We have an obligation to protect the health and safety of our citizens, especially young boxers. Each one of those people who go from city to city and are knocked out and endanger their health—many times permanently—are manipulated by unsavory and unethical promoters, managers, and others who are involved in the boxing business.

Madam President, I believe that Senator ROTH's legislation is a good place to start. I am not convinced it is the only answer. I know that Senator ROTH and I, as well as Senator DORGAN, and others who have been involved in this issue, would be willing to negotiate what is the best approach. But anyone who believes that there is not a serious problem in boxing today has not observed what is happening.

I wish to emphasize again the top priority as far as I am concerned, and that is the health of these young men. They generally come from the lowest economic strata of our society because to them boxing is the only way out. And these young men are largely uneducated and unsophisticated. They are manipulated by unscrupulous people who usually end up taking all the money, and then leave the boxer in broken health at a very early age, and as destitute as when they came into the business.

Madam President, I think it is fairly well known in this body that I am not one who believes in the role of big government. I am not one who believes government should regulate much of American life. But I believe the corruption in boxing, which has existed for so long, clearly cries out for some kind of responsible oversight and protection for these young men who are, in my view, in the most dangerous of sports.

I thank Senator ROTH again for his leadership on this effort, and also my friend from North Dakota, Senator DORGAN.

Madam President, I yield the floor.

Mr. DORGAN. Madam President, I am pleased to join my two Republican colleagues and others who have cosponsored legislation on the sport of professional boxing to establish a boxing commission. I do not want to create big government apparatuses to try to deal with boxing. However, we must do something because this sport is corrupt and it is using and abusing the lives of young American athletes who participate.

In 1983, we had a young fellow in North Dakota who was a good boxer. Because we do not get a lot of press on North Dakota athletes he was not invited to the boxing competition for the U.S. Olympics. He was a terrific young boxer, but he was not invited. So I asked if he would be able to have an opportunity to go to the regional trials. They said yes, and so he went to the regional trials and won. He went to the national trials and won. He went to the Olympics, fighting for the United States as a middleweight and fought all the way to the championship bout, and lost a split decision. In fact, he is still the light heavyweight champion of the world. But from my understanding of the boxing world through him and others, I have learned how unfair some of the decisions are and how corrupt in many ways the sport is.

Senator ROTH will remember when we had a fellow under the Witness Protection Act come before the Government Affairs Committee. I believe his name was Sammy "the Bull" Gravano. He came before the committee under the Witness Protection Act because he is the fellow who witnessed against John Gotti and helped put John Gotti in jail.

He told a story about controlling a heavyweight fighter that he wanted to set up a match for. But in order to make this match a decent one he had to have his fighter ranked in the top 10.

Mr. Gravano flew off to Las Vegas and met one of the sanctioning bodies and said he would like to get his boxer ranked. Well, he was told for about $10,000 he would get him ranked No. 8. And then he explained that he was really there as a lieutenant of John Gotti's. He was told, "for John Gotti it would be $5,000," a cut rate.

He was just describing matter of factly the way he saw boxing. The fight he was trying to arrange did not come off, but I think it was Senator ROTH who asked him: What if your fighter, who was going to take a dive, had been in that fight and had accidentally knocked the other guy out? His answer was pretty interesting. He said, "Given my reputation, my guy would have picked him up and held him to the end of the round."

They are talking about the mob influence in boxing. I am not here today to talk about the Chavez-Whitaker fight. I have watched a lot of boxing matches, but I did not watch that one. However, I did see the Sports Illustrated issue that covered this match. The front cover said "Robbed."

I have no idea whether that was the case or not. But I do know that this sport is corrupt. I also know this sport has a lot of wonderful young athletes, and those young athletes are used and abused in that sport. It is one of the few endeavors in professional athletics in which the athlete at the end of his career has nothing. There is no health care. There is no retirement. There is nothing. Most of them earn very little because they are simply the opponent for 50 bucks or 100 bucks to get knocked out in a club fight.

But even those who earn some significant money often find at the end of their career that others have frittered that money away and so they did not get what they were owed. But in the end there is nothing left. They had a wonderful athletic career, and they end up with nothing but medical troubles and other problems.

What the Senator from Delaware and I and others have worked on is a bill that says let us have a commission that is self-funded by boxing activities through a small tax on the gate receipts. This legislation will establish a boxing czar so that we do not have a kid getting knocked out in New Jersey one night and fighting in St. Louis the next night.

This legislation will provide a national registry of those who are professional boxers and standardize their records. It will establish standard medical procedures by which fights are sanctioned so that safety for these young boxers is at least assured in every State.

When I was in the House of Representatives, I worked on this for 6 or 8 years with Congressman RICHARDSON, Congressman PAT WILLIAMS of Montana, and others. I am happy to work on the same issue in the Senate. I might also commend the leadership of Senator ROTH who I think has taken a very active and aggressive role and has really helped this come together in a bipartisan piece of legislation. This bill does not say build a bigger Government. Rather, it says let us stop the corruption in boxing, establish a commission, have the fights produce the

revenue to pay for the commission to protect the rights and the interests and the long-term health of young athletes who are some of the best athletes in our country.

I am pleased to come over today to weigh in on this—I hope we can move this legislation. I hope boxers someday will be protected by this kind of legislation and they will owe an expression of gratitude to Senator ROTH and others who have worked on this legislation.

Madam President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I have been listening with interest to my colleagues on a subject I had not had full awareness of. I think that is a very remarkable and appropriate thing they are suggesting. My father was a semiprofessional boxer, and I never did go into that line of work. I did not seem to have the physiological structure to whale that way at my altitude. I failed to get into that. I would not have wanted to get into it. I had no desire to get into it.

SOMALIA

Mr. SIMPSON. Madam President, I wish to speak about the ongoing events in Somalia. If the majority leader wishes to proceed at any point, I trust he will please notify me and I shall conclude my remarks with gusto.

But it is a serious thing and a grotesque and terrible thing, this gruesome footage shown to us in America on our own television. Grotesque acts committed, of course, by the man himself, Aideed.

We should not have waited until this happened for Congress to begin to finally insist on a clearer definition of our mission in Somalia. Not everyone in this Chamber has waited too long, but collectively we have.

The distinguished President pro tempore, Senator BYRD, has been down here for weeks decrying the shifting focus of our activities in Somalia, activities originally authorized by this Congress for humanitarian ends, and he has been speaking with power.

Yesterday I went to the briefing concerning Somalia, and it was a very muddled and meandering thing. I am not speaking in a partisan way. I am not speaking in a harsh way about Secretary Aspin. He had a difficult, difficult duty, and I think he thought perhaps he would be dealing with 20 or 30 of us. But he was instead facing 200 to 300 of our colleagues. That would unnerve any of us. All of them were loaded for bear.

I thought he handled it as best he could in that situation. But there was certainly a lack of focused presentation of the mission, of what it is we are doing.

I have always been of the belief that we should not give aid and comfort to our enemies by undercutting our Commander in Chief, the President, in time of crisis. Certainly I agree with our President, with our Secretary of State, and Secretary of Defense, that we do not want to convey a message to terrorists around the world that all they need to do is pick off a few American soldiers, capture them, drag them through the streets in a crude and appalling exercise, and that then we will withdraw.

That would make the use of American power and the threat of using American power totally hollow.

But I think we also have an obligation to the men and women who put their lives at risk in these missions to ensure that they are endangered only in the direct service of a very clearly defined and attainable national interest. What is the mission?

I believe we need to make very clear that the status quo in Somalia is unacceptable to the United States Congress. We will have to figure out quickly what we are going to do, do it, and then come home, if that is what we are to do.

I say let the record show that I fervently believe that what we should not do is to be in the business of trying to construct a unified nation out of the fragmentation of Somali society. I think one of our colleagues yesterday, Senator MIKULSKI, said it best; it would require a thorough anthropological study to decide how we would ever reconstruct that society. It was fragmented by tribal warfare, difficulty, and lack of centralization long before we came there.

In my mind, I think in the minds of most of us, it is an unattainable goal—this construction or reconstruction of a unified nation from this terrible lack of structure that is there now.

That was not the mission conceived by the U.S. Congress when we assented to sending troops there. In any case, it is not something that can be achieved through our military presence.

There are many perils associated with any plans for immediate withdrawal from Somalia, most notably what might happen to those Americans yet captive and missing. Our colleague from Arizona who spent 5½ years of his life in prison captive is saying things that are important for us to listen to.

So we need to ask ourselves, are we really at war with Aideed? We say that we do not like to be assassins of foreign leaders. We say that. Yet we send 1,200 of our crack troops to track that leader. If we are going to do that, then he ought to be subject to the full force and wrath of American power. If we are not going to do that, then our soldiers ought not to be subjected to endangerment from him.

I can only draw an analogy. It seems to me a few years ago we had a rather prattling, posturing dictator on the scene, Qadhafi of Libya. We put a 2,000-pound bomb in his window at 2 a.m. one morning. It came from hundreds of miles away through various forms of vehicular traffic. It seemed to get his attention. I have not heard a lot out of him since we did that.

You either deal with these people that way, or come home. You either use the full force of this country and the equipment to do it, or you do not endanger American lives.

This man is not ranging through a whole countryside. He is not even ranging through a whole city. He is in south Mogadishu. We generally know right where he is. Deal with it. Neutralize him. If you do not want to do that, then come home.

But what we cannot afford to do is what we have been doing. I can assure my colleagues that if we continue to linger in Somalia, we will only see more of the killing and mistreatment and torture of Americans that we are now witnessing.

Let me close by saying I am willing to support our President, our Commander in Chief, if we have a policy either for decisive, potent, and powerful military action, without quarter, without reservation—or obviously for us instead to withdraw from Somalia.

What I cannot continue to support is the continuing endangerment of Americans in the service of a policy that remains absolutely mysterious and totally muddled.

I thank the Chair. I thank the majority leader. I yield the floor.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

The PRESIDING OFFICER. Under the order of September 14, 1993, the Senate having received the message from the House H.R. 2401, the House version of the National Defense Authorization Act for Fiscal Year 1994, the Senate will now proceed to its immediate consideration, and all after the enacting clause is stricken; and the text of S. 1298, as amended, is substituted in lieu thereof. The bill is considered read a third time and passed; the title of S. 1298 is substituted for the title of H.R. 2401. The Senate insists on its amendments to the bill and the title, and requests a conference with the House on the disagreeing votes of the two Houses; and the Chair is authorized to appoint conferees.

So the bill (H.R. 2401), as amended, was passed.

The language of S. 1298, which passed the Senate on September 14, 1993, appears in the RECORD of September 15, 1993, at page S11773.

The PRESIDING OFFICER (Mr. ROBB) appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. SHELBY, Mr. BYRD, Mr. GRAHAM, Mr. ROBB, Mr. LIEBERMAN, Mr. BRYAN, Mr. THURMOND,

Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. LOTT, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mr. FAIRCLOTH, and Mrs. HUTCHISON, conferees on the part of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. 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 RETIREMENT OF SENATOR DON RIEGLE

Mr. SIMPSON. Mr. President, I have been reflecting on the action of my friend, DON RIEGLE, who has announced that he will not seek reelection at the end of his present term. Several of our colleagues have done that now—on both sides of the aisle. I met DON RIEGLE many years ago when he was in Congress—as a Republican, if I can use that term. I think he would disclaim all memory of that original contact. I have watched him over the years, and I have watched him handle the good times and the tough times—adversity and triumph, like every one of us in this body; we have all been through the fires. None of us have escaped. Few in life get the fires like we do who are in the public eye.

I must say I have come to enjoy him very much. We do not exactly vote alike. In fact, our voting records are rather diverse, and I suspect they will continue to be so. I have reviewed some of the debates and speeches I have been involved in on the Senate floor in which I was involved with Senator RIEGLE, or mentioned his name, when he was engaged in debate with me. We have certainly had some exciting times here.

He is a heavy hitter, and he believes in the old adage that "politics is a contact sport." He is a true disciple of an ultimate political truth—"an attack unanswered is an attack believed." Nay, "an attack unanswered is an attack agreed to." He is a scrapper. I watched him come to the floor during the political year 1992 and punch some good, hard shots into President George Bush's abdomen or Dan Quayle's, our Vice President. Then I would head to the floor and put on a proper defense. I remember those times. We have, on this floor, debated our respective views for these past 14 years. I have always felt as if I was a pretty loyal soldier, here in the trenches, defending President George Bush's policies, as well as President Ronald Reagan's. I can tell you there was no more effective or dogged opponent of not only the economic policies, but almost every policy of Ronald Reagan and George Bush, than was the senior Senator from Michigan. He would put us through our paces—in spades.

Being in the arena with an adversary as tough as DON RIEGLE, a Senator who can in every measure "give as well as he gets," has been a great treat, and a bit of excitement for me I mean that. I like the fray, and he relishes it.

I can remember on several occasions when he would join with others of the other faith on this floor in singles or pairs or most often troikas to rip the Bush administration. They had the time and a willingness to stay on the floor and critique the administration, and then critique the administration again, and then critique the administration one more time.

I always thoroughly and pungently disagreed with their analysis and criticisms, but I admit that in the vernacular of "inside the beltway Washington," their speeches resonated out there, and they were very effective. So whether you are on one side or the other—you build respect for those who are scrappers.

I want to also pay tribute to DON RIEGLE as a very effective legislator. His work with the banking reform legislation 2 years ago was a job superbly done. He has served here in Congress since 1966. At the end of his term, he will have been here 28 years, and that is a very long time to be in this glass fishbowl, especially when it is the only kind of fishbowl with sharks in it. And to have a fishbowl with sharks in it—which is Washington, DC—is something to behold. On many occasions he and I have talked of public life and the shots we take. We pretty well bring a lot of that on ourselves. But the impact upon our spouses and children is incalculable.

He would talk to me about his wife, Lori, and you may recall that she suffered a miscarriage during a time when the great engines of the media drained down upon his head. People forget those things. That is a curious part of Washington, DC. There is a great deal of compassion and caring, unless you are in the crosshairs of the media, and then nobody thinks of your family and friends as they try to punch your lights out.

There is much more to my friend DON RIEGLE than his legislative acumen. He is a likeable man in many ways, and I have come to enjoy his friendship. His gracious wife, Lori, is a special woman. All of us who have families—especially those with young families, I am sure were very moved when on September 28, he referred to himself as an absentee father to his two youngest daughters, ages 8 and 20 months. I know those two lovely little ladies. They are very special and fragile people. Although I do not have young children anymore—I can understand fully his decision. All of us truly cherish this honorable opportunity of service in the U.S. Senate. However, all of us know that it comes at a substantial price to our families and to our loved ones, who do not quite understand it like we do.

So I understand his decision thoroughly, and I could rather sense it coming. I wish DON the best in his desire to spend more time with his family, and I wish him well in his future endeavors. He will be here until his final day with the energy, spirit, and with the rambunctiousness he has shown throughout his legislative career. He will continue to take on the issues with power and verve and passion—pure passion. I always said to him, "I would hate to see you giving a speech at a union hall. I bet that is quite an exercise. I bet you get them all worked up. I can just see little flecks of saliva in the corners of your mouth, and they are probably throwing chairs before you are finished with them." He said to that, with the smile which we all know and his head cocked, "Yeah, I can do that, and I love to do that." And I believe it. I would not want to be there to see it, but I believe it.

He will continue in every way to be a major player in a variety of issues that confront America during these times: Health care, banking legislation, and NAFTA. I do not agree with him on NAFTA one whit but I am sure that he will be a formidable opponent.

Based on our past records on most issues of the day, I suspect that he and I will continue to be in some disagreement. But as we all know too well—anyone who intends to have a legislative disagreement with Senator DON RIEGLE of Michigan had best be very well prepared—because he will be and this is going to be a truism until his very last day here. I enjoy working with him.

I shall continue to enjoy his friendship. Ann and I wish he and Lori well. I know that he will continue to give full measure—just as he has done throughout his entire political life.

We will be agreeable with each other even though we disagree. I wish him well and have enjoyed working with him.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, on Friday, July 30, 1993, the Senate approved a unanimous-consent request providing the majority leader with the authority to proceed at any time to the nomination of Walter Dellinger to be an Assistant Attorney General following consultation with the minority leader.

I have consulted with the minority leader, as well as with others involved in the matter, and I now ask unanimous consent that the Senate go into executive session to consider the nomination pursuant to that authority.

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

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The legislative clerk read the nomination of Walter Dellinger, of North Carolina, to be an Assistant Attorney General.

SCHEDULE

Mr. MITCHELL. Mr. President, earlier today, I reported to the Senate on the status of the legislative schedule for the next several days and advised that I would return later during the day for a further report, and I am now so doing.

Following that earlier report, I had several discussions with the distinguished Republican leader, with the chairman and ranking member of the Defense Appropriations Committee, with several Senators interested in that bill on possible amendments to the defense appropriations bill.

Under the rules of the Senate, it is not possible to proceed to the defense appropriations bill other than by unanimous consent until 3:17 p.m. tomorrow. That is to say, if any one Senator objects, we cannot proceed to that bill.

I first attempted to gain consent to proceed to the bill with no other conditions and was unable to gain consent for that. I then attempted to get consent to proceed to the bill by identifying certain amendments and limiting discussion and debate and voting to those amendments and was unable to do so. We then attempted to gain consent by identifying certain amendments not to be considered and were unable to do that.

A substantial number of Senators, for a variety of different reasons, objected to bringing that bill up at this time under any one of those alternatives, and it became apparent to me that it is simply not possible to begin consideration of the Defense appropriations bill so long as unanimous consent is required for that purpose, because we are just not going to get consent to that from all Senators.

One of the matters which concerns many Senators, and indeed ultimately concerns all Senators and all the American people, is the situation in Somalia. I believe strongly that the Senate should—and I am confident the Senate will—have a thorough and searching debate on United States deployments in Somalia, on our policy there, and that the Senate will vote on what our policy should be in Somalia.

This afternoon, just a short time ago, the President announced at the White House that he is asking the joint and bipartisan congressional leadership, House and Senate, Democrat and Republican, to come to the White House tomorrow for a meeting for the purpose of discussing United States policy in Somalia, and the President stated, in making that announcement, that he intended to report to the American people thereafter.

Some weeks ago, on September 9, to be precise, the Senate voted by a margin of 90 to 7 in favor of a sense-of-the-Senate resolution which called upon the President to consult closely with Congress regarding United States policy with respect to Somalia, and to submit a report to the Congress by October 15 of this year with respect to our deployment in Somalia, including a description of the mission, command arrangements, size, functions, location, and anticipated duration in Somalia of those forces.

October 15 is, of course, a week from this coming Friday. And although the sense-of-the-Senate resolution does not have the force of law because the legislation to which it was attached has not yet cleared both the House and the Senate, and indeed I believe the conference has not begun on the legislation, it is my understanding that, although not legally required to do so, it is the President's intention to comply with the spirit of the request and to submit the report as requested in that sense-of-the-Senate resolution.

I am further advised that it is the President's hope to be able to submit the report even earlier than the anticipated date of October 15. The sense-of-the-Senate resolution says by October 15 and, therefore, leaves open the possibility of the report being submitted earlier if completed, and I hope that to be the case.

It is clear, then, that we cannot get to the Defense appropriations bill until late tomorrow, at the earliest, and we are scheduled to begin, by prior arrangement, the Columbus Day recess tomorrow evening. Therefore, I made the decision to proceed to the pending matter, the nomination, which has been the subject of some prior discussion here in the Senate.

It is my expectation that we will debate this nomination, and I have been advised by colleagues on the other side that there is objection to the nomination and that it will be necessary to file a motion to terminate debate; otherwise, there will be a filibuster that will prevent a vote from occurring on the nomination. I expect that, if necessary, of course, we will have to do that.

It is my hope that we do not have to do that, but I have been advised that we will be required to do so. Therefore, we are prepared to do so, if necessary. In that event, if filed before midnight tonight, the vote on the cloture motion would ripen 1 hour after the Senate returns to session a week from today.

So I expect that we will have a cloture vote on the morning of next Wednesday. As soon as the nomination is disposed of, in whatever form that occurs, then it is my intention to proceed to the Defense appropriations bill.

By then, it will not be necessary to obtain unanimous consent, since the 2-day period following the reporting of the bill will have passed, and we can proceed to the bill at that time. Then it will be open for whatever amendments Senators wish to offer, including amendments relating to Somalia. By then or shortly thereafter, if not before, I hope we will have either received the President's report before we go to the bill or receive it shortly thereafter, on Somalia. That, I believe, will serve as an appropriate basis for that debate which, as I said earlier, I believe will be an important debate, and must and should occur.

It had been my hope that we could proceed to the Defense appropriations bill this week and complete some of the matters pending on it, some of the other matters that are likely to be offered in the nature of amendments; but, as I said at the outset of these comments, that proved not to be possible because of a variety of objections by Senators.

So, Mr. President, that describes the situation in which we are now operating. We are going to be on this nomination, then, today and this evening and tomorrow. I hope we can get a vote on it but, as I said, I have been advised that will not be possible, that it will be filibustered and, therefore, we will have to file a cloture motion.

If that is what occurs, then the cloture vote would occur on the morning of next Wednesday and then, after we dispose of this nomination, we would proceed to the Defense appropriations bill, and I expect there will be debate and votes on that bill, as well.

Mr. President, I yield to my friend and colleague, the distinguished Republican leader, for any comments he might have on the subject, or any suggestions he might have on it.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, first of all, I note we have done an especially good job on appropriations, generally. We finished all but one, and we might have gotten that done by tomorrow night, but there are a number of amendments, I think, that require considerable debate.

I think probably in this case, we should accommodate the President. The report will be up here maybe before next Friday. This is a very serious matter. Different Members on each side of the aisle have different views on what we should do in Somalia, and when we should do it, and how we should do it.

So it seems to me that this procedure should satisfy the concerns that many of our colleagues have. There will be a debate. The debate will be next Wednesday, and not today and not tomorrow. Many Members who have spoken on the floor have expressed their

views today, and they will be able to do that, I assume, later today, and maybe sometime tomorrow.

My view is the majority leader proceed, as he should, and we will be back to him in the next couple of hours. There may be able to be a vote today or tomorrow on the nomination.

Mr. MITCHELL. I thank my colleague for his comments.

Mr. President, I yield to the distinguished chairman of the committee, if he wishes to proceed.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, before we begin the discussion and debate relative to Walter Dellinger, two of our colleagues have sought recognition on unrelated matters.

With the concurrence of the Senator from North Carolina, I am prepared to yield now as much time as the Senator from Massachusetts may need, and the Senator from Washington as well, to dispose of matters they wish to speak to unrelated to this issue.

At the conclusion of that time, I will then come back and make the case I believe should be made for Walter Dellinger's nomination and will begin the debate, if that is appropriate.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KERRY].

Mr. KERRY. Mr. President, I am not clear on the parliamentary situation, but I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, the Senator is recognized as if in morning business.

WHAT'S NAFTA GOT TO DO WITH IT? THE ECONOMIC SECURITY SUBTEXT TO THE NAFTA DEBATE

Mr. KERRY. Mr. President, not a day goes by now without significant change in our economy.

And not a day goes by when the opponents and the proponents of NAFTA do not seize on the story as evidence for their cause.

To paraphrase a line from Tina Turner, when it comes to the sea change underway in America today, what's NAFTA got to do with it?

The answer, Mr. President, is, much less than we are led to believe.

Opponents claim the treaty will cause our jobs to go south and cheap goods will come flooding back in, sending more jobs back south.

But the fact is, many jobs are going south now, unimpeded and unregulated by the environmental and labor law controls that NAFTA would impose for the first time between our two countries.

And as for those cheap goods, the tariff barriers in place today are mostly Mexican, not American. Their tariffs are 2½ times larger than ours, on average. It's our goods that are prevented from going there, not the other way around. But you would never know that from all the anti-NAFTA rhetoric.

The proponents of NAFTA will tell you something like 200,000 net new jobs will be created in the United States by the year 1996. No new job is to be sneered at, but 200,000 jobs is approximately what the U.S. economy created in one fairly mediocre month, July of this year, in the middle of a so-called jobless recovery.

Let's put this job promise in perspective. Two weeks ago an article in the New York Times estimated that electronic bar code readers alone—the devices that so fascinated George Bush last year—bar code readers alone have eliminated 400,000 jobs in America.

So, what's NAFTA got to do with it, indeed.

It strikes me that in reality, the debate over NAFTA is not a debate about who's right and who's wrong. It's a debate about the future—about placing a bet on the future, on how the Mexicans will act, and how we will act.

The NAFTA opponents believe that the bet is too risky, because the Mexicans will not live up to their agreements. But the truth is NAFTA is not risky because of what the Mexicans will do—it's risky because of what we are failing to do for ourselves right now. It is a risk augmented by our failure to enunciate and aggressively pursue a national policy for the creation and retention of high-skill, high-wage jobs and preparation of our current and future workers to perform well in those jobs.

And in the absence of a clear, unmistakable, and forceful national strategy to create those jobs and move our workers into them, NAFTA might very well be doomed, a scapegoat for the much larger frustration in our country over our failure to deal with the massive changes underway in the economy, changes which are pushing up to 70 percent of our work force down the ladder of opportunity—changes which promise to claim more workers if we do not take action.

In many ways, we are witnessing the most rapid change in the workplace in this country since the postwar era began. For a majority of working Americans, the changes are utterly at odds with the expectations they nurtured growing up.

Millions of Americans grew up feeling they had a kind of implied contract with their country, a contract for the American dream. If you applied yourself, got an education, went to work, and worked hard, then you had a reasonable shot at an income, a home, time for family, and a graceful retirement.

Today, those comfortable assumptions have been shattered by the realization that no job is safe, no future assured. And many Americans simply feel betrayed.

To this day I'm not sure that official Washington fully comprehends what has happened to working America in the last 20 years, a period when the incomes of the majority declined in real terms.

In the decade following 1953, the typical male worker, head of his household, aged 40 to 50, saw his real income grow 36 percent. The 40-something workers from 1963 to 1973 saw their incomes grow 25 percent. The 40-something workers from 1973 to 1983 saw their incomes decline, by 14 percent, and reliable estimates indicate that the period of 1983 to 1993 will show a similar decline.

From 1969 to 1989 average weekly earnings in this country declined from $387 to $335. No wonder then, that millions of women entered the work force, not simply because the opportunity opened for the first time. They had no choice. More and more families needed two incomes to support a family, where one had once been enough.

It began to be insufficient to have two incomes in the family. By 1989 the number of people working at more than one job hit a record high. And then even this was not enough to maintain living standards. Family income growth simply slowed down. Between 1979 and 1989 it grew more slowly than at any period since World War II. In 1989 the median family income was only $1,528 greater than it had been 10 years earlier. In prior decades real family income would increase by that same amount every 22 months. When the recession began in 1989, the average family's inflation-adjusted income fell 4.4 percent, a $1,640 drop, or more than the entire gain from the eighties.

Younger people now make less money at the beginning of their careers, and can expect their incomes to grow more slowly than their parents'. Families headed by persons aged 25 to 34 in 1989 had incomes $1,715 less than their counterparts did 10 years earlier, in 1979. Evidence continues to suggest that persons born after 1945 simply will not achieve the same incomes in middle-age that their parents achieved.

Thus, Mr. President, it is a treadmill world for millions of Americans. They work hard, they spend less time with their families, but their incomes don't go up. The more their incomes stagnate, the more they work. The more they work, the more they leave the kids alone, and the more they need child care. The more they need child care, the more they need to work.

Why are we surprised at the statistics on the hours children spend in front of the television; about illiteracy rates; about teenage crime and pregnancy? All the adults are working and too many kids are raising themselves.

Of course, there is another story to be found in the numbers. Not everyone is suffering from a declining income. Those at the top of the income scale are seeing their incomes increase, and as a result income inequality in this Nation is growing dramatically. Overall, the 30 percent of our people at the top of the income scale have secured more and more, while the bottom 70 percent have been losing. The richest 1 percent saw their incomes grow 62 percent during the 1980's, capturing a full 53 percent of the total income growth among all families in the entire economy. This represents a dramatic reversal of what had been a post-war trend toward equality in this country. It also means that the less well-off in our society—the same Americans who lost out in the Reagan tax revolution—are the ones being hurt by changes in the economy.

You might say that we long ago left the world of Ward and June Clever. We have entered the world of Roseanne and Dan, and the yuppies from "L.A. Law" working downtown.

Many, many commentators have explained how the assumptions from that long-ago world will cripple us if we do not have the courage to look at today's economy with a clear eye.

Back then, we were the only economic superpower. American companies had virtually no competition and, since they produced almost entirely in the United States, their workers felt no particular threat from workers abroad. This was the era when "Made in Japan" meant something was cheap—not good, just cheap.

Throughout the 1950's and 1960's productivity was rising rapidly throughout the American economy, so that people could expect over time to work less, but earn more.

Back then, free trade for America meant more markets for America, not competition. We maintained the Bretton Woods rules, the GATT, and other treaty obligations not only to buttress the free world against communism, and not only out of the goodness of our hearts; we enforced a basic level of stability in the world because a stable world meant open markets for us, and we made the products people most wanted to buy.

Back then, large corporations and large unions set the pace for middle-class prosperity. Remember it was Henry Ford, no fan of unions, who created the mass production line to turn out cars cheaply—cheaply enough so that his own workers could buy them. When he finally capitulated to the United Auto Workers, he gave his workers the largest settlement of the Big Three.

In those days, Fortune 500 companies controlled well over 50 percent of our total economy, and employed three-quarters of our manufacturing work force. If the New Deal built the floor for personal security in America, the corporate economy put up the middle-class safety net, with pension plans and health insurance.

In those days, American families lived on one man's paycheck, from one job that lasted with one company for an entire lifetime.

If you were laid off, you were laid off for the duration, and you were called back when business picked up.

No more.

And two key words summarize the difference: globalization and technology. Each one feeds the other. Each one confronts American employers with a choice: Can I beat the competition by making a stand in America with my own workers, or must I beat the competition by going abroad? Will my workers join the ranks of the 70 percent falling behind, or will they join the ranks of the 30 percent—or fewer—who will get ahead?

The dynamics of this are familiar to anybody who works. Technology, particularly computer technology, makes it possible to move production anywhere in the world. Technology makes it possible for formerly large corporations to make do with drastically fewer people at home. Remember those bar-code readers.

Increasingly freer trade amongst nations means that competition comes from low-wage workers in developing countries, or from high-skilled, highly productive workers in the industrialized countries. The choice is a stark one: Either a nation must secure more technology and become more productive or it must underbid all others for labor and other costs. Most countries understand that this is a choice they have to make.

I submit to you, Mr. President, that this is a choice which we are not making, and the consequence is that the choice is being made for us—toward low costs, leading to the unprecedented wave of downsizing underway in our economy.

Two weeks ago an American Management Association survey reported that nearly half of the companies polled had reduced their work forces in the last year. A quarter reported that they will do so again in the coming year, some for the second or third time in 5 years, and experience shows that the number of companies that eventually downsize is twice the number that predict they will.

Workers who are downsized in today's environment are not out for the duration. They are out for good, and their ability to climb back into the economy is utterly dependent on the match between their skills and the needs of the small and midsized companies which now represent the pivot point for American economic success. Central to this division is skills: those that have them win, those that do not have them lose.

Workers with high skills can reap the rewards of the new technology, which is higher productivity. Higher productivity is not only the basis of increased pay, it is the ticket of admission to world markets, hence to growth, hence to new jobs and higher pay.

Recently Princeton economist Alan Krueger showed that workers who used computers on the job earned a 10- to 15-percent higher wage rate than otherwise similar workers. On the basis of this study, Microsoft Corp., the software giant, ran advertisements in Time magazine and elsewhere declaring "we make it easier to get a 15-percent raise."

On the other hand, there is a growing disadvantage to not being well educated and flexibly skilled. Workers with lower skills find that technology either eliminates their jobs or moves them overseas. It is this disadvantage that lower skilled workers face in the new global, high-technology economy that explains why they are faring increasingly poorly in terms of wages and incomes. It is these lower skilled workers who are having the rug pulled out from under them. And it is no wonder they are scared by NAFTA.

Now, I do not come to this issue as some latter-day luddite, ready to smash bar code scanners in the supermarket and wall off our borders from foreign imports.

I believe that the change we are witnessing—whether we like it or not—is inevitable. What is not inevitable is our passivity, and our inability to make change work for, instead of against, American workers.

In the past few months I have visited any number of companies in my home State of Massachusetts that have made technology work for them and their workers. Through aggressive R&D, advanced manufacturing technology, and continuous worker training and involvement, they have maintained and often increased manufacturing jobs in Massachusetts, a State where manufacturing is supposedly dead and buried. These include the Bose Corp., a major player in the Japanese hi-fi and automotive parts market, thanks to its constant innovation; and Modicon Corp., which brought jobs back from Asia when it radically upgraded technology and workplace organization. In my State, you simply cannot create new manufacturing jobs with a low-skill, low-wage strategy. You must go the high-technology, high-skill route, and you must export.

The question is, Are we going to learn from the Boses and the Modicons?

Other nations, notably Japan and Germany, have structured their entire economies around the goal of employing their citizens in well-paying jobs. This is the goal toward which government, industry, and individuals work together.

This happened in part because they were poor in natural resources and had small home markets. And so in order to become industrialized nations they were forced to export. At an early stage, therefore, international competition became their obsession. And economic considerations often dominated foreign and security policy. They were not afraid—in part as a result of cultural differences—of an economic model where big business and big government worked together to promote long-term job creation.

But in this country, Mr. President, we are still lacking a strategy that sends out an unmistakable signal to every American that the highest priority of the American Government and American industry is ensuring that Americans have the ability to get good jobs—maybe not one job for their entire lives, but one or a series of jobs that will support their families for the entirety of their careers.

This strategy needs to address the insecurity that people feel for their economic future and in order to do so it must recognize the centrality of education and training—two priorities on which President Clinton rightly focused during the campaign.

In 1949, we spent 9 percent of our Federal budget on education. We now spend less than 3 percent. An estimated 83 million Americans have inadequate reading skills and the United States is the only major industrialized nation in the world with no formal system or structure to facilitate the school-to-work transition. Federal support for vocational education has declined approximately 30 percent in real dollars over the last decade. Meanwhile, such competitors as Germany spend dramatically more on training the best educated and now the highest-paid workers in the world. American students attend school for 180 days per year while Japanese children go to school for 243 days and German children for 240 days. This means that our children attend school for 25 percent less time each year than their future competitors.

This is unacceptable. There is no question that our priorities have become skewed. The space station will cost us $2 billion this year, while the Federal Government will spend only $630 million on primary and secondary education. Over 80 percent of prison inmates are dropouts, and they each cost us between $15,000 and $30,000 per year to incarcerate. This situation is totally unacceptable.

We should be prepared to use any mechanism necessary to find more money to invest in our one true asset—our people. We can find this money in pork-barrel projects; in entitlement programs; we can reexamine the issue of the gas tax—surely Americans would be willing to pay a few more pennies a gallon to educate our children for the global competition they will face. There are many other places we can look for the resources—if we are serious and committed to the objective.

We need to begin by quickly funneling more money into our education budget. I strongly support Senator JEFFORD's suggestion that we add money to education spending in increments of 1 percent of the Federal budget until it accounts for 10 percent in the year 2004. I also agree with Senator SIMON and Senator DODD that we must abandon property tax supported education which leads to inequities among school systems.

Next, we need to quickly put in place the School-to-Work Program on which the President and Senator KENNEDY have been working. And we must not be shy about fully funding these, either. This is no place to be penny wise and pound foolish.

We must quickly enact the Worker Adjustment Program that Secretary Reich has been drafting—and I believe that we should attach it to the NAFTA as part of the implementing legislation to ensure that full help is available for all workers who need it. In addition to streamlining our disparate adjustment programs, this plan would make unemployment insurance flexible so that workers could use it as income support while they retrain—a need that did not exist when the UI system was designed to buttress workers who were temporarily laid off. It will also put the Federal Government in the business of smoothing out the labor market's information flows—so that displaced workers can find out where jobs are, what kinds of skills they require, and how they can obtain them.

And I believe, Mr. President, that we should go beyond the administration's current proposals and create an Incumbent Worker Training Program. During the campaign, President Clinton discussed encouraging companies to train their workers and I feel that we must return to that concept. We cannot wait to do this until our companies lose the global competition and our workers are downsized out of their jobs. We must help them retain the jobs they have by ensuring that they are the most technically adept in the world.

But it is not enough, Mr. President, to say "if we train them, the jobs will come." Because the jobs may not come. A recent 2-year study of the American system of capital investment by researchers at the Harvard Business School raises the question of whether U.S. companies are sufficiently focused on the long-term to be competitive and to create high-wage jobs.

The report points out that leading American firms in many industries are outinvested by their Japanese counterparts; that the R&D portfolios of American firms include a smaller share of long-term projects than those of European and Japanese firms and that American firms invest at a lower rate than both Japanese and German firms in intangible assets—such as human resource development. The report relays the fact that American CEO's believe that their firms have shorter investment horizons than their international competitors. As a result, they sometimes confuse cutting back and downsizing with a solution—restructuring may give a short-term lift to a company's stock but unless the savings are invested in productive assets, it will not help the company compete better with its German rivals over the long run.

This would explain why the Bose Co., which I mentioned a few moments ago, feels the need to remain proudly privately held in order to continue investing in R&D and its workers without pressure from Wall Street? Surely something needs to be changed if our capital system forces companies to take a short-term view when their international competitors are resolutely focused on the long-term.

In order to encourage U.S. companies to invest in their long-term growth, we must make permanent the R&D tax credit; we must put in place a full capital gains tax cut for long-term investments; we must make available support for the Department of Commerce's Advanced Technology Program as well as its manufacturing extension programs; and we must take the lead in communicating that both the private sector and the public sector should make people the center of any industrial policy.

There is plenty of evidence that the Mexicans have learned the lesson from Germany and Japan that a national strategy focused on creating high-wage jobs is a necessity in the new global economy. An influential Business Week article pointed out months ago that Mexico has no intention of settling for millions of low-wage jobs supporting high-wage jobs in the United States.

President Carlos Salinas' dream is the creation of millions of high-wage jobs in Mexico. As I mentioned earlier, the real thing for us to be wary of, if NAFTA passes, is not that Mexico will welch on the deal, and not even that it will comply with a vengeance. What must concern us is that we will fall short.

After all, it is President Salinas who declared 6 years ago that he would slay hyperinflation, drastically reduce debt, and liberate job creation in Mexico. That's exactly what he did.

It is our political system which declared that it would eradicate the Federal deficit, and create millions of well-paid jobs to replace those that went abroad in one long "morning for America." Need I say more?

So, Mr. President, when it comes to trade with Mexico, we have met the enemy, and it is us.

Millions of Americans understand this in their bones. They understand

our stake in following the path of high-skill, high-wage jobs, and in electing Bill Clinton last year they expressed their belief that Government must play a role.

But when it comes to NAFTA, Mr. President, a treaty that even proponents concede will create some short-term job loss, the debate has become a game of "who do you trust?"

And the people are not in a trusting mood.

We have yet to see the implementing legislation or to have an inkling of how much money will be found to pay for cleaning up the border or providing training for workers. We have yet to see if we will invest in the American worker before we increase his vulnerability.

With so much of the NAFTA package left to be seen, to, at this time, call the package a resounding success or a resounding failure seems somewhat premature.

We should use NAFTA as the wake-up call to attend to the real agenda of this Nation. We should do what President Clinton called on us to do in his campaign, put people first.

My urgent plea to the President, and to the leaders of my own party is that we go back to the people, back to the same dialog from last year's campaign about putting people first, and that we resolve to enact a clear and effective strategy for ensuring each American the means to find a job paying a livable wage throughout his or her lifetime, no matter how the international economy may buffet us.

I would like to thank the distinguished Senator from North Carolina for permitting me to make this lengthy statement.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from North Carolina.

THE NOMINATION OF WALTER DELLINGER TO BE AN ASSISTANT ATTORNEY GENERAL

Mr. HELMS. This has been agreed to on both sides. I 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. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the U.S. Senate will soon begin a debate on the nomination of Walter Dellinger to be an Assistant Attorney General. Clearly the administration considers it important that he be confirmed. Clearly, the two Senators from North Carolina believe it important that he not be confirmed.

The consequence of this difference of opinion is that this body is unlikely to debate any other issue until at least Wednesday of next week.

Mr. President, the U.S. Senate should not now be debating this nomination. We should be debating as thoughtfully as possible, legislation dealing with the situation of the United States forces in Somalia.

UNITED STATES PRESENCE IN SOMALIA

Mr. GORTON. Until just a few hours ago, most Senators expected that we would now be debating the defense appropriations bill. And it was clear from Senators that one of the first amendments to that bill would relate to the American presence in Somalia.

That was the appropriate subject matter for the U.S. Senate. It is a matter of deep concern to the American people, and it is literally a life-and-death matter to the American men and women in uniform who are serving in that country.

We are now delayed in taking up that Department of Defense authorization bill, however, by the fact that leadership wishes to allow President Clinton to come up at long last with some rationale for the American presence in that unhappy country, to come up with some measure that will save the President, the Secretary of Defense, and the administration from embarrassment.

These are perhaps worthy goals, secondary as though they may be. But they are clearly, in my mind, not worth the life of a single additional American serviceperson, man or woman, officer or enlisted.

It is a bitter disappointment to many of my colleagues and me that we have now deferred debate on this matter of extreme urgency for at least an additional week.

Mr. President, last Friday the Washington Post columnist, Charles Krauthammer, wrote a column from which I wish to quote a single paragraph:

> Last march, I—
>
> That is to say, Charles Krauthammer—
>
> —suggested that our policy of halfhearted half measures in Somalia and Bosnia would leave us with a choice between the embarrassment of retreat or the disaster of deepening involvement, and that given these choices, the better choice was retreat. Both courses would end in failure, but retreat would leave fewer dead Americans behind.

Had Mr. Krauthammer's counsel of last March been heeded by the President of the United States, we would have been embarrassed, but there would have been close to two dozen living American servicemen who are dead today, and dozens and dozens of injured and wounded Americans, together with what the administration is pleased to call detainees—the phrase "prisoners of war" or the word "hostages" apparently being too unpleasant to face—at home, living in safety.

Earlier this afternoon, the distinguished majority leader mentioned that on September 9, this body voted 90 to 7 for an innocuous resolution pleading with, but not requiring, the President of the United States to come up with a rationale for our presence in Somalia by the 15th of this month, and expressing the hope that he would ask for authority to keep our troops there by November 15 of this year.

I am both pleased and regretful to say that I was one of the seven Senators who voted against that resolution.

In opposing that resolution, on September 9, I said: "Between now and November 15, Mr. President, there will be more American men and women killed in Somalia while we engage in this debate, and there will be more gunships shooting at more Somalis during the course of that period of time, and that is why I am not satisfied that we are taking decisive enough action tonight to deal with the very real problem that we have."

In that period of time, from September 9 until October 6, almost a month, no serious attempt has been made by the administration to come up with the rationale or the justification for our presence in Somalia and to submit it to this body.

The administration, now in a panic, has informed the leadership that it thinks it can do so by the 15th of October, and perhaps it might be able to come up with it before next Wednesday, when we apparently will go to a debate on the Defense appropriations bill.

Mr. President, that is not good enough. There is no American interest in Somalia. The purposes for which we are there are vague and dubious. The means which we are utilizing to pacify Somalia and the city of Mogadishu are clearly insufficient to attain those goals. And our troops are under the disastrous command of the U.N. officers, who, among other things, left American troops in great danger, literally, for hours while they apparently debated on who should attempt the rescue and how that rescue should take place.

Mr. President, the President of the United States has had since January 20 to come up with a rationale for the American presence in Somalia, once the feeding mission has been completed, and he has not done so. He has had since January 20 to ask Congress for an authorization—as President Bush did in the gulf—to commit our forces to that unhappy country in a dangerous fashion. And now the majority leader—supported in part, I regret to say, by the Republican leader—has asked for another week to allow the President to come up with this justification; though I heard no promise on their part that the President would submit to the Congress a formal authorization for that presence.

Mr. President, this is not a time for us as Senators to go along in order to get along. It is time to leave. The Secretary of Defense, in an appalling presentation to the Members of the Senate yesterday, spoke of the necessity for him and his staff to internalize the terrible situation with which we were faced in Mogadishu. Mr. President, I propose that we give the Secretary of Defense plenty of time to internalize these lessons after our troops are out of danger and are out of Somalia.

It is time to leave Somalia. It is time to leave now. The additional week, which the administration has been granted by the leadership of this Senate, to defer debate on this issue may, if we are extremely fortunate, not cost the lives of any additional men and women in American uniform. But if the recent past is any guide, more American men and women will lose their lives in order that the President of the United States be given another week in order to save face.

Mr. President, Somalia is not worth it. The former President of the United States, George Bush, took a dramatically different course of action in connection with the war in the gulf. We responded to external aggression by one sovereign nation against another. We did so with a specific stated goal, readily understood by all Americans. We utilized means sufficient to reach that goal in a relatively short period of time and at a relatively low cost in life. And we determined when we had won, and we left—perhaps a little bit too early, but better too early than too late.

Not one of those situations applies here. We are not only not dealing with aggression on the part of one sovereign nation against another, but with a situation that is no worse than it is in at least half a dozen other places in the world that are less well-covered by CNN and by other television stations. We have never stated a precise goal which would meet the approval of a majority of the American people, and we clearly have not devoted sufficient forces to meet the shifting goals of the United Nations.

Finally, of course, we have left command of our troops, our strategic goals, to a mixed United Nations command which, I can say, does not have the remotest idea of what it is doing.

We are in a disaster, Mr. President. If we had retreated earlier, we would have left fewer dead Americans behind. It is time to retreat now and leave no more dead Americans behind and to learn the lesson that American power should be used only where we have a clear stake in a conflict, a clear goal to be achieved, the clear means to reach that goal, and the potential of clear support on the part of the American people.

As none of those exist in Somalia today, it is time to leave. And for this body, it is time to debate this issue and not the nomination of an Assistant Attorney General.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent to be allowed to speak as in morning business.

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

SOMALIA

Mr. KEMPTHORNE. Mr. President, today I spoke to a seasoned, tough soldier, who is in a military hospital in Germany. This tough soldier is 19 years old, and he is in this military hospital as a result of the firefight he was involved with in Somalia. He discussed with me the firefight that he was engaged in, and he pointed out to me that one of the vehicles that contained foreign troops hit a landmine. The vehicle was disabled, and those foreign troops were in need of assistance. But he said no fight ensued—no fight ensued—until the Americans arrived.

And he said that he has been to Somalia twice now on assignment. The first time was for humanitarian purposes, but now it is to go and be involved in these fire fights. He said things have dramatically changed to the point now that it is the American troops that are the targets so that these clans are intent upon killing Americans.

He also said, Mr. President, that these other countries that are there under the U.N. banner are not defending American troops.

Mr. President, the mission is accomplished in Somalia. The humanitarian aid has been delivered to those who were starving. The mission is not nation building, which is what now is being foisted upon the American people. The United States has no interest in the civil war in Somalia and as this young soldier told me, if the Somalis are now healthy enough to be fighting us, then it is absolutely time that we go home.

Mr. President, I also attended the briefing yesterday that was conducted by the administration officials, and I will tell you that that briefing was absolutely appalling. It was painfully clear that there is no clear plan of this administration with regard to Somalia, and there is certainly no contingency plans for the events that are taking place in Somalia.

From Vietnam, we learned valuable lessons. We learned that you need to clearly define the objective before you commit your troops. We learned that you need to know how to accomplish that objective. And then we learned that once that objective has been accomplished, you have the plan to withdraw those troops. Every lesson that we learned from Vietnam is being ignored in this engagement in Somalia.

Mr. President, it is time for our troops to come home. I would give this directive to the military leadership and that is that they are to use whatever means they determine necessary to secure the release of American POW's in Somalia, because to leave them behind would be to issue a death sentence to those Americans, and that is absolutely unacceptable.

I am thankful, Mr. President, that today my conversation with that 19-year-old soldier was a conversation with a survivor and it was not a conversation consoling grieving parents because they had lost a son. Thank God this young man will be all right.

But, Mr. President, the longer we leave United States troops in Somalia under U.N. command, the longer we leave United States troops in unjustified danger. I owe my allegiance to the United States, not to the United Nations. It is time for the Senate of the United States to get on with the debate, to get on with the vote, and to get the American troops home.

Thank you, Mr. President.

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

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

PROPOSED U.N. RESOLUTION ON LANDMINES

Mr. LEAHY. Mr. President, I want to bring to the Senate's attention a resolution that the Clinton administration is proposing for adoption by the U.N. General Assembly. Last week I was informed by our Deputy Ambassador to the United Nations, Karl Inderfurth, about this resolution, which deals with the enormous problem of landmines.

The resolution, after describing the horrendous toll in civilian casualties from landmines all over the world, notes that several countries have imposed unilateral bans on the export, transfer or purchase of antipersonnel landmines. It also expresses support for the French Government's call for a conference in the United Nations to amend and strengthen the Landmine Protocol.

Mr. President, just 2 weeks ago the Senate voted 100-0 to extend the U.S. moratorium on exports of antipersonnel landmines for an additional 3 years. This proposed U.N. resolution is an extremely welcome step by the administration. It will build on our unilateral moratorium by urging other countries to follow the U.S. example and join in an international moratorium on exports of antipersonnel landmines. It should receive the strong support of industrialized and developing countries alike.

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I believe these weapons are inherently inhumane. No matter how sophisticated, they do not discriminate between combatants and noncombatants, old or young. But I am under no illusions that an outright ban will occur anytime soon. Our immediate goal should be to bring together the countries that manufacture and export landmines to negotiate the broadest possible limits on their manufacture, export, and use.

Mr. President, people everywhere want to stop the maiming and killing of innocent civilians, many of them children, from landmines. As the recent vote on our moratorium showed, the administration has the unanimous support of the U.S. Senate to use its moral authority and leadership to stop this mayhem. This U.N. resolution which the United States will offer is a very welcome step toward that goal, and I commend the administration for its initiative.

I ask unanimous consent that the text of the proposed resolution be printed in the CONGRESSIONAL RECORD.

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

The General Assembly,

Noting that there are roughly 85 million uncleared mines throughout the world, particularly in rural areas,

Expressing deep concern that mines kill or maim at least 150 people each week, mostly unarmed civilians; obstruct economic development; and have other severe social, political, and economic effects, which include inhibiting the repatriation of refugees and the return of internally displaced persons,

Applauding the efforts of those states which have advanced international demining initiatives, including the assistance of states to the Secretary General's effort to gather information on the location of uncleared mines,

Recalling Resolution 47/56 urging states which have not done so to become parties to the 1980 Convention on Certain Conventional Weapons and noting with satisfaction that an increasing number of states have signed, ratified, accepted, or acceded to the Convention,

Welcoming the initiative taken by the Government of France to begin consideration of convening a conference to amend Protocol II to the Convention concerning the use of mines and other explosive devices,

Noting with satisfaction that several states have imposed unilateral bans on the export, transfer, or purchase of antipersonnel and mines and related devices,

1. Calls upon all states to offer assistance in demining, particularly in areas of developing states, and in the Secretary General's effort to gather information;

2. Urges states party to the 1980 Convention on Certain Conventional Weapons to give sympathetic consideration to proposals for a conference to consider measures to improve the protection of civilians and the enforcement of Protocol II;

3. Further calls upon all states to agree to a moratorium on the export of antipersonnel mines that pose grave dangers to civilian populations and urges states to take active measures to implement the prohibition of such transfers; and

4. Requests the Secretary General to prepare a report concerning progress on these initiatives at the 49th General Assembly under this agenda item.

MEETING OF PACIFIC ISLAND NATION LEADERS TO DISCUSS IMPROVED TRADE AND ECONOMIC RELATIONS WITH THE UNITED STATES

Mr. HATCH. Mr. President, I am pleased to bring to the attention of the Senate an impending meeting this week between officials of the United States Government's trade agencies and leaders from 13 Pacific island nations, including the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Republic of the Marshall Islands, Solomon Islands, Tonga, Tuvalu, Vanuatu, and Western Samoa.

This will be a landmark meeting heralding the first major effort to solidify trade and economic ties. The meeting is the legacy of an agreement made between these states and President Bush in Honolulu on October 27, 1990, to form a Joint Commercial Commission.

The JCC, as it's now called, fulfills, in part, an earlier commitment made by the parties to cooperate in a broad range of the region's political, economic, and cultural relations. The JCC will focus on, if I may read from the original agreement: "The development of mutually beneficial commercial and economic relations between the Pacific island nations and the United States of America."

Mr. President, the importance of this meeting cannot be emphasized enough. The Pacific island nations have signaled their earnest determination to pull themselves up by their own bootstraps. They are asking for a fair shot at the immense U.S. trade market. Of special importance to me is the emphasis the island nations are placing on trade with private companies.

I might add, Mr. President, that critical to their effort is the East-West Center of Honolulu. This distinguished institution, operating under a Federal charter since 1960, may very well prove to be the linchpin by which the early stages of this cooperation succeeds or fails.

I say this because the center, which by its own charter exists to foster cultural and technical cooperation between East and West, is serving in a capacity that would be managed by a U.S. Department of Commerce trade office if it weren't for our austere budget. I pay special tribute to East-West Center's president, Dr. Michel Oksenberg, who has never relented in supporting this effort. I have been able to rely repeatedly on the resources of his institution to pave each step of the way toward our mutual goal, even though his own institution, too, operates within tight fiscal parameters.

We are trying to correct that. More specifically, we seek to organize a JCC secretariat at the East-West Center. Besides Senator INOUYE, the junior Senator from Hawaii, Senator AKAKA, and the distinguished Delegate to Congress from American Samoa, Representative ENI FALEOMAVAEGA, join with us in promoting this important undertaking.

Mr. President, I also want to acknowledge the role of the Clinton administration and Hawaii Gov. John Waihee in making this week's meeting a reality.

Finally, Mr. President, I am pleased to list the names of our most distinguished and honorable guests from the Pacific island nations who will attend this week's meetings.

From the Cook Islands: Hon. Sir Geoffrey Henry, KBE, Prime Minister; Dr. James Gosselin, Legal Adviser; and Mr. Henry Puna, Secretary of Trade, Labour and Commerce.

From the Federated States of Micronesia: Mr. Epel Ilon, Assistant Secretary for American and European Affairs.

From Fiji: Mr. Jioji Kotobalavu, Permanent Secretary, Prime Minister's Office; Mrs. G. Rup, Acting Permanent Secretary, Commerce, Industry and Tourism; Mr. Josaia Maivusaroko, Chief, Trade, Aid and Regional Affairs; and the Right Honorable Isoa Gavidi, CEO, Fiji Trade and Investment Board.

From Kiribati: Mr. Nabuti Mwenwenikaraw, International Trade Officer, Ministry of Foreign Affairs and Trade.

From Nauru: Hon. Kinza Clodumar, Minister for Finance.

From Niue: Hon. Sani Lakatani, Minister for Finance; Mr. John Rex-Woods, Premier's Deputy.

From Papua New Guinea: Mr. Veali Vagi, Director, Americas, Europe and Middle East.

From the Solomon Islands: Hon. Andrew Nori, Minister for Finance.

From Tonga: Hon. Baron Vaea, Prime Minister; Mr. S.T. Taumoepeau-Tupou, Secretary for Foreign Affairs; Mr. Sioeli Matoto, Deputy Secretary, Labour, Commerce and Industries; Mr. Busby S. Kautoke, Deputy Secretary, Prime Minister's Office.

From Tuvalu: Hon. Bikenibeu Paeniu, Prime Minister; Mr. Feleti P. Teo, Attorney General.

From Vanuatu: Mr. Jean Ravou-Akii, Adviser, Permanent Mission of Vanuatu.

From Western Samoa: Mr. Falani Chan Tung, Secretary of Trade, Commerce and Industry.

From the Forum Secretariat: Mr. Dennis Miller, Director, Trade and Investments.

HONORING MORGAN HARDIMAN

Mr. D'AMATO. Mr. President, I rise today to remember, and to honor, Morgan Hardiman, a long-time staffer of

mine who passed away last weekend. No one who knew Morgan will forget his quick wit, his dedication to his work, or his willingness to help others. I extend my most heartfelt and deepest condolences to his family and to the many friends he has left behind. He is survived by his parents, John J. and Marian C. Hardiman, sisters, Marijean and Kathleen, and a brother, Jerome. We are all better for having known him.

I will miss Morgan for his invaluable work on crime and drug issues, but more importantly, I will miss him as a close and dear friend. Last November, when I was reelected, Morgan was the first one to greet me when I came into the room to accept my reelection.

Morgan was a native New Yorker, who graduated from Regis High School in New York City, in 1968. He is a 1972 alumnus of Boston College, with a degree in history. Morgan then earned his law degree, graduating in 1976 from New York University School of Law, thereafter becoming a member of the New York Bar.

Morgan joined my staff in January 1983, and handled crime and drug issues with great success, traveling and seeing, firsthand, the awful effects of illegal drug use, and the terrible crime associated with this scourge. Until just before his final illness, Morgan remained dedicated to his work. From Mengele to Noriega, he sought justice and he committed himself to making the world a better place, Morgan always fought for what was right.

Mr. President, as a tribute, I ask unanimous consent that the following memories of Morgan from his colleagues on my staff be included in the RECORD at the end of my remarks.

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

I will remember Morgan most for his sense of humor. My staff colleagues may remember him for his many accomplishments, for his fine work on the Drug Caucus, for his keen intellect, for his inspiring work ethic, and for his high level of professionalism. But to me, Morgan was someone whom I looked forward to seeing and hearing from every day I came to work. On his face, he wore a perpetual expression of amused all-knowingness, and exuded a dry wittiness that made us all realize the folly inherent in so many of the tasks we undertook, and the lighter side of so many of the frustrations we confronted.

He helped make my job fun, and I will miss him dearly.—ROBERT P. GABRIEL.

Morgan, your smile will never leave us.—PHIL BECHTEL.

I consider myself lucky to have known Morgan. He was wiser than his years. Don't worry, we'll keep fighting the bad guys.—GREGG RICKMAN.

Morgan P. Hardiman was a quiet hero. He was a colleague and a friend. His quick wit, energy, acerbic sense of humor, and sensitivity were all qualities that earned him his colleagues' respect and genuine, abiding affection. I miss him, and I know that I miss him more as it fully hits home that he is really gone.

He was a good attorney, a quick legislative drafter, a person with sound judgment and a level head. He was a people person, working well with people from all walks of life. He was not famous, never seeking, as so many do, the media spotlight. But he deserves to be remembered, both for what he did and who he was.

Morgan worked hard, giving fully of his time and energy. He turned out the office lights on weekends and after midnight many, many times. He organized hearings, drafted statements, traveled with Senator D'AMATO and with other staffers, wrote bills and amendments, negotiated statute language, report language, and funding levels.

He left his mark on major pieces of legislation, the Anti-Drug Abuse Acts of 1986 and 1988. The drug kingpin death penalty provisions, the only death penalty provision in Federal law that currently passes constitutional muster, was his assignment.

Like all good staffers, these achievements will never be associated with his name on the public record, except perhaps for this brief mention in his memory. But the people who worked with him in these efforts know that he made a remarkable contribution to his country.

In the 10 short years he spent as a colleague of mine on Senator D'Amato's staff, he did more for America than most people do in a long and full lifetime. He was a shining star in our part of the sky.

We were all remarkably fortunate to have known him. He did so much, and was such a good person doing it. His selfless professionalism, his integrity, and his personal commitment will stand as enduring examples to us all of how to do this wonderful, exasperating, frustrating, and occasionally glorious work we are briefly privileged to do for the American people.

Morgan, I salute you, I miss you—go with God.—MICHAEL R. HATHAWAY.

Mere words are not adequate to describe the loss of Morgan. Over the many years that we have been friends, he taught me many practical things about life, such as: don't take yourself too seriously—nobody else does; take time to enjoy the little things, like the smile of a child or the touch of a friend, truly gifts to be cherished. Morgan gave me the courage to accomplish things that I felt were too formidable for me to face. He encouraged me to take risks that would help my family. He was right, the spirit can often take on what the body cannot. The test of friendship is assistance in adversity, and unconditional assistance at that. Morgan so often pointed out to me that life catches up with us and teaches us to love and forgive each other. On his last evening, his message to me was clear—please enjoy your journey in this life.

I will miss you, my friend.—MARGARET SOBEY.

There are no words adequate enough to say goodbye to Morgan Patrick Hardiman. He was more than a co-worker, he was my friend. I love Morgan. He is a beautiful person. Morgan is a very rare gift, a hero. He is gone, his possessions have been taken away, but once a person has entered deeply into one's heart, he will remain there forever. Morgan has entered deeply into my heart and life. Morgan Patrick Hardiman will not be forgotten.—TORI ANN KOLINSKI.

After I had become a Legislative Assistant, I went to Morgan for some advice about an issue before the Senate with which I knew he'd had some experience. Because I was still fairly new at the job, I wanted to know every angle about this particular bill, just in case it would be voted upon. Asking him about a nit-picking detail concerning the bill, Morgan said to me, "Will it come up?" I answered that I really didn't think so, but in the event that it did, I wanted to be ready. Expecting wise, insightful direction on the bill, I got a different response. He said, "You know, life is too short to worry about what *may* come up." He broke into a wry grin and said nothing else. That was Morgan.—PETER PHIPPS.

Like so many who worked with him, I will always remember Morgan as a good friend—someone who, while immensely dedicated to his work, was always there to render an editorial opinion, provide a humorous diversion, or discuss the day's headlines. Morgan knew that family and personal relationships were ultimately more important than the political issue of the day. His wisdom, humor, and special character will remain forever with those who knew him. I'm glad to have been one of the lucky ones who did.—SCOTT AMRHEIN.

Over ten years ago, Morgan and I joined Senator D'Amato's staff as Legislative Assistants. It seems like just yesterday. Morgan sat back near the windows, my place was over the partition from his. I always will recall the many late evenings in the office working together with Morgan to answer mountains of mail to the Senator. "Read me another letter, Morgan," I would call over the partition. Since Morgan was the Senator's expert on crime and drug issues, his share of the mail was always interesting. In his unique way, Morgan would read aloud, with feeling, from a stack of letters sent by as diverse a pool of humanity as only New York can claim. My sides would hurt from laughing at some of his observations about life. His musings over the mail revealed his lively wit, imagination, kindness and good sense. I miss my friend, Morgan.—ANNE MIANO.

My first impression of Morgan Hardiman is indicative of my lasting memories of him. Sometime in 1984, shortly after coming to work for Senator D'Amato in Washington, I took a long cab ride from some downtown event back to the office with Morgan. In a wide-ranging conversation, I found him to be intense and committed to the issues he obviously cared deeply about. Yet, he was also whimsical, and, with an incisive wit, recalled fondly his own chance circumstances which brought him from law school into the Senator's employ. That is what I will remember most—intensity and wit.—FRANK COLEMAN.

THOUGHTS OF CLAUDIA BREGGIA AS INTERPRETED BY JOE KOLINSKI

Though I knew Morgan for many years, it was only in the last few years that I came to truly appreciate the beautiful person that he is. His wisdom, his humor and that wry little mischievous smile were always appreciated and they will certainly be missed. He was colleague, co-conspirator and confidant. This place hasn't been, and shall never be the same without him.

EXECUTIVE SESSION

DEPARTMENT OF JUSTICE

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. HELMS. Mr. President, I agree with the Senators who have commented that we ought not to be discussing the nomination of Walter Dellinger this afternoon; we ought to be talking about what is going on with our troops in a faraway land—a place where they really should not be under the existing circumstances. But the nomination of Mr. Dellinger is the pending business, and it is going to be the subject of the pending business for a great while because this is a nomination that should never have been made and it should never have been forced upon the agenda of the Senate.

Mr. President, this is not about a nomination; it is about whether the powers and rights bequeathed to this institution—the U.S. Senate—by our Founding Fathers, should survive.

I know Senators may have varying opinions about Mr. Dellinger's philosophy, and my guess is that his philosophy is out of step with a majority of Americans, and certainly with a majority of North Carolinians. But that is not the point. The point is if this nominee is confirmed by the Senate, two fundamental principles of the Senate will be permanently undermined: Specifically, one, the advice-and-consent powers of the U.S. Senate regarding Presidential appointments under article II, section 2 of the Constitution; and two, the protection of the rights of the majority and the rights of the minority, even a minority of one or two.

Mr. President, that is what makes the Senate different from every other legislative body in the history of the world. Never before has there been a legislative body where one Member will forever have the right to speak his piece and to take his stand.

Now about this nomination. From the very start, this nomination has proceeded with a flagrant disregard for both the time-honored role of the Senate and the rights of individual Senators—rights that have been known and accepted for decades.

Let me mention, parenthetically, a personal note: When I was elected to the Senate in 1972 and was sworn in right there in the well of the Senate on January 3, 1973, that was the second time I came to Washington. I have sometimes said the second time I came against my wishes, which is not exactly true.

I came to the Senate the first time in 1951, as administrative assistant to a United States Senator from North Carolina, a distinguished American. I agreed to come and stay with him as his administrative assistant for 1 year, but that 1 year stretched into 18 months, and then about 2 years. He died in office of a heart attack.

Then the Governor of North Carolina called me and persuaded me to stay on, as he put it, "with whomever I appoint to succeed Senator Smith." I agreed to do that for a few months, and I did.

I never anticipated running for the Senate, let alone being elected, but my two stays with, or in the Senate have led me to have an affection, a respect, and a love for this body historically and in terms of its meaning in a way I never imagined.

This is a unique body. This body is being tested on this nomination by the administration and by the nominee himself. They are thumbing their noses at the tradition and meaning of the U.S. Senate.

They want to see how far they can go. And with this nomination, Republicans will say, I believe, that the administration and Mr. Dellinger, the nominee, have gone too far. And I am going to explain that.

Lawyers are fond of saying, "Here is the bill of particulars." I am not a lawyer, but I am going to say it anyhow.

Mr. President, here is the bill of particulars: Traditional consultation on this nomination was nonexistent. It did not happen. It was deliberately bypassed. The blue slips filed by the two Senators from North Carolina were totally, intentionally ignored by the chairman of the Senate Judiciary Committee.

Now, the chairman is a good friend of mine. We came to the Senate the same day. I like him. But he was wrong on this one.

And during the course of our trying to find out certain things, which the Senate is entitled to know, I filed a number of written questions with the committee and asked the committee to submit them to the nominee. Some of the responses the nominee gave are contradicted absolutely by reliable and credible public published sources.

I am not going to use the word I am tempted to use, but he just did not tell the truth. And that did not do him any good with me. If a nominee cannot tell the truth, I do not think he ought to be in the office, and that includes U.S. Senators.

The administration, meanwhile, impatient with the pace by which the Senate has considered this nomination—or, to put it another way, the way that this nomination has been held up, which the administration did not like—the administration quietly took the unprecedented step of installing the nominee in the job in an acting capacity.

Well, Senator FAIRCLOTH and his associates asked the Justice Department to explain this unprecedented appointment.

Do you know what the Justice Department official said to Senator FAIRCLOTH? He said, "We were tired of waiting for the Senate to confirm him, so we just went ahead and appointed him."

See what I mean—thumbing its nose at the U.S. Senate.

On top of that, the Justice Department flat out refused to make public documents dealing with this nominee and with this appointment. To date, it has been impossible to obtain from the Department of Justice copies of Mr. Dellinger's appointment papers. We have been forced to file a freedom of information request.

However, at the very same time the Justice Department is stonewalling on Senator FAIRCLOTH's and my request for information regarding the Dellinger appointment, President Clinton and Attorney General Reno have announced what the administration claims is "a new standard for openness in the implementation of the Freedom of Information Act." Ha, ha, ha. Anybody who believes that, I want to sell them some swamp land down in eastern North Carolina.

It was President Clinton early this month—I think it was the 4th of October—who pronounced that "Openness in Government is essential to accountability. * * *"

But I guess he said to himself that this includes everything except the Walter Dellinger nomination. We are not going to reveal anything about that. We are not going to be open about that nomination.

I do not think the administration is going to be open about any other matter which it does not want the American people to know about.

I think this is the coverup administration. I am tempted to bring in Somalia on that, and the plea of the commanders in the field for tanks to protect those American servicemen. It was covered up. You can look at the Wall Street Journal and others who dug it up and revealed it.

But that is what I am talking about. This business of openness is political claptrap. They do not intend to be open about anything that might cause the slightest embarrassment to them or anybody in the administration.

Now I think it is important to have President Clinton's statement of October 4 available in the RECORD. So I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. I thank the Chair.

Mr. President, Senator BIDEN said he would be back at 5:15. He had a little consultation down at the White House with Mr. Clinton.

But I hope JOE BIDEN—the JOE BIDEN I came to the Senate with, along with Senator NUNN of Georgia, and some others—I hope JOE BIDEN will acknowledge that I would feel just as strongly about all of this if the shoe were on the other foot. As a matter of fact, I have been highly critical of some Republican administrations about things of this general nature.

If we were in the majority—we, meaning the Republicans—and a Republican President sent up a nominee

from Delaware whom JOE BIDEN strongly opposed and his rights were trampled on, Mr. President, as the rights of LAUCH FAIRCLOTH and me have been trampled on, I would be on my hind legs hollering about that, too. I would protect Senator BIDEN's rights. I would go as far as I could, and I have done it many a time.

But here we go, torpedoed from every direction because they wanted this nomination, despite the opposition of both North Carolina Senators.

Mr. President, I make this pledge with Senator BIDEN and any other Senator: That I will respond just as strongly if and when this sort of thing occurs to him or them in the future, any other Democrat, because it is wrong and it goes to the heart of what the U.S. Senate is supposed to be all about.

What we have with this nomination is an example of exactly what our Founding Fathers anticipated might happen if they did not spell it out in the Constitution of the United States. They were afraid—and they said so on countless occasions—they feared the tyranny of the majority in a democratic system. And well they should. That is why they created the Senate—so that the rights of the minority would be protected and a check imposed upon the powers of the President. That is what we are talking about—a tripartite system and the separation of powers.

Well, on this nomination, we have a commingling: "Get the nomination through. Trample on the rights of LAUCH FAIRCLOTH and Jesse Helms. We don't like them, anyhow."

So that is what this nomination is all about, whether the rights and prerogatives of the Senate as set forth by our Founding Fathers will survive. And at a later time, I am going to share with Senators many, many specifics—it will take hours upon hours upon hours—by which the traditional rules of the Senate and rights of the minority have been trampled in connection with this nomination and by the administration that nominated him.

But, for now, my wish is to impress upon Senators that when they come to this floor to vote on a cloture motion next Wednesday, I trust they will keep in mind that they are not voting on Mr. Dellinger's philosophy. They are not voting on whether he is a nice guy they happen to like. They will be voting on the Senate and if the Senate's traditional role in our Federal system of government will be protected.

Mr. President, the distinguished Senator from Georgia [Mr. NUNN], for whom I have the greatest affection, has indicated to me he wishes to make a statement. I should like to yield to him with the permission of Senator FAIRCLOTH because I view with great interest and respect anything the Senator from Georgia says.

So I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, October 4, 1993.

Memorandum: For heads of departments and agencies.

Subject: The Freedom of Information Act.

I am writing to call your attention to a subject that is of great importance to the American public and to all Federal departments and agencies—the administration of the Freedom of Information Act, as amended (the "Act"). The Act is a vital part of the participatory system of government. I am committed to enhancing its effectiveness in my Administration.

For more than a quarter century now, the Freedom of Information Act has played a unique role in strengthening our democratic form of government. The statute was enacted based upon the fundamental principle that an informed citizenry is essential to the democratic process and that the more the American people know about their government the better they will be governed. Openness in government is essential to accountability and the Act has become an integral part of that process.

The Freedom of Information Act, moreover, has been one of the primary means by which members of the public inform themselves about their government. As Vice President Gore made clear in the National Performance Review, the American people are the Federal Government's customers. Federal departments and agencies should handle requests for information in a customer-friendly manner. The use of the Act by ordinary citizens is not complicated, nor should it be. The existence of unnecessary bureaucratic hurdles has no place in its implementation.

I therefore call upon all Federal departments and agencies to renew their commitment to the Freedom of Information Act, to its underlying principles of government openness, and to its sound administration. This is an appropriate time for all agencies to take a fresh look at their administration of the Act, to reduce backlogs of Freedom of Information Act requests, and to conform agency practice to the new litigation guidance issued by the Attorney General, which is attached.

Further, I remind agencies that our commitment to openness requires more than merely responding to requests from the public. Each agency has a responsibility to distribute information on its own initiative, and to enhance public access through the use of electronic information systems. Taking these steps will ensure compliance with both the letter and spirit of the Act.

WILLIAM J. CLINTON.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent to proceed as in morning business for as much time as may be required.

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

Mr. NUNN. Mr. President, I thank my friends from North Carolina, Senators HELMS and FAIRCLOTH, for their courtesy in yielding to me for remarks on Somalia. While I have been here, I have heard a brief explanation of the Senator from North Carolina about this nomination. I am also very interested in that. I certainly want to follow that debate with a great deal of attention.

SOMALIA

Mr. NUNN. Mr. President, I rise today to address our challenge in Somalia. Like all Americans, I am deeply saddened by the recent loss of American lives in that country, and angered and repulsed, as I believe almost every American is, by the television footage of dead Americans being dragged through the streets of Mogadishu. Most Americans are outraged that our soldiers who went to Somalia on a purely humanitarian mission have now become targets of attacks and even desecrations of dead Americans.

We must not, however, permit our anger and disgust to dictate rash or unsound policy that will come back to haunt us and other fighting Americans who are risking their lives.

A crescendo of voices is now demanding an immediate—immediate—withdrawal of our forces from Somalia. Others say we should stay the course in that country, even if it means deploying a much larger U.S. force there.

In my view, the first thing we must do is keep our wits about us in this discussion. We expect our troops in Somalia to remain calm and collected and courageous under fire, and we owe them nothing less than equal composure back here in Washington as we decide what to do next in Somalia. We need a careful and a reasoned consideration of the situation, including an immediate but thoughtful reassessment from the Clinton administration, and, as Senator BYRD has said many times on the floor of the Senate, we need a full consultation and debate within the Congress.

CNN, which is headquartered in my home State of Georgia, is rightfully regarded by many as the greatest electronic broadcast organization in the world. I am very proud of CNN under the leadership of Ted Turner and Tom Johnson. I believe, however, that both of them and their staffs and journalists would agree that we should not and must not permit CNN or any other news organization inadvertently to dictate, simply by virtue of the television images it provides of events overseas, when and where we are going to deploy U.S. forces overseas, or when we should withdraw those forces.

In my view, daily graphic and heart-rending television footage of starving Somali contributed significantly to the Bush administration's decision to intervene last December in Somalia. Today, footage of dead and captured Americans is fueling calls for an abrupt and immediate pullout.

So television is having a very powerful effect. And sometimes that is very much for the good. But all of us making decisions of this nature have to back away from the immediate emotion and think about what is in the interests of the United States over the long haul.

We must do all that is necessary to protect our troops in Somalia and to

ensure the safe return of those who have been captured. We also have broader concerns. We have troops who are in harm's way in other places far different from Somalia. We must not send a signal that encourages adversaries to attack our American troops elsewhere and invite in television cameras in the hopes of forcing us to leave other places in the world.

In the name of protecting our military forces in Somalia, we must not jeopardize our other military forces elsewhere—in Europe, in Macedonia, in the Persian Gulf, in Korea, in Central America, and many other places around the world.

There are essentially three options now being discussed.

The first is what I would call the status quo plus. This option would involve continuing our present operations with a modest increase in our forces in Somalia.

The second option would be to immediately withdraw our forces without any conditions.

The third option would be to heavily reinforce our deployments in Somalia, with the aim of militarily crushing Aideed and his forces and providing the foundation for disarmament and nation building in Somalia.

I will comment on each of these options briefly this afternoon.

The first option would simply extend a status quo that, from my perspective, is unacceptable. We have been drawn into playing Aideed's game of urban guerrilla warfare with insufficient force to prevail. Adding modest reinforcements will help protect our troops already there, and to the extent those reinforcements are required for that limited purpose, I support them. But modest reinforcements are not likely to deprive Aideed's forces of the tactical initiative they have enjoyed in southern Mogadishu.

The second option is an immediate departure, and I have already spoken of that. How we leave Somalia can affect the security of our other forces deployed overseas and the willingness of other nations to participate with the United States in other U.N. operations or in other operations that are not United Nations, but that the operations have required or invited—or we have invited—multilateral participation.

The third option of heavy reinforcement promises a wider war in a country where we have no economic interest and no security interest and at a time when we have shrinking military power which may again be called upon to protect primary security interests in Europe, Northeast Asia, and the Persian Gulf. The ultimate mistake in foreign policy today would be to become so entangled in a nation where we have no strategic interest and no economic interest that we lose sight of events in other places such as Russia which have potentially profound consequences for our future national security.

The fundamental flaw of the United Nations position in Somalia is the large disparity between political ends and military means. The recently expanded United Nations objective in Somalia is disarmament and nation building that in a country where, in the short term at least, political stability is probably inherently unachievable, given the clan-based organization of Somali society.

The irony, of course, is that when we entered Somalia last December with much larger military forces than we have there today, we did so in pursuit of a simple and very narrow political objective—ending starvation. Today, the United Nations is pursuing a vastly expanded political agenda in the wake of the withdrawal of most United States military forces initially deployed to Somalia. I believe the United Nations made a fundamental mistake in expanding its mission, in expanding its political goals and its military goals in Somalia at a time when the means to fulfill that mission were being withdrawn.

I believe there is a fourth option that should be considered. I offer this option for consideration of the administration, our military leaders, and also those of us in the Senate who are debating this issue. That option will be comprised of an immediate change in tactics, a narrowing of the military mission, and a carefully constituted exit strategy. Specifically, I propose four different measures.

First, the United Nations needs to alter its approach to the tactical situation on the ground. Whatever the United Nations may decide on this matter, however, U.S. forces should cease urban police operations aimed at capturing Aideed and his henchmen. There are simply not enough of the right kind of military forces on the ground for us to continue such missions, and the urban guerrilla warfare environment plays directly into Aideed's strengths. We saw that vividly over the weekend.

The United Nations should instead concentrate on the security of its own forces, as well as protecting key facilities which are essential to humanitarian needs. This means, as the administration has announced, reinforcing our own forces with appropriate amounts of heavy armor.

Mr. President, I support measures that are required to protect our existing troops that are in Somalia. I do not support escalation.

Second, we need to redefine the essential role of the United Nations in Somalia or, at a very minimum, the role of U.S. forces there. The United Nations must determine the minimal level of security throughout Somalia, most of which is peaceful, to complete the original limited humanitarian mission. We should also consider ignoring Aideed. Yes, ignoring him by bypassing southern Mogadishu and isolating the bulk of Aideed's forces in that area. We should deprive Aideed of the targets whose destruction makes him a hero with his own people, and we should let him bear the responsibility for interrupting relief supplies to his own people.

The United Nations should defend only those essential areas of Mogadishu that are defensible from secure positions and required for broad humanitarian purposes, such as the airport and such as the port facilities.

The United States quick reaction force, which is now in effect serving as the United Nations' cutting edge, in effect a police force, in attempts to capture Aideed and his henchmen, should return to its original mission of serving as a contingency backup for emergency relief of other U.N. forces if they come under attack.

Third step: I believe we must define an exit strategy for our U.S. forces. Mr. President, I believe whether or not the United Nations changes its present declared mission in Somalia, the United States should put the United Nations on notice that it must immediately commence plans to deploy forces from other nations to replace the United States forces in that country. We have already done much more than our fair share of the military work in Somalia, and the time has come for other nations to take our place. All of this should be carried out over a reasonable frame of time.

Our goal, as I view it, is to exit in a way and in a manner that gives the United Nations and our allies an opportunity to preserve the integrity of the original narrow humanitarian mission in Somalia. I think that goal is a clear and limited goal.

Finally, Mr. President, I believe the United Nations must consider the redefinition of its overall mission in Somalia. Feeding the hungry is one thing. Disarming the clans and building a nation state from scratch is quite another. And the case of Somalia, as I view it, is probably a mission impossible. If the United Nations insists on sticking to this very broad mission, the U.S. should, of course, lend a hand economically and politically, but not militarily. Our role is too important in areas of the world that are significant to United States military interests, security interests, and economic interests to allow our military effectiveness to be dissipated in places where we have no economic and no security interests.

Violence and political instability have been endemic to the Horn of Africa for centuries, and the United Nations has recently, as I view it, bitten off far more than it can chew.

(Mrs. FEINSTEIN assumed the chair.)

Mr. NUNN. Madam President, to summarize, at this juncture of our predicament in Somalia, we must change our military tactics. We must redefine the essential military mission to complete our original humanitarian mission. We must craft a sound exit strategy for the United States forces, and we must urge at least the United Nations to reassess its present overall mission and strategy in Somalia.

I thank the Chair and, again, I thank my colleagues for their courtesy in yielding time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I have been listening with great interest to my friend and colleague from Georgia and the excellent speech that he just gave regarding the situation in Somalia, which we are all very much concerned about. It is a voice of reason; it is a voice of understanding; it is a voice of strength, and a stellar voice for action to extricate ourselves from the difficult situation that we face there now, as this Senator addressed earlier today.

Thanks again to my chairman of the Armed Services Committee for his forthright stand and not only being for something, but spelling out what I suggest to be a reasonable proposal that would lead us to the proposition of removing our troops from that troubled area in a reasonable manner and still not abandoning the prisoners of war, the captives, the hostages—call them what you will—who are now being held by the Aideed forces.

I congratulate, once again, my friend and colleague from Georgia.

Mr. NUNN. I thank my friend from Nebraska.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, might I inquire of the Senator, was he seeking—I want to pose a question to the chairman of the committee before he leaves the floor.

Mr. FAIRCLOTH. I will be glad to yield to the Senator for the purpose of a question.

Mr. WARNER. I will accept the Senator's gracious yielding for a moment.

Madam President, the question I have for our distinguished chairman is that earlier today we discussed the advisability of having a hearing in the Senate Armed Services Committee, and the chairman indicated he would take that under consideration. I think it is important that our committee develop a framework of issues and, to the extent we can gain answers in response to those issues, we can better, I think, help the Senate in its eventual deliberation of these issues.

These questions, Madam President, occur to me. I am just wondering if the Senator thinks these questions would be appropriate for our committee to consider in its forthcoming deliberation:

First, what were the command and control arrangements for the mission in which the United States sustained its very heavy and tragic casualties? Were our forces under U.N. or U.S. command?

Second, who was actually responsible for ensuring that a reaction force was prepared and ready to respond if the operating forces required reinforcement and rescue?

Third, was our intelligence capability adequate for the military mission undertaken?

Fourth, why were not more attack helicopters available to suppress the antiaircraft fire that shot down our utility helicopters, provide support and suppressive fire for the surrounded Ranger elements, and support the movement of the reaction forces, who were unable to reach the surrounded American forces?

Fifth, to what extent were our troops, individually and collectively, advised to what I perceive as a change in mission in Somalia? Were they advised of the greater personal and unit risks that would likely accompany such a change in mission?

And sixth, did the U.S. commander in the field previously request tanks and armored vehicles be added to this force? How was this request considered, what recommendations or decisions were made, and what was the involvement of the Chairman or other members of the Joint Chiefs in this chain as that request was forwarded to the Department of Defense?

I must, Madam President, tell my distinguished chairman that I posed many of those questions yesterday to the Joint Staff and was unable to get responses. Today I met with the Under Secretary of Defense for Policy for the purpose of trying to gain information, and he suggested, since he did not have all the information, that these questions be more appropriately addressed to witnesses appearing before the committee at a hearing, and particularly to Joint Staff witnesses.

Mr. NUNN. I thank the Senator from Virginia. I will answer very briefly.

I think all of his questions are very thoughtful, all very appropriate. I think we need to get that information, and the administration itself needs to think through that information after it has fully gathered the information. It would help both the administration and our committee as well as the Congress.

Second, I will say to my friend from Virginia, on hearings in our committee—we have had hearings, as he knows. We have probably had seven or eight hearings on Somalia over the period of time. We had our most recent hearing yesterday afternoon, or I guess it was day before yesterday afternoon, Monday afternoon—I think we need to have other hearings next week, and I will certainly be working with the Senator toward that end.

Mr. WARNER. Madam President, I thank the distinguished chairman, and, if agreeable, I would like just to proceed for a minute or two.

Madam President, yesterday, I addressed the Senate with respect to my views regarding the actions taken by our President on Somalia.

Madam President, it seems to me that in the days to follow, when the administration returns with a plan of action and advises the Congress, hopefully we can in a well-informed and objective manner address this issue. Each of us must stand up and be counted pursuant to whatever measures may be brought up to vote on this issue. These are the thoughts that cross this Senator's mind as to why I indicated yesterday that I support the President in his course of action of devising a plan for the disengagement, the eventual disengagement, of our forces in Somalia.

First, we must do so in a manner that fully protects our troops currently in Somalia. Our troops have done an outstanding job in saving lives and preventing starvation in Somalia.

Second, such a plan must fully protect those U.S. soldiers who are presumed to have been captured by Somali forces. As long as even one American is held prisoner, we must take whatever action is necessary to protect that single American.

Third, the United States must be viewed as standing by all Americans serving in civilian and military posts throughout the world whose safety is at risk from some terrorist or dictator or other individual who might threaten our people abroad.

I would like to repeat that. Whatever actions we take in Somalia have ramifications far beyond Somalia. They will affect our persons serving abroad in literally thousands of different posts and areas of the world where there is risk to themselves and to their families. If we were, by virtue of our disengagement plan in Somalia, to send some signal to some person that the United States does not stand by its people, we could well be putting those individuals serving abroad at greater risk.

Fourth, the United States must be viewed after this disengagement as a credible working partner in peacekeeping and, if necessary, peacemaking actions in future contingencies that most certainly will occur. Our credibility, as I said yesterday, is on the line. The operation in Somalia will be examined in looking at future multilateral peacekeeping and peacemaking operations. We should keep in mind, as we plan our disengagement from Somalia, that our actions will affect the 24 other Nations who—at our invitation—agreed to join UNOSOM II.

Furthermore, it is my belief that while Congress is considering this issue and while we are working with the President—and I hope we do work in a very conscientious way consulting first and then taking specific actions in the Senate Chamber by virtue of votes—to devise this disengagement plan, our forces in Somalia should be reinforced so as to ensure that they may protect themselves from dangerous situations similar to those faced this past weekend.

Madam President, I am certain that no American, with the exception of the immediate families and loved ones of those lost and those not fully accounted for, no one grieved more deeply than our President, and it is for that reason this Senator wishes to stand with him as he goes through this difficult deliberation. It is my hope that we can, as a bipartisan institution, the Congress of the United States, support our President in a plan which he will present to the Senate.

I yield the floor.

Mr. EXON and Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. FAIRCLOTH. I yield to the Senator from Nebraska.

Mr. EXON. I thank the Senator very much for the courtesy——

The PRESIDING OFFICER. One moment, please. The Chair recognized the Senator from Delaware, who had asked to be recognized.

Is the time controlled?

Mr. FAIRCLOTH. Madam President, did I not have the floor?

Madam President, I had the floor as I understand it, and I did yield to the Senator from Virginia, and I had offered to yield very briefly to the Senator from Nebraska, and then I would like to get on with what I have to say.

Mr. BIDEN. Madam President, I withdraw my request for recognition.

Mr. EXON. I thank my friend.

The PRESIDING OFFICER. Who seeks recognition?

Mr. EXON. I believe the Senator has yielded to me.

Mr. FAIRCLOTH. I have yielded the floor.

The PRESIDING OFFICER. Is there objection? There being none, the Senator from Nebraska is recognized.

Mr. EXON. I thank my friend for his courtesy.

Madam President, I will be very brief; there are other matters to come before the Senate.

I just wanted to compliment once again another great friend and colleague of mine, this time the Senator from Virginia, JOHN WARNER. JOHN WARNER and this Senator came to the Senate at the same time, and we have sat side by side on the Armed Services Committee for the past 14, going on 15 years.

I wish to call particular attention to the remarks just made by the Senator from Virginia, the interesting questions that he phrased to the chairman of the Armed Services Committee, and then the remarks that he has just made with regard to thoughtful—not hasty but thoughtful—actions that fall as part of the important responsibilities we all have in this body.

Once again, my friend JOHN WARNER, the Senator from Virginia, has exhibited what I consider the utmost caution, restraint, and yet action to extricate ourselves from Somalia in an orderly fashion, and I hope that all listened to the words I referenced earlier by the chairman of the committee and by Senator WARNER, who speaks with great experience on this matter, not only as a 15-year member of the Armed Services Committee but also as a former Secretary of the Navy, and that kind of expertise is what the Senate, and hopefully the House of Representatives and some Members therein, will be listening to very carefully as we continue to tread these very troublesome and I say dangerous waters, on land and in sea, in the area of Somalia.

I thank my friend from Virginia once again for his thoughtfulness, and I thank my friend from North Carolina for yielding.

Mr. WARNER. Madam President, if I may just seek recognition——

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. For the purpose of expressing appreciation to my long-time friend and colleague, indeed, we came to the Senate together.

My colleague is a veteran of World War II. There are few of us left. And he brings to this Chamber an extensive background and knowledge with respect to national security matters. He has been a valuable participant in all the deliberations for these 15 years in our committee. I thank my good friend for his reference to my remarks because the Senator and I recognize that what we do in Somalia is going to be looked at carefully in developing plans for future peacekeeping actions, and that is why it has to be done properly so that it will hold up as a credible contribution by our country. This will be important for future operations when again we are called upon to participate, and in all probability we may have to lead, to put together the coalition to perform that mission.

Yesterday, the Secretary of State and the Secretary of Defense came over to the capitol to consult with both bodies of the Congress, and they made the best effort they could, given some unusual circumstances. They received the strong and frank views of Members of Congress as the administration moves toward finalizing its new plan for Somalia.

But we must bear in mind that this action, this disengagement, coupled with what we have done—we have done a great deal to save lives in that nation—will affect future peacekeeping operations. Those other nations, some 23 to 25 that have joined the United States are specifically there at the invitation of the United States' leadership. It took leadership to launch this humanitarian effort. They will be affected by any United States decision to disengage from Somalia and the way in which we do it.

But once that mission changed from a strictly humanitarian mission, as the chairman indicated, as my colleague from Nebraska indicated, then I think it was incumbent upon the President, as well as this body, to have taken certain steps to recognize a change in mission and take such appropriate actions as we felt were necessary.

I thank my colleague. I thank the Chair. I thank my distinguished friend from North Carolina.

Mr. BYRD. Madam President, may I say to my friend from North Carolina—the State where I was born, and whose motto is "To be, rather than to seem,"—Walter Dellinger, I do not know. I do not know him. But if he is against a constitutional amendment on the balanced budget, I am with him on that. Lord spare me to be around and to still have good lung capacity when that matter comes up.

Robert C. Byrd will have a good bit to say about a constitutional amendment on the balanced budget. We never want to make the kind of mistake that future generations will hold us responsible for. And it will be a sad day for the Senate indeed when a constitutional amendment on a balanced budget passes this Senate. It will not pass with my vote, and I will do what I can to enlighten my good friend from North Carolina, for whom I have a great deal of respect. I do not think he is past the age of learning, and I will do what I can to edify him on this subject.

SOMALIA

Mr. BYRD. Madam President, I have sought recognition, first of all, to commend Senator SAM NUNN on the address that he made a few minutes ago on the subject of Somalia. His are thoughtful remarks, and I appreciate the fact that he took the floor today to elaborate on our policy in Somalia, where it went wrong and, as I understand what he was saying, where the United Nation's policy has gone wrong. So I congratulate him.

Madam President, this is what I wanted. I wanted to see a debate in the Congress on our participation in Somalia. For a good many weeks and months, not much was being said on Capitol Hill about our policy vis-a-vis Somalia, and I do not think I have heard very many people, even in the Congress, remind the listening audience, remind the executive branch, and remind our colleagues in the legislative branch that the Constitution is

still alive and well; and that in that Constitution, article I, section 8, Congress is given the power "To raise and support Armies." I know that Article II says that the President is Commander in Chief, but article I, section 8, says that the Congress—Congress—shall have the power "To raise and support Armies."

There has to be an army around for the Commander in Chief to command. But the Congress has the power to provide moneys to "raise and support armies," and to "provide and maintain" navies, may I say to my good friend, the former illustrious, distinguished Secretary of the Navy, the distinguished Senator from Virginia [Mr. WARNER]. And then in section 9 of article I of the Constitution—and for all those who advocate the line-item veto, let them hear—it says that "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

Who makes the law? Congress. Who says so? The Constitution. Where? In section one of article I.

So that is why I say to my colleagues, why have we been so silent? I called up an amendment a few weeks ago on this very subject. Congress has a responsibility to debate this matter, and the responsibility to act. We have men and women in Somalia. I do not propose that we shirk our responsibility, and I am glad to see other Senators now rising to talk about this issue. I do not expect everyone to agree with me, but let Congress be heard.

Here are just a couple of the headlines that disturbed me earlier. On June 17, headline: "U.S. Plans Wider Role in U.N. Peacekeeping; Administration Drafting New Criteria."

The Clinton administration is drafting a new set of criteria for U.S. involvement in U.N. peacekeeping operations that would provide for a much wider role for U.S. military personnel, according to senior defense and diplomatic officials. Under the proposed criteria, the officials said, U.S. forces could help plan, train and participate in U.N. peacekeeping activities when justified by general U.S. interests, not just when the United States could make a unique military contribution.

We need to debate this. How does our participation in Somalia comport with this phrase "participate in U.N. peacekeeping activities when justified by general U.S. interest?"

Here was another news story. This was dated August 28. Congress was not in session. Headline: "Aspin Lists U.S. Goals in Somalia." "Troop Pullout Hinges On Three Conditions; No Timetable Is Set."

Defense Secretary Les Aspin said yesterday that U.S. combat troops will stay in Somalia until calm has returned to its capital, "real progress" has been made in disarming rival clans and "credible police forces" are up and running in major cities.

In a speech here, Aspin offered the most specific explanation yet of the Clinton administration's decision to step up military operations against fugitive warlord Mohamed Farah Aideed, whose forces have been waging war on U.S. and other foreign troops in the capital of Mogadishu.

He avoided any discussion of a withdrawal timetable, emphasizing that the decision to bring home the troops would depend on their effectiveness in achieving the goals he described.

"When these three conditions are met * * * then I believe the U.S. quick-reaction force can come back," Aspin said in describing what he termed an "endgame" of U.S. involvement in Somalia.

Mr. President, I have great respect for the Secretary of Defense. He is a former member of the other body. But we must not forget that Congress did not buy into that set of criteria.

And so I became a little concerned when I read that the Secretary of Defense, as reported in this story, emphasized that the decision to bring home the troops would depend on their effectiveness in achieving the goals he described.

Now, the American people ought to have some say in this matter through their elected representatives. I had never heard of those criteria before I read them in this news report.

So just one thing after another led me to wonder what is happening. Are leaders in the executive branch ceding authority to the United Nations to commit American military forces into battle? Have they forgotten the people on Jenkins Hill? That is where Congress is located.

I have been making a series of speeches on the Romans. Montesquieu thought it was a good idea. So I thought it was a good idea to study Roman history. Our Founders were familiar with Polybius and Livius and Tacitus and Plutarch. I thought that I, too, ought to get acquainted with them.

Where the Roman Republic went down was when the Roman Senate surrendered its power to check the executive. It gave up the power of the purse. And when it did that, it gave up its power to check the executive.

That is why I say to my dear Republican friends who are always blowing the horns and shouting from the housetops that we ought to give a line-item veto or we ought to give enhanced rescission powers to the President—I do not propose to give away Congress' real check on the executive. I said that when we had a Republican Executive, and I say it when we have a Democratic Executive.

But more to the immediate subject. I am not here to slam dunk the President. I am not out to hurt this President. But I recognize what my duty is under that oath that I swore when I stood up at that desk six times and raised my hand to the God in whom all too many no longer repose their trust. I swore to support and defend the Constitution, and that is why I say we—not Robert C. Byrd, but the Congress—ought to have a say in the expenditure of flesh and blood in Somalia, and is going to have a say.

I say again, I am not out to slam dunk the President. I like the President. I will support him when I can and support him strongly when I feel strongly, as I have on some occasions.

But this is not directed at the President, and I do not say these things disparagingly of the Secretary of Defense. I do think the executive branch, under any administration, may need a little reminder now and then, and I think our colleagues in the Congress also may need a little reminder.

Now, I have said we ought to get out. I still think we ought to get out. But we now have an American hostage there. If we had gotten out of Somalia when the Senate first had my amendment up, we might not have that American serviceman as a hostage there now. That is the problem. We stay there, and we lose another, we lose another, and more hostages. Retaliation plays upon retaliation, and we get in deeper and deeper and deeper.

I was here in this body when the cry was, we had to send in advisers into Vietnam. So we sent in advisers. Then we had to send in military forces to protect the advisers. And then we had to send in more troops to protect those troops who were there to protect the advisers, and before it was over, we had 500,000 men in Vietnam.

So, retaliation feeds upon retaliation. We retaliate, and then the Somalis retaliate.

We went into Somalia to save lives, and now we are there killing people. Our troops who have been sent there did not ask to go there. Troops who are sent into hostile situations, through no choice of their own, have a right to protect themselves, and when they protect themselves, they kill Somalis, and then the Somalis retaliate, and it goes on and on and on.

We hear it said, "We just cannot walk out now. We have to back up the Commander in Chief. We have to back up our commitment there."

That is the point. Congress was not included in the takeoff, when the mission changed. Coming up and advising—"consulting"—consulting the leadership is not enough. I have respect for our leaders. But that is not what the Constitution says.

When American fighting men and women are sent into hostile situations, which might be ongoing for quite some time, there ought to be some action taken by the Congress to support or not to support the continued presence of American troops.

But, in Somalia, we seem to be getting in a little deeper and then a little deeper. First, we had 28,000 men. We performed the original mission and performed it well. And we turned it over to the United Nations. The United Nations can be a useful organization

and has been upon occasions. But we must never cede authority, to the United Nations, to commit American military forces into battle situations.

My good friend from Virginia uses the phraseology "cutting and running." Well, I was the last one that ran out of Vietnam. I supported President Johnson to the end. And that is what we are going to see again, I am afraid, if we continue down this slippery slope.

I saw the crowds as they began to gather in the streets all over this country protesting Vietnam. And they brought a President down. He did not run for reelection.

And so, I have, on more than one occasion, offered what I thought was good advice to President Clinton and urged him that it would be best for him if he has the Congress on board so that, whatever happens, Congress will share the responsibility with him. He will not have to walk that dark road alone. I have suggested that with regard to Bosnia.

I did that because I thought it was in the best interest of our country and in the best interest of the President, too.

I say to my good friend from Virginia, I have lived 76 years come next month; I have never cut and run yet, not that I might not have to someday. But I have the credibility of this country at heart as much as anybody.

I do not fall out with anyone who disagrees with me on this. But let it not be misunderstood by those viewers who are watching through those television cameras, that anybody here is advocating "cutting and running." Congress just ought to be cut in on the deal before the United States invests blood and dollars into the firestorm of foreign wars.

Such participation does not come free, not free of blood, which is the most sacred, and not free of money, either.

The distinguished Senator from North Carolina was just talking about the budget deficit.

How much are we spending on United States military action in Somalia? I was told a month ago that we were spending about $44 million a month in Somalia in this operation. Now, that adds up after awhile.

And so I say that my President, as I have said before, he has to lay it out. What are our plans? What are our exit plans? What are our standards for success in a mission? What is this mission? And then, let us all decide.

Among the questions I would ask is: What is the military situation in Mogadishu now? We hear conflicting reports. I get letters from people who have sons there and whose sons write letters to their fathers and mothers that do not exactly comport with what we are told about the situation.

Will Aideed's success in attacking U.S. forces make American and U.N. troops more vulnerable to further attacks? Does the addition of a mechanized infantry company with an armored platoon go far enough in ensuring the safety of United States and U.N. forces in Mogadishu?

What remains of the political reconciliation mission in Somalia? Congress has never bought onto that.

Can we achieve any military solution without a political solution? And if there is no political reconciliation, is not a large military presence needed for an indefinite period? Perhaps for years?

What is Aideed's political situation as a result of Sunday's attack? Stronger or weaker? What is his military situation?

It is my understanding that several hours were required before a multinational force could be assembled and dispatched to rescue the American forces that were pinned down protecting the helicopter that was shot down. Why did it take so long? What kind of command and control situation are our troops operating under there?

Given the rising tide of sentiment both here in the Congress and across the United States for a swift finish to this unfortunate situation, what are the plans for an exit strategy? What is a reasonable period of time to accomplish a withdrawal of all United States forces from Somalia, and a turnover of humanitarian functions for U.N. execution?

Now, we hear it said, "Well, if we leave, if we pull out, that means we will have to go back in next summer to get food to starving Somalis."

Well, this can go on ad infinitum? That theory will hold us there from now until kingdom come. Because, if we pull out 5 years from now, in the 6th year, presumably, if there is a drought, the same thing will happen all over again.

We did our job. We brought food to starving Somalis. But if we go along with the idea, "Well, if we pull out now, it will just mean that they will be back in the streets next year," that formula will keep us there forever.

Madam President, I called the President this morning and requested of the President that he try to send up the report required in the amendment, which was adopted by the Senate recently, "by October 15," prior to that date, if possible.

I said, "Mr. President, we will have the defense appropriations bill before the Senate, and that is the vehicle for some action regarding Somalia. And there is a perception that I am going to offer an amendment." And I said, "I am going to offer an amendment." I also said, "Even if I did not, other Senators would, because they have told me so. And I would hope that you could submit the report to the Congress prior to the 15th."

He said that he thought it was a good idea, and he would try to do that. I suggested that if he could send it up as early as Monday, even though Congress will not be in session, there will be someone in my office who can accept it.

I said, "I think we would all be better served if we had your report in front of us. Let us take a look at it. I may not agree with it. Others may; I may not. But at least we would have your counsel, your proposal, your plan, your report available for our study."

I thought that was a pretty good idea, and the President thought so, too. He indicated, as I say, that he would try to get it up Monday; and if he could not get it up Monday, he would let me know today. And he may still let me know that he cannot do it.

This bill is going to be around until we have an opportunity to act. It would seem to me that we would all be well advised, ourselves and the administration, to have that report and have it in time that we might consider it as we draw up amendments.

This bill is not going to leave the station without some action. I am only 1 of 100, and whatever action is taken may not be action that I will support. But it will be the Senate that will have acted on something.

I do this to help the President. He is the Commander in Chief. "Uneasy is the head that wears the crown." I am glad I am not the President of the United States. I want to do the right thing for the people, and for the country. We will have time to discuss this subject further next week.

But I hope the President will understand that his family is not alone in praying for him at night. I told President Bush at the beginning of the war in the Persian Gulf: "I pray for you."

I fervently believe in this institution and in the Constitution. I would perhaps vote to amend some parts of the Constitution. But, I do not propose to amend any provision therein that weakens the legislative branch. If Congress did not have that power over the purse, what President need be concerned about the legislative branch?

Someone said, "Well, would you go for a freestanding resolution?"

I said, "No." It may get out of the Senate. It may never get out of the other body. If it goes downtown, it can be vetoed, and that will be the end of it. But if a President vetoes this Defense appropriation bill, that is something else.

I have referred to my good friend from Virginia, Mr. WARNER. I have a great fondness for him. He knows that. I serve on the Armed Services Committee with him and with Senator NUNN, who is one of the best chairmen that I have seen in Congress during the 35 years that I have served in the Senate, and the 6 years I served in the House: 41 years. I respect him greatly. But I want to be very clear that the Senator from West Virginia is not advocating "cutting and running."

Congress did not buy onto the current mission, whatever it is. I still do not know what it is. The original mission was carried out successfully months ago. Congress did not buy onto a wholly different mission.

Mr. WARNER. Madam President, will the Senator yield so I could pose a question?

Mr. BYRD. Yes. I will just keep the floor long enough to try to answer the Senator's question because I am keeping the Senator from Delaware from speaking.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I went back just now and checked the record. Our distinguished colleague from West Virginia, as we say in the military, sounded general quarters on this issue of Somalia very carefully during the deliberation of the authorization bill of the armed services. That debate was initiated on the 7th of September, almost a month ago.

The Senator from West Virginia came to this Chamber and brought to our attention the very points that he raises today, that this mission that was once tacitly approved by this body had been changed, and it was time that we stood up to be counted.

So great credit is owed our distinguished chairman of the Appropriations Committee, my good friend. I tell my good friend and the Senate, the President has called a meeting for 9 o'clock tomorrow morning, to which he has invited the leadership of the Senate. Furthermore, the President has announced today that it is time, as he said, "It is essential that we conclude our mission in Somalia." That is very clear. That is why I want to support him and I am sure the Senator from West Virginia and others want to support him.

Mr. BYRD. I do. But I want to know what our mission is.

Mr. WARNER, Yes.

Mr. BYRD, I may not support the new mission. It depends on a lot of things before I vote "aye." I may or may not vote "aye." But I think Congress needs to be in on the takeoff as well as on the landing, where war is concerned. Congress has to pay the bill.

Mr. WARNER. Yes. Mr. President, I agree. I think it would be helpful at this point in the RECORD if I read exactly what the President said today.

It is essential that we conclude our mission in Somalia, but that we do it with firmness and steadiness of purpose. * * * We are anxious to conclude our role there honorably, but we do not want to see a reversion to the absolute chaos and the terrible misery that existed before.

It is my hope that in a bipartisan way we can stay the course with the President if he brings forth a credible report on Somalia in response to the amendment of the Senator from West Virginia on the armed services bill. Hopefully, the President will file this report earlier than required so that the Armed Services Committee on which the distinguished Senator from West Virginia and I serve can make some evaluation for the Senate as a whole on the President's report so that the ensuing debate will be one on which Senators will be well informed—far better informed than before because of the initiatives and the call to general quarters by the distinguished Senator from West Virginia.

I commend you.

Mr. BYRD. Mr. President, may I make this parting comment? I do not know what is meant by the word "chaos." I do not know what the full import of the statement is. But Congress needs to think more than twice if the idea is that we stay there until "chaos" ends. Let us practice here in our own Capital if we want to disarm warlords, if we want to restore order out of chaos. And all of this talk to the effect that, "We will destroy our credibility if we pull out now"—I say we should not have let ourselves get involved in the current mess. We do not have any reason for being in Somalia, now that we have fulfilled our mission there. We had a good reason to begin with, I think. Now, an American has been taken hostage, and we have to consider that. But I do not go along with the suggestion that if we pull out of Somalia now, we will never have any credibility anywhere else.

Let the Commander in Chief put our men and women where our strategic interests are involved, and you will see how much credibility this Congress has. I did not support the Persian Gulf at the time. Neither did Gen. Colin Powell, as I remember. But once the decision was made to go to war, I and all other Senators supported the effort. We will do that again, where America's strategic interests are involved. Our credibility will not be exploded if we take our troops out of Somalia, because our strategic interests are not involved there.

We will have plenty of time to debate this matter next week. I thank my friend from Virginia for his fine contributions, not only in this instance but always. I always listen when he speaks. And I apologize to my friend, the distinguished Senator from Delaware.

Mr. WARNER. Mr. President, I wish to thank my distinguished colleague for his thoughtful remarks. It is always a privilege for this Senator to engage in colloquy with him, particularly when it relates to matters of national security and the Constitution.

Mr. BYRD. I thank my friend.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [MR. BIDEN], is recognized.

Mr. BYRD. Mr. President, will the Senator yield for one request? I said earlier I was going to ask consent that these two articles be included in the RECORD. I also would like to include an article that appeared in the New York Times of September 30 titled "Somalia, Through a Glass Darkly." It is an article by George F. Kennan. I urge Senators to read this article by George Kennan. I make that request.

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

[From the New York Times, Op-Ed Sept. 30, 1993]

SOMALIA, THROUGH A GLASS DARKLY

(By George F. Kennan)

PRINCETON, NJ.—

(The following is an item, dated Dec. 9, 1992, in my personal diary, which I have kept intermittently for most of my life. I have left it unedited, exactly as then written.)

When I woke up this morning, I found the television screen showing live pictures of the Marines going ashore, in the grey dawn of another African day, in Somalia. It is clear that with a very large part of the American public, but particularly with that part of the public that speak or writes on public affairs, and—not last—with the political establishment, there is general support for this venture.

There was no proper public discussion, not even a Congressional discussion, of this undertaking before the President, only a few days ago, announced his intention to launch it. It would be idle for me or for anyone else to come out publicly at this point with a questioning of the wisdom of this intervention. The action is already in progress.

Anything that might be said in criticism of its rationale would have no practical effect in any case, and, to the extent that it attracted any public attention, would be received as something tending to demoralize the forces now in action by sowing doubt as to the worthiness of the effort in which they are now involved. I see, therefore, no advantage to be gained by trying to say anything publicly about what is going on.

On the other hand, I regard this move as a dreadful error of American policy; and I think that in justice to myself I should set down at this point, if only for the diary, my reasons for this view.

The purpose of this exercise is, we are told, to take charge of the channels of transportation and to assure the movement of food to certain aggregations of starving people. The reasons why we must do this are, in the official and widely accepted view, that the people are starving; that this is outrageous and intolerable; but that food cannot be brought to them in adequate amounts because the supply lines by which it would have to be delivered are subject to harassment on the part of armed bands and individuals along the way, as a result of which much of the food is plundered and lost before it can reach its destination. How many of these congregations of starving people there are, and where they are situated, seems not to have been clearly explained; perhaps our people do not even know.

Why, then, is our action undesirable? First, because it treats only a limited and short-term aspect of what is really a much wider and deeper problem. The idea seems to be that when we have made possible the original delivery to the collection points of the food that has already been shipped or is being shipped to Somalia, our forces will be withdrawn, and the United Nations, using

other forces, will assure the further supplying of these people.

This last seems to me highly uncertain, and even doubtful. The situation we are trying to correct has its roots in the fact that the people of Somalia are wholly unable to govern themselves and that the entire territory is simply without a government. The starvation that we are seeing on television is partly the result of drought (or so we are told), partly of overpopulation, and partly of the chaotic conditions flowing from the absence of any governmental authority.

What we are doing holds out no hope of coming to terms with any of those situations. If we are to withdraw at any early date (and the President has spoken about the possibility of withdrawal before the end of January), these determining conditions will remain exactly as they were before. The marauding bands and individuals will resume their activity, and in the absence of any strong foreign military force there will be no stopping them.

Beyond that, the problem of starvation is one that reaches much farther than the aggregations of people we have seen on television. As one of the nurses pointed out, these wretched people are among the more fortunate, as is shown by the fact that they were able to walk to the places where they are collected. There are presumably, further afield, even greater numbers of people who never showed up there because they were too weak to walk at all. They, of course, are not touched by our actions.

The fact is that this dreadful situation cannot possibly be put to rights other than by the establishment of a governing power for the entire territory, and a very ruthless, determined one at that. It could not be a democratic one, because the very prerequisites for a democratic political system do not exist among the people in question. Our action holds no promise of correcting this situation.

The upshot of all this is that what we are undertaking will assure at best a temporary relief for those people who are gathered together in the camps, and probably a relief that will not be completed before our own departure, unless we propose to keep our forces there for many months, if not years, in the future.

Secondly, this is an immensely expensive effort. What we are pouring into it must run, in the monetary sense, into hundreds of millions, if not billions, of dollars. This comes at a time when our country is very deeply indebted and where it is not even able to meet its own budget without further borrowing. This entire costly venture is then, like so many other things we are doing, to be paid for by our children—the coming generation. Meanwhile, there are many needs at home, particularly in the condition of our cities and of the physical infrastructure of our society, which are not being met, ostensibly for lack of money.

All this being the case, one is moved to inquire into the inspiration and rationale of this enterprise.

On Mr. Bush's part, one must assume that the reasons lay largely in his memories of the political success of the move into the Persian Gulf, and in the hope that another venture of this nature would arouse a similar public enthusiasm, permitting him to leave his Presidential office with a certain halo of glory as a military leader using our forces to correct deplorable situations outside our country. The action, taking during the interregnum between two administrations, obviously saddles his successor with the task of completing it, albeit without responsibility for its origin.

The dispatch of American armed forces to a seat of operations in a place far from our own shores, and this for what is actually a major police action in another country and in a situation where no defensive American interest is involved—this, obviously, is something that the Founding Fathers of this country never envisaged or would ever have approved. If this is in the American tradition, then it is a very recent tradition, and one quite out of accord with the general assumptions that have governed American public life for most of the last 200 years.

I have already pointed to the absence of any prior discussion in Congress of this undertaking. This raises the question, Why, then, so suddenly and without any preparation in public or political opinion? If the President thought it wise to use our armed forces for this purpose, why did he not say so weeks or months ago and lay the question squarely before Congress and public opinion? The answer is obvious: the paralysis of government that has existed for the last six months—before and after the election. This is in itself significant.

But an even more significant question is that of the reason for the general acceptance by Congress and the public about what is being done. There can be no question that the reason for this acceptance lies primarily with the exposure of the Somalia situation by the American media, above all, television. The reaction would have been unthinkable without this exposure. The reaction was an emotional one, occasioned by the sight of the suffering of the starving people in question.

That this should be felt as adequate reason for our military action does credit, no doubt, to the idealism of the American people and to their ready sympathy for people suffering in another part of the world. But this is another part of the world. But this is an emotional reaction, not a thoughtful or deliberate one. It is one which was not under any deliberate and thoughtful control—one that was not really under our control at all.

But if American policy from here on out, particularly policy involving the uses of our armed forces abroad, is to be controlled by popular emotional-impulses, and particularly ones provoked by the commercial television industry, then there is no place—not only for myself, but for what have traditionally been regarded as the responsible deliberative organs of our government, in both executive and legislative branches.

[From the Washington Post, Aug. 28, 1993]

ASPIN LISTS UNITED STATES GOALS IN SOMALIA

(By John Lancaster)

Defense Secretary Les Aspin said yesterday that U.S. combat troops will stay in Somalia until calm has returned to its capital, "real progress" has been made in disarming rival clans and "credible police forces" are up and running in major cities.

In a speech here, Aspin offered the most specific explanation yet of the Clinton administration's decision to step up military operations against fugitive warlord Mohamed Farah Aideed, whose forces have been waging war on U.S. and other foreign troops in the capital of Mogadishu.

He avoided any discussion of a withdrawal timetable, emphasizing that the decision to bring home the troops would depend on their effectiveness in achieving the goals he described.

"When these three conditions are met . . . then I believe the U.S. quick-reaction force can come back," Aspin said in describing what he termed the "endgame" of U.S. involvement in Somalia.

This week, the administration dispatched 400 Army Rangers to augment the 1,400 infantry soldiers and 3,100 logistics troops in Mogadishu, prompting criticism that U.S. policymakers had embarked on a path toward deeper involvement in Somalia's rational violence without presenting a clear rationale.

Aspin sought to answer that criticism yesterday, saying the United States has little choice but to go after Aideed and his militia in south Mogadishu. Pentagon officials privately acknowledged that the Ranger team includes a covert element that will try to capture Aideed.

"The danger now is that unless we return security to south Mogadishu, political chaos will follow any U.N. withdrawal," Aspin said. Other warlords would follow Aideed's example. Fighting between the warlords would ensue. And that, of course, is what brought the famine to massive proportions in the first place.

"The danger we're dealing with here is that the situation will return to what existed before the United Nations sent in its troops."

The emphasis on quelling Aideed's militia demonstrates how U.S. policy in Somalia has shifted from its original goal. When U.S. troops landed in Somalia last December, their purpose was to secure food deliveries and U.S. military commanders worked studiously to avoid taking sides in Somalia's factional rivalries.

Aspin emphasized yesterday that the U.S. mission remains limited. He defined it in terms of restoring security rather than rebuilding the country's shattered economy and political system. That broader task, he said, was the responsibility of the United Nations, which assumed control of the peacekeeping mission from the United States in May.

To that end, Aspin called on the international community to contribute more troops to the U.N. peacekeeping force in Somalia, which remains 5,000 troops short of its goal of 28,000. His comments reflected anxiety at the Pentagon that some key partners in the international coalition, including France and Belgium, may withdraw before others have arrived to take their place, making it even harder for U.S. troops to leave.

Among other things, Aspin called on the United Nations to step up efforts to map a detailed plan for Somalia's recovery, enlist the help of other African countries to aid the recovery and resume the process of political reconciliation among rival clan factions.

Beyond their immediate goal of restoring order in Somalia, administration officials see the mission there as an important precedent for future U.N. peace-keeping efforts in other fractured countries such as Bosnia-Herzegovina.

Earlier this month, following the deaths of four U.S. servicemen in Mogadishu, State Department officials said American troops in Somalia would come home next year. But Aspin offered no predictions yesterday.

First, Aspin said, U.S. combat troops must restore a semblance of calm to south Mogadishu; second, "we must make real progress towards taking the heavy weapons out of the hands of the warlords," and third, "there must be credible police forces in at least the major population centers."

Aspin said the withdrawal of the logistics troops also would depend on restoration of security. "We can reduce U.S. logistics

troops when the security situation in south Mogadishu permits large-scale hiring of civilian contract employees to provide the support functions," Aspin said.

Aspin characterized the mission so far as generally a success, emphasizing that despite the violence in south Mogadishu, calm has returned to most of Somalia and with it the first good harvest in several years.

"There is much more to what is happening in Somalia than the story of the military conflict in Mogadishu," Aspin told his audience at the Center for Strategic and International Studies. "On food, we have done very, very well. There are still pockets of hunger, but reports we receive from Mogadishu say that there is more than enough food to feed the Somali people."

[From the Washington Post, June 17, 1993]

U.S. PLANS WIDER ROLE IN U.N. PEACE KEEPING

(By R. Jeffrey Smith and Julia Preston)

The Clinton administration is drafting a new set of criteria for U.S. involvement in U.N. peacekeeping operations that would provide for a much wider role for U.S. military personnel, according to senior defense and diplomatic officials.

Under the proposed criteria, the officials said, U.S. forces could help plan, train and participate in U.N. peace-keeping activities when justified by general U.S. interests, not just when the United States could make a unique military contribution.

The administration's plan also calls for a substantial beefing up of the peace-keeping staff at U.N. headquarters in New York. U.S. forces, in turn, would be more inclined to accept greater U.N. authority over the peace-keeping operations that involve them, the officials said.

The aim of the plan is partly to demonstrate a U.S. commitment to using military force in concert with other nations rather than unilaterally, an approach dubbed "assertive multilateralism" by Madeleine K. Albright, U.S. ambassador to the United Nations. It is also meant to strengthen the ability of the United Nations to conduct military operations successfully in strife-torn areas, the officials said.

The plan represents what one official termed an "evolutionary rather than revolutionary" shift from existing policy. Officials said one factor that has helped block a significant U.S. military role in such U.N. peace-keeping operations as Cambodia, Lebanon, Kashmir and Cyprus is a requirement that U.S. forces be able to make a unique military contribution.

Under the proposed criteria, articulated in classified drafts of a White House policy review document known as PRD-13, the United States could take part if such action would catalyze involvement by other nations or more generally advance U.S. interests, the officials said. The degree of involvement could be determined by such factors as the intensity of public support and the risk of any U.S. commitment becoming open-ended.

Officials said PRD-13 has not yet been presented to President Clinton, but general agreement has been reached on these points among senior officials at the State Department, Defense Department and Joint Chiefs of Staff. Albright outlined some of the proposed new features in a speech last Friday to the Council on Foreign Relations in New York, saying that the administration had decided "the time has come to commit the political, intellectual and financial capital that U.N. peace keeping and our security deserve."

The plan would constitute an official U.S. endorsement of many of the ambitious ideas suggested last year by U.N. Secretary General Boutros Boutros-Ghali in his report on the U.N.'s role in the post-Cold War era, entitled "Agenda for Peace." Although the U.S. plan has not yet been presented in detail to the U.N. leadership, top U.N. peace-keeping officials aware of the plan's general outline said in interviews they welcomed Washington's shift.

"There is a definite change of mood and [a] willingness from the United States to be partners," said Kofi Annan, U.N. undersecretary general for peace-keeping operations. "As U.N. operations become ever more complex and cumbersome to manage, U.S. participation becomes ever more important."

U.N. officials acknowledged they sorely need the kind of political and logistical boost the United States is offering. U.N. peace-keeping operations are growing exponentially, straining the infrastructure, experience and planning capabilities at U.N. headquarters. By the end of this month, the United Nations will have about 90,000 troops in 13 operations around the world. Yet the entire force depends upon a staff of 35 military advisers and about 40 civilians in New York.

"If I had to choose a single word to evoke the problems of U.N. peace-keeping, it would be 'improvisation,'" Albright said. "A kind of programmed amateurism shows up across the board," including what she described as "the near total absence" of contingency planning, "hastily recruited, ill-equipped and often unprepared troops and civilian staff," the absence of centralized military command and control and "the lack of a durable financial basis for starting and sustaining peace-keeping operations."

These and other problems have made U.S. military leaders reluctant to commit U.S. forces to peace-keeping operations, particularly under U.N. command, officials said.

The former head of U.N. forces in Sarajevo, Canadian Maj. Gen. Lewis MacKenzie, vividly described the insufficient staff problem last year. "Do not get into trouble as a commander in the field after 5 p.m. New York time, or Saturday and Sunday," he said. "There is no one to answer the phone."

Currently, only the three biggest operations—in Somalia, Cambodia and the former Yugoslav republics—have officers stationed in the U.N. situation room around the clock. The U.S. plan calls for a reorganization of the U.N. peace-keeping staff, including the creation with U.S. help of a military operations headquarters modeled after the Pentagon's 24-hour command center.

Administration officials also have agreed to work out arrangements for sharing some U.S. intelligence information with the staff of such a center, substantially bolstering its ability to run distant, complex military operations. Later this month, for example, the United States is to help install a joint defense intelligence information system (JDIIS) in the U.N. situation room to enhance its ability to handle such information.

"This is a very tricky business," said Canadian Brig. Gen. Maurice Baril, the top U.N. military adviser for peace-keeping. "You can't expect an organization that is already overworked to come up all of a sudden with a perfect new system. But at the same time we have to develop from within the heart of the United Nations."

Officials said that in the course of the administration's review of its policy toward U.N. peace-keeping, U.S. military leaders have dropped their traditional insistence that U.S. forces be kept under U.S. command. The Joint Chiefs of Staff agreed to take a case-by-case approach and place U.S. troops under U.N. or allied command whenever they find the particular arrangements acceptable, officials said.

Recent models for the policy shift, the officials said, include the deployment of roughly 25,000 U.S. troops to Somalia and the planned deployment of 300 U.S. infantrymen to Macedonia to prevent the Balkans, conflict from spreading there.

Part of the proposed policy directive also stipulates some of the conditions under which the United States would endorse, though not necessarily participate in, U.N. peace-keeping operations. These include: humanitarian needs such as those caused by civil strife or natural disasters; threats to democratically elected governments; a high risk that local strife could expand into regional conflict; and threats to international security.

Albright said that the United States intends to support U.N. efforts to create a central peace-keeping budget to pay for such operations, including an enlarged contingency fund and a ready pool of military equipment. She also said the administration favors the "creation of a cadre of highly qualified budget experts" to audit peace-keeping expenditures.

Mr. BIDEN. Mr. President, before I turn to the business before the Senate, which is Walter Dellinger's nomination, let me also compliment the distinguished chairman of the Appropriations Committee for reminding the Senate, once again, and the Congress, of its responsibility relative to the commission of U.S. forces into combat without the consent of the Congress.

I might also add, because we will have plenty of time to debate this, there were some of us on the Foreign Relations Committee when President Bush detailed these forces to Somalia in the first instance, and we said that it did not seem to be a particularly wise undertaking, and was it explicitly and precisely and only for a multilateral effort to feed starving individuals; was that the mission? We were assured it was.

And third, again, before I turn to Walter Dellinger, which is the business that I am here for, I remind my colleagues that President Clinton inherited 24,000 American troops in Somalia. He has been attempting to draw down those forces. There are fewer than 5,000 American forces in Somalia now.

He is in a bit of a catch-22 situation: The further down he draws the forces, the more vulnerable they become; the more vulnerable they become, the more the call for them to retaliate; the more the call for them to retaliate, the more likely for them to become hostages; the more hostages, the more—and it goes on and on.

This is a conundrum that the President finds himself in. I wish him luck. The reason why I was late coming back up here, and we have done this—and I thank my colleague from North Carolina, Senator HELMS, for being kind enough to begin the debate on Walter

Dellinger in my absence. Usually the person pushing the nomination stands up and makes the case first. I mean this sincerely. I was unable to be here because I was with the President in the Oval Office on this issue, in part, as well as another issue. So I thank him for his courtesy.

But I can assure the Senator, he—and he need not have my assurance—the Senator from West Virginia, clearly has the President's attention, and I know he need not have me tell him that. I, too, thank him for, again, reminding us of the constitutional requirement imposed upon the President by the Constitution via this body and the House.

Mr. BYRD. Mr. President, I thank my distinguished colleague for his kind reference, for his studious and diligent attention to all the variations of the day and for his remarkable performance always, not only in the speeches he makes on the floor, but by his presiding over his great Committee on the Judiciary, of which I was once a member.

Mr. BIDEN. I thank the chairman, Mr. President. I hold him partially responsible for me being the chairman of the Judiciary Committee. As one of my colleagues said to me, "Be careful what you wish for, Joe, you may get it."

It was through the efforts of this Senator, who was then the majority leader of the U.S. Senate, a member of the Steering Committee, who I was foolish enough to ask would he put me on the Judiciary Committee. He acceded to my request and did that for which I will never fully forgive him, because he did not warn me about confirmation hearings for the Supreme Court, and I was unaware of what the responsibility might ultimately entail. But I thank him for his comments.

Mr. BYRD. Mr. President, that was one of the smartest things I ever did.

Mr. BIDEN. I thank the chairman.

NOMINATION OF WALTER DELLINGER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL

The Senate continued with the consideration of the nomination.

Mr. FAIRCLOTH. Mr. President, certainly we are dealing tonight with the exciting and dramatic issue of the situation in Somalia. That is where the interest is. But the subject which I wish to address, also long range, could have a dramatic influence upon the direction our country takes and the way we handle appointments and the Senate's role in them.

When I asked the people of North Carolina for their vote, I promised to work for and support a balanced budget, common sense ideals that the people of that State believe in.

I oppose the nomination of Walter Dellinger to the powerful office of legal counsel in the Department of Justice because his views on the Constitution are on the extreme liberal side from anyone's, especially those people of North Carolina, the vast majority of them.

Mr. Dellinger has argued against a balanced budget amendment to the Constitution, something that 71 percent of the people, in a nationwide survey, want.

Mr. President, we are a country with a Congress that spends us into debt at the rate of roughly $1 billion a day. It is this type of out-of-control Federal spending that has put our Nation on the fast track to a fiscal crisis. It just makes common sense that we cannot spend our way into prosperity. No individual, company, or governmental entity ever has before, and neither will the United States of America.

If we could spend ourselves into prosperity, we would have long since been in the economic promised land. The balanced budget amendment is the only thing that possibly can restrain the spending frenzy that prevails in the Congress today. And we sit here and watch it on a daily basis. It is a spending frenzy.

Mr. Dellinger opposes the balanced budget amendment, and even went so far as to refer to one Senator, Senator DECONCINI's amendment, as sleazy not because of the way it was written or any of that, but for the very simple reason that Mr. Dellinger, in his all-seeing wisdom, did not agree with it.

Mr. Dellinger is very much a part of the Washington establishment. He has been in and out for many years. He served as an academic adviser to the congressional leadership that put this country on the path to a fiscal disaster.

Mr. President, Walter Dellinger even complains about James Madison's amendment to the Constitution when it was ratified last year. That amendment says that Congress cannot raise their pay until after the next election which would give people and voters the chance to speak on the issue.

It goes without saying that most voters are not very keen on giving their elected officials pay raises, especially when those same elected officials have run up a $4 trillion debt.

Likewise, most elected officials would think twice before giving themselves a pay raise immediately before an election. Most of us that ran promised not to support pay raises.

Mr. Dellinger, again in the great wisdom he brings, had the audacity to question the wisdom of James Madison's amendment.

Mr. President, prior to coming to the Senate this past January, I spent my life in the private sector as a businessman and as a farmer. I met a payroll every Friday for 45 years, and we are going to meet one this Friday. So I have some experience with setting a budget and living within that budget.

Anyone who has kept a family budget knows what I am talking about; there is a great difference between a family budget and the budget of the Federal Government. It is not just the number of zeros to the right. A family simply cannot spend money it does not have.

It may sound simple, but that is not the way it works with the Federal Government. The budget of the Federal Government is based on how much we want to spend, and then we borrow whatever amount it takes to cover what we want to spend. And we borrow it all into infinity with no prospect of ever paying it back. We have been borrowing and borrowing so that we can continue the spending, and we have simply spent ourselves to the brink of an economic catastrophe.

Our country is in a very similar position to a family that has run up a huge debt on credit cards, but continues to spend and add to that debt at $1,000 a month in new charges, knowing full well they cannot pay it back. They decide to have a family meeting, and with great deliberation and gravity they agree to cut back. They are really going to make a sacrifice. Instead of going in debt at $1,000 a month, they are only going to go in debt at $900 a month. They are making a real sacrifice. But this is so hard on the family, until they decide to delay for 4 years before they start this terrible sacrifice.

This is about the position this country is in. We have not even addressed the issue of whether we are going to pay the debt, or how.

That is the reason we have the $4 trillion debt. It is slowly grinding us into a crisis. We have gnashed our teeth and we have talked and met about spending, but few if any substantial cuts have been made in spending.

And President Clinton, once again, totes out the same failed policies of tax and spend—only this time he brought in a retroactive tax. Congress has balanced the budget one time in 32 years—one time in 32 years only—and in 28 out of those 32 years we had a tax increase, and practically always with the named purpose of reducing the deficit on the debt.

The American people ought to ask themselves and their representatives the following question: What makes anyone think that the 29th tax increase will do any better job of reducing the deficit than the 28th that went before?

I think the lesson of the 1990 deficit reduction tax increase is that the only way clearly to reduce the deficit and reduce the debt is to cut spending. And the only way we are going to do that is with a balanced budget amendment—something that a vast majority of the American people believe in, which Mr. Walter Dellinger does not. A balanced budget amendment to the Constitution is the only way we are going to force the Congress to get its house in order.

And we do not need a man sitting at the President's right hand who is opposed to this from one end and who has called every attempt to put it in effect sleazy or incompetent.

Mr. President, I sincerely hope that Walter Dellinger will not be confirmed, and that we will have the time necessary to give all Senators a chance to learn just how much out of touch with mainstream America an ordinary citizen Walter Dellinger really is.

I yield the floor.

Mr. BIDEN. Mr. President, I apologize to my colleagues for my raspy voice, but to all of your benefits, I have this voice which means I will not speak overly long today and I will make my comments relative to Walter Dellinger brief and because we will have an opportunity to continue to debate this tonight and, I expect, tomorrow.

I rise tonight in support of the nomination of Professor Walter Dellinger of Duke University School of Law, to be Assistant Attorney General in the Office of Legal Counsel at the Department of Justice. The Judiciary Committee unanimously approved Professor Dellinger's nomination on July 22—unanimously approved. Since that time, I have been working with my colleagues on the other side of the aisle to bring this nomination to a vote. Unfortunately, I have not succeeded very well, and I have not gotten, to this date, very much cooperation on getting this to a vote.

But I strongly urge my colleagues tonight to support the nomination of Walter Dellinger without any further delay. Professor Dellinger has devoted his professional career to thinking, writing, and teaching about our Constitution. His scholarship has distinguished him as one of the leading constitutional experts in the United States. Regardless of what one thinks of his views, I do not think you will find an individual schooled in the law who will tell you Walter Dellinger is not one of a dozen of the most prominent constitutional scholars in America.

As such, I believe he could not be better suited for the post within the Justice Department to which he is nominated. The Assistant Attorney General for the Office of Legal Counsel has been described by some as the Attorney General's lawyer. It is a fancy phrase: The Assistant Attorney General for the Office of Legal Counsel. Distilled and translated, very simply it means this is the Nation's leading lawyer's lawyer. That is what this position is designed to do: Give counsel to the Attorney General.

He or she, the Assistant Attorney General for the Office of Legal Counsel, is called upon to advise the Attorney General on whether policy changes that are proposed accord with the Constitution and the laws of the United States.

More broadly, the Office of Legal Counsel, or OLC, as it is referred to, serves as general counsel for the entire Department of Justice and, in effect, as outside counsel to other executive agencies. In each instance, OLC opines on the legality of proposed executive action. So not just within the Justice Department. If the FTC or if the Defense Department or if the State Department—whomever—wishes to engage in a proposed executive action, it is not at all unusual for the OLC to give a legal opinion as to its constitutionality and whether it falls within the bounds of our laws and statutes.

For these reasons, the Assistant Attorney General of OLC must bring to the office a real commitment to scholarship and a higher regard for the Constitution. The occupant of the office should jealously guard the integrity of the department so that Americans may know that the Department of Justice truly seeks justice for all Americans and lives within the law itself.

I am fortunate to have had the opportunity to work with Professor Dellinger prior to his nomination, which may be, in part, part of the difficulties with his nomination. In all my dealings with him, Professor Dellinger has shown himself to be open-minded, intellectually rigorous and committed to the law and the Constitution as a matter of principle above ideology.

The Judiciary Committee hearings on Professor Dellinger's nomination reinforced my belief that he is, indeed, a person of unquestionable integrity and character. Moreover, the depth of his knowledge and experience in thinking about and teaching constitutional law will serve him well in the Office of Legal Counsel and, I might add, serve the Nation well.

At the hearing before the Judiciary Committee, Professor Dellinger testified about his commitment to the OLC's tradition of legal excellence and his determination to offer the best legal advice possible, as he put it. And he put it this way:

> It is the obligation of the office to give the President detached, objective advice, even if what turns out to be the best legal answer is not what the President was hoping to hear.

I was delighted to hear Professor Dellinger's testimony in this regard. I think it is critical that the Office of Legal Counsel deliver accurate and objective legal advice to the President, to the Attorney General, and to the entire executive branch, because, as the Presiding Officer knows, it has not been infrequent in our joint tenure in the Congress and in Government where occasionally the Executive Office has set off on larks that were not fully, did not fully comport with the law or the Constitution.

In my tenure in the Senate, I have seen a whole lot more Attorneys General than I have Presidents, and there has been reason for that. So the Office of Legal Counsel is one of those offices that the leading lawyers and scholars in America seek to participate. And administration after administration seeks leading scholars and lawyers, lawyers' lawyers to be in that position.

OLC is not a policymaking office. I respect my two colleagues from North Carolina and their disagreements with Mr. Dellinger on a number of specific issues including the balanced budget. But OLC is not a policy office. It is not that function.

Mr. President, as I indicated, OLC is not a policymaking office. Professor Dellinger understands that OLC's job is to assist the policymakers to make sure that the policy they are proposing is within the law and within the Constitution. In addition to understanding that the Office of Legal Counsel must offer independent advice, Professor Dellinger knows that the law is the starting and ending point in determining what advice he should render.

We in the Senate who have the constitutional responsibility of giving informed and reasoned judgment as to the suitability of nominees to the courts and executive branch are rightly concerned about the methodology these nominees will employ once they are confirmed.

Professor Dellinger has a long and, in my view, a distinguished record of advocacy in his legal scholarship before the courts and frequently in testimony before the Congress. Because Professor Dellinger is one of the country's leading constitutional teachers and thinkers, we in the Congress have repeatedly called upon him, not just in the Judiciary Committee but in other committees, and in the House of Representatives, and other distinguished colleagues like the conservative legal scholar, Philip Kurland of the University of Chicago, the liberal legal scholar as characterized by some, Laurence Tribe at Harvard University, and a whole range of others we could mention. We seek their wisdom, their advice, and their input, and their scholarship. And Professor Dellinger is one of those leading scholars and thinkers we in the Congress, in both Houses, have called on from time to time to offer opinions on a variety of issues of public concern.

I myself have looked to Professor Dellinger on several occasions to assist me in deliberations about matters of grave importance to our country and our Constitution. He willingly provided the assistance that I requested, earning over the years my deep respect and admiration.

While his thinking on some of the most controversial issues of the last decade or so has helped me develop my own views, some of which I have agreed and disagreed with him on, I am confident that Professor Dellinger's personal views are not of great relevance,

as a matter of fact are not of any relevance, to his new job at OLC. It is not a policymaking job.

As he testified under my questioning about his written record and constitutional testimony on issues of religious freedom and the separation of church and state, he said:

"The position to which I am nominated, the Office of Legal Counsel, is one where if any question arises the proper reference is not my own views or my own writings but the Supreme Court of the United States is what is deciding. Our obligation will be to look to what the law is and has been articulated by the courts, and I would inform those who work with me that the best place to look for law is not an encyclopedic article on school prayer or, indeed, in any of my testimony but to the decision of the United States Supreme Court.

Now, if he were being nominated for the Supreme Court, it would be very appropriate to be concerned about what his views were because as a Supreme Court Justice he can change Supreme Court decisions by his vote, or potentially change them by his vote. But in the Office of Legal Counsel he is bound not to look to his own opinions or JOE BIDEN's opinions or anybody's opinions other than the Supreme Court of the United States of America, the law of the land. Even if he disagrees with that, he is bound to tell the Attorney General that the law requires the following.

Again, I emphasize, because my friends have raised it—and legitimately so—a number of times, his views on everything from school prayer to balanced budget amendments are of no relevance to the functioning of this office.

This testimony of Professor Dellinger, which I quoted earlier, I think illustrates his determination to run the OLC in as nonpartisan and as independent a manner as possible, free from political pressures and independent of his personal views. A man of indisputable intellect and uprightness of character, Professor Dellinger offers himself for public service.

Mr. President, I personally am delighted to support his nomination, and I am going to urge my colleagues as quickly as they can to move on confirming Professor Dellinger.

Now, my colleagues from North Carolina raised several points in addition to what I have spoken to, and with their indulgence I will try to speak to two of those points tonight relatively briefly because they warrant a response in my view.

First of all, to my distinguished friend from North Carolina, Senator HELMS—he and I came to this body the same year, the same time, and we have occasionally been together and often been opposed on issues, but we have had a good relationship and dealt squarely with one another for over 20 years. He has a view different, I know, than my view and I think different than what has been the traditional view of the Senate relative to what we refer to in Senate jargon as blue slips.

Now, let me address the use of the committee blue slip. And for all of those who are listening, the blue slip is a name that has been given to the practice in the past, not just the past decade but decades, of the Senate Judiciary Committee, when someone is sent up as a nominee, to send notice to the Senator from the State from whence that individual comes—and it used to be in the form of a blue slip—to say what do you think of this person?

That is the blue slip we are talking about. It is not like the pink slip; you get fired. It is a blue slip. It goes back, I suspect—although I do not literally know whether it was still colored blue or was originally colored blue, but it was originally colored blue, I think.

So I say that for people who might wonder in listening to us on C-SPAN what the devil is the blue slip. That is what we are talking about.

The blue slip, I want to address the committee's blue slip in the course of Mr. Dellinger's nomination to be Assistant Attorney General of the Office of Legal Counsel. And I will try to take it by the numbers and chronologically. I solicited—and I do this all the time as chairman of the committee. The committee is interested in the views of home State senators on Presidential nominations to positions in the Justice Department.

The Presiding Officer is from Colorado. If there are nominees from Colorado to be Assistant Attorney General or to be Attorney General of the United States of America, we, as a matter of courtesy in the committee, automatically contact both the Senators, the Presiding Officer, and his colleague from Colorado, and say we want to know what you think about this person. But over the years the meaning of that inquiry has taken on life forms that do not bear much resemblance to reality.

So, as a matter of practice as chairman, I solicit, and the committee is in fact interested, in the views of home State Senators on the President's nominees to positions in the Justice Department. Unlike nominations to the Federal bench, where, if there were someone from the district court from North Carolina, or the circuit court, which is slightly different because it does not encompass just North Carolina, but unlike nominees from the Federal bench, the committee does not consider a negative blue slip; that is, when the Senator brings it back and says I do not like Joe Bloke, I am not for him. That is what I mean by negative blue slip. They do not support the nominee. Unlike nominations for the Federal bench, the Judiciary Committee does not consider, and has not considered, a negative blue slip on a Department of Justice nominee to be a significant factor against the nominee for a position in the Department.

This is committee policy, and it is not a change from past practice. As acknowledged by Senator THURMOND, the most senior Republican in the U.S. Senate and the most senior member of the Judiciary Committee having served there longer than anyone—the distinguished Senator from South Carolina who served previously as chairman of the Judiciary Committee through most of the 1980's said the following:

The extension of the blue slip policy to the Department of Justice officials would "be extending it further than it has ever been extended before."

He said that in the Judiciary Committee on July 15, 1993—this July.

Consultation with home State Senators during the nomination process is based on a long-held practice and theory, and the theory goes like this: That the Senators who represent the State where a nominee will sit, actually go back and sit and serve, should have an input in the nomination process.

Logically, that theory does not apply and has not applied to national level Justice Department nominees who will not be serving in the home State of the Senator.

If we extended this rationale—I might add parenthetically that a home State Senator could withhold support and veto any nominee. Well, let us assume there was a Secretary of State nominated from the State of Delaware, and I did not like her or him, and I said, I do not want her, I do not want him, I do not want her to be Secretary of State. I do not think anybody in this body would seriously contend that I as, one Senator, merely because the nominee comes from the State of Delaware, hails from Delaware, should be able to be stopped by me from serving as the Secretary of State of the United States of America, I do not think anybody would think that. I do not think anybody would think if a Supreme Court nominee came from my State, and I did not like the nominee, that I would have a veto power, that I would be able to say to the Judiciary Committee, do not even consider this nominee. You are trampling on my prerogatives as an individual Senator. You cannot even consider it, cannot even vote on it. "I veto that nominee."

If you think about the extension of this practice, that is being suggested be the practice, think what it would mean. No President could nominate anyone for public office serving in Washington, DC, who the Senator from that State did not like. I do not mean personally dislike, disagreed with. I do not know anywhere in the Constitution where it said in the advice-and-consent clause that we should build into Senate practices the ability of a single Senator to deny consideration even of a Presidential nominee.

Another reason why this practice used to exist, does exist still, and in

the past as it relates to district court judges, was giving greater weight on previous occasions than is now given, was because of another underlying thesis; that is, that in 1815, or 1850, or 1890, or 1910, the President of the United States of America nominating someone from my State was not as likely to know as much about how that person was viewed by the lawyers and judges in my State as I would be. That is an underlying reason for it.

We take very seriously the recommendations of Senators relative to the appointment to the bench of someone from their own State. Because you, the Presiding Officer from Colorado, are likely to know 100 times more lawyers in Colorado than the President does. You are likely to know 20 times as many professors, and 50 times as many community leaders. So we want your opinion. It is important because they have worked day-to-day with that individual as to whether or not they would be able to fulfill the function of going back to that State and sitting there as a judge.

But that theory begins to loosen very rapidly when you are talking about whether or not someone who is a professor at a law school who takes on a position in Washington, DC, at a national level in the Justice Department should not only be able to be vetoed, but even slowed up by a Senator by virtue of the fact he or she works in the State of the Senator or is born in that State.

Further, consistent with the President's prerogative to choose those he wishes for his Cabinet agencies, I think it is inappropriate to allow a veto by home State Senators of such positions, a view shared by the distinguished Senator from South Carolina, a former chairman of the Judiciary Committee and Republican, Senator THURMOND, and the vast majority, I think the total majority, of the United States Senate Judiciary Committee.

A home State Senator still may vote against a nominee. He may, within his rights or her rights, filibuster a nominee. I respect both of those. But even in the instance of a negative blue slip, if the nominee is otherwise qualified, the committee will proceed with the nomination. No Senator gives up his or her personal right to use the rules of the Senate to try to stop that nominee. We respect that. It is time honored and it will be practiced and continued in practice. I respect it. But I want to make it clear. The practice that I have outlined relative to the blue slips is consistent with the procedures employed by other Senate committees reviewing Executive nominations for nationwide positions.

How could the rationale hold in the Judiciary Committee, for example, to say that an Assistant Attorney General or Deputy Attorney General, Assistant Attorney General of the U.S. Justice Department, would be able to be negatively blue slipped by a Senator from the home State and not say that same practice should exist within the Defense Department, within the Justice Department, within the Commerce Department, within the Office of Management and Budget? Anywhere. But I ask my colleagues, is there any other committee in the U.S. Senate where the mere reference by a home State Senator that he or she does not like the nominee that would lead one in a commonsense view to suggest that that committee should not consider that nominee?

It would be an illogical extension of a courtesy that has been afforded historically by the Judiciary Committee to Senators from the home States of the nominees because we do value their opinion.

We ask this not to be gratuitous; we ask it because we know the Senators from North Carolina know the nominees from their State. We want to hear what they have to say. I do not imagine that the Senator from North Carolina believes he should be given a veto power over nominees from his State who are selected by the President to serve in the Department of Labor, the Department of Transportation, the Department of Defense, or the Department of State.

Certainly, the Department of Justice nominees are no different and, quite frankly, given that President Clinton won the election, those choices are his choices, and it is the choice of the Senators to support or oppose the nominee—but not to have one Senator tell the President he cannot even nominate that person and get a vote.

The Judiciary Committee, because of the tradition of sending blue slips on Judicial nominees, sends blue slips on Department of Justice nominees as a courtesy to notify home State Senators that the nomination has been received. This practice will continue, because I personally am interested in soliciting my colleagues' views on those nominees, just as we did in this case.

Let me say what happened in this case. Attached to Senator HELMS' blue slip—the notice we sent—was a press release by Senator FAIRCLOTH. It was attached to what we got back. This is totally appropriate. It was by Senator FAIRCLOTH expressing his reasons for opposing the nominee. Senator HELMS indicated that he opposed the nomination for the reasons stated by Senator FAIRCLOTH. And the senior Senator from North Carolina did not give any indication to this Senator or the committee, to the best of my knowledge, that he had other concerns than those expressed by Senator FAIRCLOTH, which were expressed in the press release attached and given to the committee.

More than 1 month after Senator HELMS returned his blue slip to the committee, we sent out public notices announcing our intention to hold a hearing on Walter Dellinger's nomination 1 week after that. So we got the blue slip—

Mr. HELMS. If the Senator will yield, that simply is not accurate. You may have sent them out, but they dropped them in the trash can somewhere, because I never received one and Senator FAIRCLOTH never got one.

Mr. BIDEN. Obviously, if I am wrong, and I believe I am not, I will stand corrected; but we will, before this is over, get you evidence of the fact that we did send them. I am not doubting your word that you did not get it, but I hope you are not doubting my word that there was notice.

The committee publicly noticed Walter Dellinger's hearing on June 15, 1993, in the CONGRESSIONAL RECORD for June 16, 1993, at page E1534. It is noted that the Judiciary Committee planned to hold a hearing on Professor Dellinger's nomination at 10:30 a.m.

Mr. HELMS. If the Senator will yield. Like the Senator from Delaware, I do not read every word in the CONGRESSIONAL RECORD. I would have thought that maybe I would have had the courtesy of a notice from the Judiciary Committee. We can get into the facts of this case, and I intend to do it this evening.

Mr. BIDEN. I understand the point of the Senator, and let me say that he is at least partially right. Let me explain what I mean by that. If the Senator is saying did I personally send him a note from the Judiciary Committee directly, a month after he sent in the blue slip, saying in another week we are going to have a hearing, the answer to that question is no, I did not personally, nor did the official committee, send specifically to the Senator from North Carolina, or specifically to his junior colleague, a notification. We did what we always do, what is the practice and has been the practice of the committee. We noticed in the CONGRESSIONAL RECORD, and that is why we have competent, paid staff to read the CONGRESSIONAL RECORD.

I hope the Senator does not waste time reading. I sure hope my staff reads it, because that is the vehicle through which we notify people of what is happening on the committee as a whole.

So the Senator is correct that I did not send it to him personally. But I want him to understand that it was no slight; it was not something I did not do to him; it is something that is not the committee's practice. We officially notice it in the CONGRESSIONAL RECORD; that is the vehicle.

Again, more than a month after the Senator from North Carolina indicated his opposition to the nomination—I have been informed by staff to clarify or add another point, which is that we call Senators if they are going to have a nominee from their home State only

for the purpose of asking them if they wish to come and introduce the nominee. We extend the courtesy of asking if you wish to come and introduce the nominee from your State.

It was very clear that both of the Senators from North Carolina had no desire to introduce the nominee. And so if, for example, one of the Senators had sent in a positive blue slip and one a negative blue slip, we would pick up the phone and call the Senator who sent in the positive blue slip and say: Senator So and So, we are—as noticed in the CONGRESSIONAL RECORD—going to hold the nomination hearing in committee on June 17. Do you wish to come with the nominee to introduce him or her? And if you do, we will try to accommodate your schedule. What is the best time for you to do that?

But the reason we do not do that with a negative blue slip, it is obvious that the Senator does not want to come and introduce the nominee. And we offer the opportunity to introduce not for the purpose of notifying the Senator of that particular day, because you assume he will be notified through the CONGRESSIONAL RECORD; we do it for the purpose of trying to accommodate his or her particular schedule, because many times they come back and say: Gee, Joe; I am conducting a hearing on such and such, and I cannot do it at 10. Can I start my hearing and get over to you at 10:45, and can you get me on then to introduce him?

That is the reason we do it. Maybe we should do what other committees do, as I understand the practice generally, and not spend any time notifying everybody about these things. But that has not been our practice.

So, again, the chronology: The nomination gets sent up to the Judiciary Committee. We send blue slips, and that is traditional, out of courtesy to both of the Senators from the home State. Both of the Senators from the home State send back a negative blue slip and say, "We do not like the nominee; we are not for him." And one of the Senators attaches his reasons for being opposed to the nominee, and the other Senator says, in effect, "I associate myself with the comments of my junior colleague."

A month passes, and we were not just doing nothing during that month. We were following up leads, accusations, positive comments, and we were investigating, minority and majority, Republican and Democratic investigators, on the core staff. We were investigating the nominee, as we do every nominee requiring the advice and consent of the Senate before our committee.

If the Senator from North Carolina, the senior Senator, had given the committee any indication that he had any additional thoughts he wished to share about the nominee, we would have accepted those thoughts gladly. By no possible standard was this nomination rushed through the committee. Members of the Senate, the press, and the public had notice of the hearings.

In addition, the home State Senators were specifically notified by blue slips that the committee was considering the nomination. In addition, at the request of the Senator from North Carolina, the committee's vote on Professor Dellinger's nomination was delayed a week after we set the date to vote.

The Senator said to me: "Do not rush it. I have additional questions I would like to submit in writing."

So as a courtesy I said, OK, even though the vote was unanimous in the committee a week later. I said: "Fine. You submit the questions."

My staff picked up the phone, called the nominee, and said: "It is important you answer these questions. A senior United States Senator wants the answer." And they told the staff down there very bluntly: "We do not care whether you think the questions are relevant or irrelevant. Answer them." And they answered the questions.

We delayed the vote a week. So we had the hearing and then the process of the committee. After the hearing, after a certain time passed, we set it up on what is called the Executive Calendar to vote on it in the committee. The day we noticed the vote on this and we put out a calendar, we distributed it, we said the executive committee is going to bring it up, and here is the agenda, click, click, click, and we listed in writing—I think it was 2 days in advance—and the minority was given—that meaning the Republicans in this case—and the majority, we delayed that 1 week even though we could have voted on it then.

Now, on two separate occasions the senior Senator from North Carolina submitted numerous questions to the nominee, and based on my reading of it, all of those questions have been answered, maybe not to the satisfaction, maybe not the right answer from the perspective of the senior Senator, but the nominee answered the questions.

If the Senator from North Carolina or any Senator wants to oppose the nomination, they are well within their right to vote "no". As a matter of fact, they are within their right to filibuster. But we have delayed, in my view, long enough. The President is entitled to a vote on this nominee.

One other point I would raise. I personally spoke on at least three occasions in detail with the junior Senator from North Carolina, who is the one who submitted his explicit reasons for being opposed to the nominee, and as is normally the practice, the junior Senator did nothing inappropriate, but he would raise with me—he would say: "Joe, I heard the following rumor about the nominee."

We hear that on every nominee.

I said, "Let me check it out." I would go back to the investigating staff and say, "This is a rumor that has been heard. Follow up on it."

I would then go back to the junior Senator from North Carolina and say, "The rumor you said that Dellinger killed Robin on July 7 and Charlie Smith saw it, we went back and interviewed Charlie Smith, and we tried to find Cock Robin's body. We went to see who did what, and they turned out to be specious."

The Senator from North Carolina was not offering them as proof, but he was entitled and required to pass on to us things that reflected negatively on the character if they were true, and they turned out not to be true.

Then I said to the junior Senator from North Carolina, "The investigative staff, majority and minority, Republican and Democrat, is available to you to brief you on the detail of the investigation."

To the best of my knowledge, every single solitary question relating to the conduct, the character, and the performance of this nominee in his capacity as a student, as a lawyer, as a professor, as an adviser, as a father, as a husband, as a citizen, every single solitary rumor, allegation, even hint of anything wrong called to our attention or uncovered by minority or majority staff was looked into.

Let me make it clear when I say minority and majority. The good Senator from Utah and I do not share the same philosophy. He is the ranking member. His investigators are not card-carrying liberal Democrats. They are first-rate professionals and investigators, as I believe mine are, and I can say with honesty I am not even sure how mine are registered. Maybe I should check. But all kidding aside, these are first-class investigators, and this is done in a bipartisan way.

Again I say, only because the only one to speak to me about specific concerns about this nominee was the junior Senator, and the junior Senator will tell Senators on the record, and I am sure the senior Senator would not doubt it, I extended every courtesy. Every single thing he asked me about I took time with him. I sat with him. I followed up on it, every single thing. And, again, I want to make it clear the junior Senator was in no way attempting to malign the character of, say anything bad about, do anything that was untoward relative to the nominee. But if the junior Senator heard from the——

Mr. HELMS. Mr. President, if the Senator will yield, what did he say the junior Senator from North Carolina did not do? The Senator's voice is raspy.

Mr. BIDEN. I am sorry. I beg pardon.

The junior Senator from North Carolina never did anything untoward, never did anything unfair, never attempted to malign the character of the nominee. I want to make that clear

when I say he would pass on to me rumors and/or concerns that were expressed to him, which is appropriate. So I do not want anybody leaving here thinking that the junior Senator came to the Senator from Delaware stirring up rumors about the nominee.

Mr. HELMS. What is the Senator saying?

Mr. BIDEN. What I am saying——

Mr. HELMS. I hope the Senator gets through so I can answer some of these incorrect statements that he made.

Mr. BIDEN. Let me make it clear to the Senator. I was making the point that the senior Senator from North Carolina never once said anything to me——

Mr. HELMS. Nor the Senator from Delaware to me.

Mr. BIDEN. No. I know. I understand that. So I am not in any way impugning. The point is I am not impugning anyone's integrity, but I am pointing out to the Senator what I did.

Mr. HELMS. Mr. President, I ask the Senator if he would look at me so I can understand. The Senator's voice is about gone.

Mr. BIDEN. What I am pointing out to the Senator is when his colleague came to me, in addition to his written concerns, he expressed additional concerns.

Mr. HELMS. Right.

Mr. BIDEN. Every concern he expressed to me about the competence of the nominee to serve, I, along with the minority and majority investigating staff, followed up on it. Not one single thing that he raised with me did we not assiduously follow up, not one single thing that he raised, because we are not mindreaders. I do not know why the Senator is opposed beyond the reason stated. I am not a mindreader. Everything he raised we not only investigated, but we made available the investigative team of the committee, Republican and Democrat, to the junior Senator from North Carolina to satisfy him as to what we did and did not do in investigating this nominee. That is the only point I made.

Mr. HELMS. What I said did not matter?

Mr. BIDEN. No. The Senator's blue slip mattered a great deal. We assumed from the Senator's blue slip, his reasons for opposition were precisely the same as the junior Senator from North Carolina, because when the senior Senator from North Carolina sent me the blue slip, I say to my good friend, he attached his junior colleague's reasons.

Mr. HELMS. You bet. I agree with him.

Mr. BIDEN. So I did not feel the need. Let me put it this way. If Senator ROTH from Delaware sent the Senator a series of questions and then I said, "By the way I have the same questions," would the Senator feel obliged to come and talk to both of us or answer Senator ROTH, who sent the question?

Mr. HELMS. Mr. President, I hope the Senator would feel obliged to talk to both Senators.

Mr. BIDEN. If the Senator feels in any way disrespect in my not speaking to him, I want him to know I assumed what I think is appropriate to assume, that the junior Senator from North Carolina had taken on this job, that the junior Senator from North Carolina had taken on the job of dealing with this nomination. That is literally what I thought. I think that is literally what the minority staff thought as well on the committee.

So that is the reason that until the Senator came to me the day or two before we were going to vote in the committee and said, "Joe, I really wish you would not vote now; I am not ready. I have more questions." Does the Senator recall that?

Mr. HELMS. I certainly do.

Mr. BIDEN. Does the Senator remember what I said? I said: "Fine, JESSE. If you do not want to vote now, submit your questions. We will get him to answer those, too."

Mr. HELMS. Which he never did.

Mr. BIDEN. Pardon?

Mr. HELMS. Which he never did.

(Mrs. MURRAY assumed the chair.)

Mr. BIDEN. Well, he answered questions. Whether he answered to the Senator's satisfaction I am not the one to be the judge. The Senator from North Carolina is to be the judge of that, as he obviously is.

The point I am making is as it related to the blue slip. The U.S. Senate Judiciary Committee extended to the Senators from South Carolina——

Mr. FORD. North Carolina.

Mr. BIDEN. I am so used to dealing with the Senator from South Carolina on the committee. I apologize for the slip—the Senators from North Carolina, every courtesy and every privilege that we have accorded every single U.S. Senator as long as I have been on the committee and, to the best of my knowledge, as long as anyone has been on that committee. That is the only point I wish to make.

And on the last point raised in the opening statements by my colleagues from North Carolina, they indicated—I believe the distinguished senior Senator indicated—that there has been, at a minimum, a lack of due diligence and concern for the Senate's prerogatives by the President and the Attorney General making Walter Dellinger the Acting—the Acting—Director of the Office of Legal Counsel.

Let me speak to that point briefly.

Statutory law provides that all functions of the officers and employees of the Department of Justice—all functions—are vested in the Attorney General. She, in turn, and I quote the statute here may "authorize the performance of any other officer, employee, or agency of the Department of Justice of any function of the Attorney General."

Thus, a person can become an Acting Assistant Attorney General in either of two ways: Under the first method, whomever is the ranking deputy in the office becomes the acting head of that office. Under the second method, the Attorney General may designate any other official of the department, in this case Attorney General Reno's order designating Walter Dellinger as the acting head of the Office of Legal Counsel meets both tests.

Professor Dellinger became Acting Assistant Attorney General on August 11. Prior to that time, he was already employed by the Justice Department as the highest ranking Deputy Assistant Attorney General in the Office of Legal Counsel.

So he was not requiring Senate confirmation. OK. So here you have the guy who is, in fact, already in the Office of Legal Counsel as the ranking assistant, or the Ranking Deputy Assistant Attorney General. The statute, I remind you, says that one of the ways you can become the acting head of that department is if you are a deputy at the time it is vacant.

Thus, under the first test, which by itself is sufficient to justify Professor Dellinger's service as Acting Assistant Attorney General, he satisfies the requirements of the statute.

Moreover, Attorney General Reno issued an order designating him as Acting Assistant Attorney General. She was authorized to do that under the statute, because she may designate "any official in the Department of Justice" to head a vacant office in the Department of Justice. "Any official in the Justice Department." He was in the Justice Department. And she may designate anyone in the department to head a vacant office.

I would point out to my colleague that what Attorney General Reno has done in this case is the same thing that has been done in past administrations. At least three previous Assistant Attorneys General were named to that position prior to confirmation. In fact, the most recent of these was when former Attorney General William Barr, the last Republican Attorney General, named Timothy Flanigan Acting Assistant Attorney General for the Office of Legal Counsel in 1991.

Let me say that again now. Former Attorney General, Republican Attorney General in the Bush administration, Mr. Barr, took a fellow who was already in the Justice Department named Flanigan and he said, "Prior to the Senate acting on your confirmation, I need this office filled. I am appointing you under the statute, which I have the authority as Attorney General to do, Acting Assistant Attorney General for the Office of Legal Counsel," the exact same office we are talking about.

Mr. HELMS. There is going to be such a gap between all the material the

Senator is stating, which is inaccurate or irrelevant.

Mr. President, I ask the Senator: Was there any controversy about Barr?

Mr. BIDEN. There was no controversy about that appointment. There was a lot of controversy about Barr.

Mr. HELMS. That is the point.

Is it not a fact that they first hired Dellinger as a consultant, is that not correct?

Mr. BIDEN. Yes, they did.

Mr. HELMS. Moved him up to Deputy Attorney General, and then they put him in this place.

You are reading the statute. I am going to read the Constitution of the United States, if I ever get the floor again.

Mr. BIDEN. Let me point out to the Senator, it was a unanimous vote, including all Republicans in the committee, for Walter Dellinger. So this does not appear to be too controversial, either.

Mr. HELMS. Well, it certainly was known to everybody except the Senator from Delaware.

Mr. BIDEN. No, what was known to me, Madam President, was the Senator from North Carolina did not like the nominee.

Mr. HELMS. If the Senator would yield, sure you had a love-in on that hearing and they did not know everything about Walter Dellinger. They did not know about the freshman Senator from North Carolina who had been here only 3 or 4 months. And, of course, it is easy to say, "Step aside, boy. You do not know enough about the way the Senate operates."

But I have been here as long the Senator has and I know something about how it operates. And if I get the floor——

The PRESIDING OFFICER. The Chair will remind Senators to direct their remarks to the Chair.

Mr. HELMS. Pardon me?

The PRESIDING OFFICER. The Chair will remind Senators to direct their remarks to the Chair.

Mr. HELMS. I believe you have a cold, too, Madam President.

What did you say?

The PRESIDING OFFICER. The Chair will remind Senators to direct their remarks to the Chair.

Mr. HELMS. Well, I will suggest that you remind both of us to do that.

The PRESIDING OFFICER. I will do that.

Mr. HELMS. Thank you very much, ma'am.

Now, where were we?

Mr. BIDEN. I think the Senator was telling me he has been here as long as I have, and I think that is where we were. The Senator from North Carolina was pointing out to me that he knows his way around this body, which I have never doubted. I think he was about to make the point that, notwithstanding the fact all the Republicans on the committee listened to the testimony and voted for him, they did not know as much as he knew.

Mr. HELMS. I say to the Senator, Madam President, that he may count the votes of the Republican Senators on the Judiciary Committee when the vote occurs tomorrow, if it occurs, on the cloture motion, and we will see if they know more today than they knew then.

Mr. BIDEN. Madam President, I really do understand what this is all about. I really do understand and respect the Senator from North Carolina. I really do understand and respect the fact that he has been, and continues to be, a powerful force on this floor and among his Republican colleagues.

I just ask him to understand, when he or his staff may impute motivation to me, that it was not unreasonable for the Senator from Delaware, when the entirety of the Republican members, the entire delegation of Republicans on the Judiciary Committee—not the most liberal group of people; many sharing the same philosophic views of my friend from North Carolina. No one I know has ever accused Senator HATCH, or Senator GRASSLEY, or Senator BROWN, or Senator THURMOND of being reactionary liberals. I have never heard that accusation.

So all I am suggesting, Madam President, is it was not inappropriate for the Senator from Delaware, when we called for a vote, after over a month's investigation of this nominee, after over a number of repeated questions having been submitted and answered, after a hearing, after it being clear to every one of the members of that committee that the two Senators from North Carolina opposed the nominee, that, notwithstanding their knowledge of that, and with all due respect to both the Senators from North Carolina, the committee, Republicans as well as Democrats, voted, notwithstanding that knowledge, for the nominee.

Therefore, I would respectfully suggest it is not inappropriate for the Senator from Delaware to draw from that—let me be very clear. We passed this out by unanimous consent, that is a unanimous vote, in the committee. There were Republicans that were there. I am checking right now to find out precisely, in making up a quorum, how many were actually there.

But it is irrelevant. Every single U.S. Senator on that committee knew on that day we were voting on Walter Dellinger.

Every single member of that committee, Democrat and Republican, knew that the Senator from North Carolina opposed the nomination of Walter Dellinger. Every single U.S. Senator and every staff member of every Senator on that committee knew that both the Senators from North Carolina had handed in blue slips. Every single solitary member of the U.S. Judiciary Committee knows that they can interpose an objection and demand a vote and/or keep us from voting, merely by asking the Chair that they wish not to proceed. Everyone knows that.

So, whether or not everyone stood and said yes or no on a vote, it can at a minimum be said this nomination did not pass out of the committee absent the knowledge, absent the consent of the Republicans, after the Republican as well as Democratic investigators, hired by the committee, looking at the FBI file and everything else in this man's background, had reached the conclusion that he was fit to serve in this office.

Now, again, I do not want to make more of this or less of it. It comes down to a very simple proposition. Again, I respect it. The Senator from North Carolina, the senior as well as the junior Senator, do not feel this man is an appropriate nominee for the office. I respect that. But let us talk about this for what it is. And it is appropriate what it is. And that is, this particular nominee has views that have not only in this instance but for two decades diverged and openly diverged in the State of North Carolina from the Senator from North Carolina, the senior Senator, and to a lesser extent from the junior Senator who, as he points out, has not held public office until recently. He was a businessman for a number of decades.

I respect that. I would not be real happy. I remember there was a fellow from Delaware whose roots were in Delaware, a man—I had great respect for his intellect and totally disagreed with his views on the issue of civil rights—who was asked to be the head of the Civil Rights Division: Bradford Reynolds. He comes from an old and distinguished family in Delaware; a very distinguished family. The Senator from Delaware disagreed fully, as the Senator from North Carolina fully agreed with his views. I did everything I could to try to stop him from being the nominee.

Mr. HELMS. If the Senator will yield for an observation, he sounded like a great guy to me.

Mr. BIDEN. He was. You loved him. I respected him, but I disagreed with him.

Mr. HELMS. If the Senator will yield, I never heard of Walter Dellinger until this came up.

Mr. BIDEN. Senator, I do not doubt you because you have never broken your word to me. I accept that. But everyone else in North Carolina heard about him because they were mad as hell about Bork. Remember all that stuff about the Bork nomination? You sure heard about him after the fact.

Mr. HELMS. If the Senator will yield, you are sure going to hear a lot about it.

Mr. BIDEN. I know I am. But again, let us call this what it is. This has

nothing to do with blue slips. It has not a darned thing to do with whether or not there was an inappropriate interim appointment made here. This has to do with a straight up philosophical, at least philosophical—I do not know of any more—disagreement with the nominee by the two Senators from North Carolina.

This is a man who is well known nationally. This is a man who is one of the most prominent legal scholars in America. Therefore he is going to have a number of people who have strong views about him.

Bradford Reynolds was a brilliant fellow, incredibly well educated, a man of absolute total integrity, who drove half of this body up a wall. They went crazy. He drove the civil rights community to distraction. He was viewed, in an ideological sense, as Public Enemy No. 1. That is what this is about. I do not disagree with the Senator for being against this fellow.

But, again, I am going to yield the floor now to hear from the Senator from North Carolina, and let us get down to cases. The cases are not about blue slips. The cases are not about this man's integrity. The cases are not about this man's character. The cases are not about an inappropriate interim appointment. The case is: This is a man who was one of the dozen leading constitutional scholars in America who has a point of view on most every constitutional issue at issue with my friend from North Carolina—as I do, I might add. And he does with me.

But let me remind my friend from North Carolina and this body that this nominee is not being nominated to be a judge. He is not. I think he would be an incredibly good judge. He is not being nominated to be on the Supreme Court. I think he could serve admirably on the Supreme Court. He is not being nominated to be Attorney General, which post I think he could fill as well.

He is being nominated for a nonpolicy position. When he takes his oath of office he is required to say what he believes the Supreme Court has ruled to be the law of the land. That is what he is required to tell the departments of the executive branch when they ask him: Can we do the following? Can we initiate the following policy? He is required to say yes or no. Not because it is good or bad policy, but yes or no because it is legal or illegal, constitutional or unconstitutional.

So I suggest respectfully that the fundamental reasons for opposition to this nominee by my two friends from North Carolina are inappropriately directed at this office. Wait until he is nominated for the Supreme Court. Wait until he is nominated for Attorney General. Wait until he is nominated to be a Circuit Court of Appeals judge. It is appropriate there.

I do not mean inappropriate in an ethical sense. It is more appropriate in a legal sense there. Because if you are a Supreme Court Justice you can change Supreme Court rulings. If you are Attorney General you have much more swack.

This is a fellow who is going to fill an office, the Office of Legal Counsel. He is the lawyer's lawyer, required to give the Attorney General, the President, under the traditions and explicit requirements of the office, the best answers he can as to what the state of the law is at the moment he is asked. Not what the law should be. Not what he would like it to be. Not what it could be. But what it is.

I thank my friend from North Carolina for his indulgence. I realize we have gotten this a little backwards. Usually I would start and make this case and then he would reply. I thank him for the indulgence when I was down at the White House and I hope I am going to be able to respond. I will attempt to respond to any inquiry he has.

I will now yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, I think I have spoken about 12 or 15 minutes since this nomination became the pending business. Out of comity for our fellow Senators, I yielded to the Senator from Massachusetts, whom I believe spoke for about 50 minutes. Then there was a series of people who wanted to come to the floor and discuss Somalia. I am not complaining about that. They have accommodated me in the past and I am glad that I could accommodate them today. I will be glad to accommodate them again in future.

Now, having said that, I hardly know where to begin in respectfully refuting so many of the things that the distinguished Senator from Delaware has stated for the RECORD.

He is very adroit about making a statement, which itself is not accurate, but it has a flavor of being accepted as a historical fact. For example, he mentioned Brad Reynolds. I knew Brad Reynolds well. I was pulling the Senator's leg about that, of course. But he made a big thing about the Bush administration doing the same thing that Janet Reno has done in the case of this nominee. Not at all.

I would ask the distinguished Senator from Delaware, did the Bush administration or the Reagan administration appoint Brad Reynolds acting over your objections before his confirmation? Of course not. So what you said is not relevant, but you are so persuasive, I will say to the Senator from Delaware, that it glides by like a ship in the night and people listening will say, "Well, gee, that makes sense," when, in fact, it does not make sense because it is not relevant to anything.

Let me straighten out one thing about this blue slip business. I think, Madam President, that I predate any Senator in this body in terms of having been connected with the Senate. I came to Washington the first time in 1951 as administrative assistant to Senator Willis Smith, who was a prominent member of the Senate Judiciary Committee at the time.

Back in those days, we did not have enormous staffs, as we have today. We had five or six and, therefore, even though I am not a lawyer—and I brag about that frequently—I represented Senator Willis Smith as his staffman with the Judiciary Committee and I know how the blue slip worked then. It covered the judges, it covered the Attorney General, it covered anybody who is under the jurisdiction of the Senate Judiciary Committee.

I checked with the former chairman of the Senate Judiciary Committee, Mr. THURMOND, who has been referred to several times tonight, and he tells me that never—never—when he was chairman was a blue slip ignored, whether for a judge or a Justice Department official. How does that square with all of the rhetoric we have heard here tonight?

Senator THURMOND added, when blue slips were returned in the negative for a Justice Department official—not a judge—but for an official of the Justice Department, the administration first tried to work out the problems with the Senator who had submitted a blue slip.

The Senator was offered the opportunity to appear at the hearing. LAUCH FAIRCLOTH was not offered any such opportunity. I was certainly not offered any such opportunity. We did not even know about the hearing. Maybe I should have read every word in every edition of the CONGRESSIONAL RECORD, but I did not, and LAUCH FAIRCLOTH did not know about the hearing until it was over. There was not one opposing witness to this nominee.

I would have thought at a minimum that the chairman of the Senate Judiciary Committee would have called the former chief counsel of the Judiciary Committee and asked him a few questions about this nominee. Oh, no, it was a love-in, and sure the Republicans got confused about it, but they are not saying the same thing today despite what the chairman says about what they believed at the time of the vote.

Dellinger was reported out by a voice vote. I guess I have used the voice vote to say the vote was unanimous. But the truth of the matter is, that in every committee in this Senate, Senators run back and forth like jackrabbits trying to cover two or three committees at the same time. So a lot of Senators simply do not know what is going on.

I have the pleasure of serving with the Senator from Delaware on the Foreign Relations Committee, and because of his responsibilities on the Judiciary Committee, he has to miss a lot of meetings. I know he comes in and says,

"What's this all about?" He is at the mercy of whatever Senator gives him the news about what the matter is all about.

So I am not criticizing him, but I am simply saying that during the next week, 2 weeks, or 3 weeks that we discuss this nomination, there are going to be a lot of things that will go into the RECORD. In the end, the Senate may get cloture. But as of now, I do not think you are going to get it.

Mr. BIDEN. Will the Senator yield for a question?

Mr. HELMS. Yes, I will be glad to.

Mr. BIDEN. Madam President, I think the Senator vastly underestimates his prowess.

Mr. HELMS. I do not have any.

Mr. BIDEN. He vastly underestimates the influence of the Senator from North Carolina.

Does the Senator from North Carolina actually believe that there was any Republican on that committee at the time of the vote who was unaware of the opposition of the Senator from North Carolina? I know for a fact you buttonholed with me there at least three members of the committee to tell your opposition. Is there any Senator who you believe did not know you personally opposed the nominee, do you think?

Mr. HELMS. Madam President, I will be glad to answer the question in the only way that I could possibly answer it. How in the world am I supposed to know what any Senator is thinking about anything?

Mr. BIDEN. If I can ask the Senator——

Mr. HELMS. So I do not know the answer.

Mr. BIDEN. If I can ask the Senator, if I am not mistaken, I was standing with the Senator when he spoke to the ranking member and standing with the Senator when he spoke, if I am not mistaken, to the Senator from South Carolina and made it clear you were opposed to the nominee. Is it not reasonable to infer from you telling them that they would know you were opposed?

Mr. HELMS. The Senator would have to give me the date and the place and the time and what was said. I do not remember.

Mr. BIDEN. It is not—I remember.

Mr. HELMS. The Senator is nitpicking.

As I was saying, going back to 1951, 1952 and 1953, part of 1953, when I was staff on the Judiciary Committee for Senator Smith of North Carolina, every courtesy was extended, and I will tell you this much, Madam President, that if blue slips had come from both Senators from any State about any nominee, they would not have been ignored. At a minimum, they would have been—no, I will not even say "at a minimum"; that nominee would have had it. That is the way the Senate operated in those days, and that has been the tradition.

I am aware and I will develop the subject of the close relationship of the chairman with Mr. Dellinger, and some of the things they worked on. I am going to quote from credible publications and statements from people who are credible. But we will get into that a little later on.

Professor Dellinger came in, as I say, as a consultant at the State Department. He was not a sitting deputy at the time of his nomination, and it appears he was made a Deputy Assistant Attorney General for the sole purpose of elevating him to Acting Assistant Attorney General before the Senate could work its will. You see, the August recess came into play. Mr. Flanigan, the gentleman cited previously by the Senator from Delaware, was a sitting Deputy Assistant Attorney General at the time of his nomination and when he was made an Acting Assistant Attorney General.

Senator BIDEN, my good friend—and he is my good friend, we came here the same day. We stood there in the well and held up our hands and became Senators at the same instant. He was reading the statute on this business.

I am going to read the Constitution. Article II, section 2, talks about the President:

> He shall have Power, by and with the Advice and Consent of the Senate——

With the Advice and Consent of the Senate——

> to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate——

It does not say he should try to appoint——

> he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for. * * *

That is what the Constitution says. It does not say that you can slide somebody into a position because you happen to like him, because he has connections up here on Capitol Hill, or because he has certain views.

It says the Senate shall be required to give advice and consent. But, Mr. Dellinger has been installed in his position without our advice and consent.

Now back to the blue slip. Senator THURMOND, I was talking about him awhile ago. When he was chairman, he called on these Senators filing negative blue slips before ever scheduling hearings. He offered a dissenting Senator or Senators a chance to testify. And the point is he tried to work it out in advance. He even invited Senators to sit in at markup sessions.

Now, the point I say again is that this nomination, the Dellinger nomination, has been handled differently. And I think we should be careful that we do not cross the Rubicon by permitting this sort of inattention to blue slips to become a matter of policy.

Mr. BIDEN. Will the Senator yield for a comment on that point?

Mr. HELMS. Sure. Yes.

Mr. BIDEN. Madam President, let me make it clear what I did personally and the committee did, and why it is totally consistent with previous practice.

If you notice, the Senator from South Carolina [Mr. THURMOND] did not say to the Senator from North Carolina that a negative blue slip meant a veto. It meant the following, according to the Senator from South Carolina and the Senator from Delaware. It is taken seriously. We make inquires of the Senator who puts in the blue slip. We answer questions as to why they are opposed. We try to work it out. And we move.

Now, what happened was the Senator from North Carolina [Mr. FAIRCLOTH] took the lead on this. He is the only one who gave us specific reasons why he was opposed. I personally sat on this floor; I personally sat on the couch back there behind the Chamber; my staff personally was available, repeatedly, with the Senator, Senator FAIRCLOTH, who had enunciated his objections, unlike the senior Senator, and I answered every one of his questions.

He knew full well that he was fully invited, prepared, and welcome to come and testify before the committee. Nobody can suggest, I believe in good faith, that they believe they would have been denied the opportunity to testify.

The Senator from Delaware has been here 21 years and I do have a reputation, some good, some bad, but never to deny a colleague the courtesy to testify before my committee. And the Senator—again I wish to make it clear. I assumed, and I think it is clear, in good faith, that since the only Senator, the only Senator who spoke to me and articulated his reasons for objection was Senator FAIRCLOTH, that it was reasonable for me to deal with the only Senator who directed any question to the Senator from Delaware.

Mr. HELMS. Madam President, who has the floor?

Mr. BIDEN. And further—I am sorry.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. BIDEN. I though you yielded, but I will be happy to—I just want to make it clear, your junior colleague was fully aware he had a right to testify. I spent a lot of time talking in detail with him.

Mr. HELMS. Senator FAIRCLOTH can speak for himself tomorrow. He had a family situation that he needed to look after this evening, and he asked me to cover.

Senator FAIRCLOTH did originate the blue slip, but he did at the same time contact me. He sent me a copy of his blue slip and his statement. I read it,

and I began to inquire, making some telephone calls into North Carolina, because I do not recall hearing about Walter Dellinger.

There are so many of these people in some of the universities in North Carolina, political science type and political activists in the universities, whose criticisms I have become accustomed to, I do not worry about them. They have tried to beat me for 20 years, and they have not yet.

But I found out a little bit about Walter Dellinger, and I decided that I would join Senator FAIRCLOTH in his blue slip. And since Senator FAIRCLOTH's specifications for his blue slip were identical to what I would have put down if I had typed my own version, I just said I agree with Senator FAIRCLOTH. I did then and I do now.

I wish Senator FAIRCLOTH were able to be here tonight, but he will be here tomorrow. And he will be glad to answer the questions you pose and respond to your comments.

Now, the blue slip that I submitted says, "To Senator BIDEN, Chairman, Judiciary Committee."

Then it has a blank for "I approve." Then it has a blank for "I oppose." I put an "X" in the box next to "I oppose" and added the word "strongly"—underlined—"for the reasons stated so eloquently by my colleague, Senator FAIRCLOTH, in his May 7 statement, copy of which is attached."

I do not believe I dated it, but that does not matter. This is a photostat of the blue slip that I submitted.

Madam President, maybe the blue slip system ought to be a thing of the past. I do not feel that it should. I feel that it is based on one of the fundamental principles of the U.S. Senate, the protection of the rights of a minority, even a minority of one Senator. The distinguished Senator from West Virginia was talking about that very same thing, the prerogatives of the Congress and the Senate.

Somewhere along the line, I read the chairman's letter, Mr. BIDEN's letter, of June 6, 1989, to President Bush in which he described his interpretation of the rules governing the blue slip. Here is what Senator BIDEN said to President Bush:

> I am writing today to apprise you of the blue slip policy I recently announced which will be followed by the Judiciary Committee for all nominations from this point forward. At the Judiciary Committee's business meeting on May 18—

This was 1989. And this is Senator BIDEN's letter to President Bush.

> At the Judiciary Committee's business meeting on May 18, I articulated the blue slip policy that the committee will follow under my chairmanship. The return of a negative blue slip will be a significant factor to be weighed by the committee in its evaluation of a judicial nominee, but it will not preclude consideration of that nominee unless the administration has not consulted with both home State Senators prior to submitting the nomination to the Senate.

Let me say parenthetically that I never heard anything from the administration, and neither did LAUCH FAIRCLOTH.

Now, this was Senator BIDEN explaining to the President of the United States, the then-President of the United States, how we were going to run things. Then Senator BIDEN says:

> If such good faith consultation has not taken place, the Judiciary Committee will treat the return of a negative blue slip by a home State Senator as dispositive and the nominee will not be considered.

I believe I understand the English language as the chairman was using it on that occasion.

Madam President, Chairman BIDEN sent blue slips to both Senators from North Carolina, Mr. FAIRCLOTH and myself, soliciting our opinion regarding the nomination of Walter Dellinger of North Carolina shortly after the nomination was received in the Senate.

As has already been said, both Senator FAIRCLOTH and I returned the blue slips in the negative. Despite this, despite what he told the President of the United States, the chairman of the Judiciary Committee proceeded with this nomination.

And I say again, Mr. President, that neither LAUCH FAIRCLOTH nor JESSE HELMS was given even the courtesy of notice of the committee's hearings on the nomination. Maybe we ought to pore over the CONGRESSIONAL RECORD every morning, fine print and all, and we should have seen it. But I will tell you one thing. When I was the chairman of a committee, a major committee, I did not treat members of the committee that way nor any other Senator.

We were discussing this issue the other evening in the cloakroom. A Senator asked a pretty good question. He said, "If the chairman was going to ignore your blue slips, why did he send them to you and Senator FAIRCLOTH in the first place?" That is the point I am making now after the fact. You know, you can explain it away. But it is not a good explanation.

Another Senator said, "If they sent you a blue slip, they ought to stand by it." I am tempted to identify that Senator, but I do not think I should. But in any case, he is right. The committee should have stood by the blue slips, and the chairman should have stood by his letter of July 6, 1989.

I will not have been surprised if the chairman says now that the letter referred only to judges. But that is not what the letter said. Nowhere in the letter, and nowhere can I find in the transcript of the Judiciary Committee's meeting of May 18, is it specified that this policy will apply only to judges. It is not there.

I ask unanimous consent that Chairman BIDEN's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. HELMS. In fact, the first paragraph of the chairman's letter to President Bush says: "I am writing today to apprise you of the blue slip policy which will be followed by the Judiciary Committee for all the nominations from this point forward."

It is pretty direct and pretty clear. It does not say anything like, well, I like Senator FAIRCLOTH's blue slip better than I like Senator HELMS'. It says "all nominations." He did not say only judgeship nominations. He did not even say all judgeship nominations. Rather, he said all nominations considered by the Judiciary Committee.

If you do not believe it, Mr. President, read the text of his letter in tomorrow's CONGRESSIONAL RECORD. It does not say "all nominations except those with which Republican Senators have a problem." I will read a little bit more of the chairman's letter. The Senator from Delaware said: "I have long emphasized the meaningful consultation which, in my view, is part of the advice component of the Senate's advise-and-consent responsibility under the Constitution."

I absolutely agree with that statement.

Then Senator BIDEN said: "I believe that the nominations process will function more effectively if consultation is taken seriously."

Boy, he really took this consultation seriously. In the case of Walter Dellinger, Madam President, there was no consultation. We did not even know a hearing had been scheduled. But this nomination was sent up by the President—or the administration; I do not think Clinton knew anything about it. It was sent up with no consultation whatsoever from the administration.

I do not know of any Republican Senator who has been consulted by the White House regarding any judicial nominee from his or her State, whether it be a judgeship, a U.S. attorney, or a Justice Department nominee. Certainly this Senator has not been consulted.

Before this incident, I cannot recall having ever filed a blue slip against a nominee. I have been here close to 21 years. I do not recall ever not being consulted on a prior nomination from my State. Even when Jimmy Carter was President, there was consultation. And as a result there was a great deal of cooperation.

But now the blue slips have been filed—as two have been in this case. I submit that Senator FAIRCLOTH's blue slip and mine should be honored. They certainly should not have been ignored, which is absolutely clearly the case here.

It was, and still is my hope that judicial nominations may continue to be

handled with the same kind of senatorial comity and courtesy with which nominations have previously been handled in this body, at least since the early 1950's. But that has not been the case with the nomination of Walter Dellinger.

Now, Mr. President, back to this business of appointing Mr. Dellinger in an acting capacity, Acting Assistant Attorney General. The Justice Department did this very quietly, like a problem kitty-cat going across a room, making no noise at all. It happened just days after the Senate failed to take up and confirm his nomination prior to departing for the August recess. Do you remember that?

When asked by an aide to Senator FAIRCLOTH about why the Department undertook this high-handed action, do you know what the Justice Department official told Senator FAIRCLOTH? The official said, well, we were tired of waiting for the Senate to confirm him, so we just went ahead and appointed him.

There is just one small problem. It violated the Constitution. So much for article II, section 2 of the U.S. Constitution, which I just read into the RECORD a few minutes ago.

When asked by Senator FAIRCLOTH's staff, the Congressional Research Service replied that to their knowledge there is no precedent whatsoever for appointing Mr. Dellinger as acting under the circumstances existing here.

But just to make sure, and independent of Senator FAIRCLOTH, I asked some of my staff people to contact former Justice Department officials who served during the previous administration. One of these officials, one who in fact was appointed as acting before being confirmed, reassured us that what the Justice Department has done in the Dellinger case is a first.

Nobody knows of it ever having been done before under those circumstances. He told us that the Bush Justice Department made certain officials acting prior to confirmation, but the situation was almost opposite of the Dellinger case.

First: In no case did this happen with a nominee who was controversial.

Second: The Justice Department called around to all interested Senators, first, to get clearance for making the acting post appointment.

Third: Even with these precautions, the Justice Department made the appointment full well knowing of the possibility that its action would garner opposition from Senators when the nomination was brought to the floor.

But in no case—not one—could this official or any other official, or the Congressional Research Service, identify even one instance where, as in the case with Mr. Dellinger:

First: The nomination was controversial;

Two: Efforts by the department to obtain confirmation prior to the appointment failed;

Third: In response to the nomination running into trouble in the Senate, the department went ahead and installed the nominee on the job anyhow in an acting capacity saying, "We were tired of waiting for the Senate to confirm him, so we just went ahead and appointed him."

Bosh ad nauseam. I think that is what the distinguished Senator from West Virginia was talking about in a general sort of way this evening, when he said repeatedly and eloquently that the Constitution of the United States comes first.

So, in any case, the action with respect to Mr. Dellinger is unprecedented. And never before has any administration undertaken such a blatant affront to the advise and consent powers of the Senate.

On top of this, the Department refuses to share with Senator FAIRCLOTH and me the details of how this came about. Their officials very abruptly said, in effect, that it is none of your business. They will not tell us how long this appointment is for, nor will they give us copies of the appointment papers. We are going to seek these by the way, through the Freedom of Information Act.

I do not know what Walter Dellinger is doing in the Justice Department, but neither does the American public. Maybe the chairman of the Judiciary Committee knows.

The Washington Post reported last month, on September 23, that the Justice Department's office of legal counsel reversed a Bush administration policy supported overwhelmingly—that is to say the Bush administration policy was supported overwhelmingly—by both Houses of Congress, calling for the death penalty for drug kingpins.

I am going to ask in a minute if the chairman wants to tell me what role Mr. Dellinger played in putting our Government on the side of those opposing death penalties for drug kingpins. But I will first read a little bit of a story in the September 23 edition of the Washington Post. Headline: "Death Penalty For Drug Kingpins Dropped From Crime Bill."

At the request of Attorney General Janet Reno, congressional Democrats have dropped controversial provisions from a broad anticrime bill that would impose the death penalty on drug kingpins and add stiff mandatory minimum sentences for drug and gun offenses. Reflecting popular sentiment to crack down on drugs and gun violence, those measures had been overwhelmingly approved by both Chambers in the past and were included in a House-Senate conference report that failed in the waning days of the last Congress.

The Justice Department of Legal Counsel, reversing a position taken under the Bush administration, challenged the constitutionality of the drug kingpin measure. The office cited a 1977 Supreme Court decision, Coker v. Georgia, that struck down the death penalty for the crime of rape, where no murder occurred.

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

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

[From the Washington Post, Sept. 23, 1993]

DEATH PENALTY FOR DRUG 'KINGPINS' DROPPED FROM CRIME BILL

(By Michael Isikoff)

At the request of Attorney General Janet Reno, congressional Democrats have dropped controversial provisions from a broad anticrime bill that would impose the death penalty on drug "kingpins" and add stiff mandatory minimum sentences for drug and gun offenses.

Reflecting popular sentiment to crack down on drugs and gun violence, those measures had been overwhelmingly approved by both chambers in the past and were included in a House-Senate conference report that failed in the waning days of the last Congress.

But the Justice Department's Office of Legal Counsel, reversing a position taken under the Bush administration, challenged the constitutionality of the drug kingpin measures. The office cited a 1977 Supreme Court decision, Coker v. Georgia, that struck down the death penalty for the crime of rape when no murder had occurred.

Among the most hotly debated of all death penalty proposals, the drug kingpin measure would have permitted the head of a large-scale drug organization to be executed merely for drug trafficking activities even without proof the individual caused any deaths.

"The department was concerned that imposing the death penalty in cases where no life has been taken was inconsistent with Supreme Court decisions," said department spokesman Carl Stern.

Stern said the department's new position was purely a result of "legal analysis" and did not reflect Reno's oft-stated personal opposition to capital punishment. The department did not object to about 50 other death penalty provisions in the bill.

But congressional aides said the department's request appeared to be part of a last-minute attempt by Reno to influence the shape of an administration-backed crime bill that has been put together largely without her input.

New versions of the measure are slated to be introduced today by House Judiciary Committee Chairman Jack Brooks (D-Tex.) and Senate Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.).

The Justice Department also asked—and Brooks and Biden agreed—to drop about a dozen provisions that would impose new mandatory minimum sentences, mostly for repeat offenders and those who use guns in the commission of a drug or violent offense.

Congressional aides described the department's request as limited while Reno completes a broader study on the effects of mandatory minimum sentences now on the books.

But Rep. Bill McCollum (R-Fla.), a sponsor of the drug kingpin proposal, described the department's requests as part of a larger administration "retreat" in the drug war. "I don't have any idea why the Justice Department would take this kind of liberal position," he said.

Challenging the department's reasoning on drug kingpins, he said: "If you sell enough drugs, you're going to kill not only one person, but many of them."

"There is plenty of constitutional" basis for imposing the death penalty in those circumstances, he said.

Mr. HELMS. Does the chairman want to comment on Dellinger's role in that?

Mr. BIDEN. I will be happy to comment on about 10 things the Senator mentioned, if he would like. I would be delighted to. Otherwise, I will wait until the Senator is finished. Whatever suits the Senator.

Mr. HELMS. Do you not want to comment on Mr. Dellinger's role in ending our Government's efforts to obtain the death penalty for drug kingpins?

Mr. BIDEN. Sure, I will comment on that as well.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, let me summarize, and then I will let my friend from Delaware resume. This may be a case of the "Three Blind Men of Indostan." They all felt the elephant and described the elephant. One of them felt the tail and said, "it is a snake." One fellow felt the side and said, "it feels like a big wall." You know the story.

In any case, I certainly bear no animus toward the Senator from Delaware because of our disagreement on this. We have disagreed before on things, and we have agreed on things. I enjoy agreeing with him more than I enjoy disagreeing with him. But let me summarize at this point what I have said. Tomorrow will be another day, and I will have more to say then.

But the point is, on this nomination, there was no consultation, contrary to the chairman's letters to the President. The chairman solicited the opinions of LAUCH FAIRCLOTH and JESSE HELMS with blue slips, and when we turned them in, they were ignored. The opponents of the nominee received no notice of the hearings. They had come and gone like a ship passing in the night. The nominee refused to answer questions asked of him by this Senator. The chairman said he is satisfied with the answers. Small wonder. He and Mr. Dellinger have worked closely together in a context which I will discuss at a later time in some detail.

The Justice Department overrode Senate prerogatives by appointing Dellinger as "acting" in violation of the Constitution of the United States.

Finally, the Justice Department refuses to make public the documents by which it made this appointment, as well as other relative documents.

With that, I rest my case for this evening, but I will be prepared tomorrow morning to resume with additional information.

I yield the floor.

Mr. BIDEN. Mr. President, I thank the colleague from North Carolina. Let me speak to a couple of points he raised, and again I do apologize to my colleagues for my raspy voice.

My letter to the President of the United States, then-President Bush—as a matter of fact, this was to the Attorney General—it was to the Attorney General that would be—that was quoted and put in the RECORD by my friend from North Carolina, where I say:

DEAR GENERAL THORNBURGH: As you know, Senate procedures provides for the sending of a "blue slip" to each Senator in the State in which a person has been nominated to be a Federal judge. There have been occasions, albeit quite infrequent, when home State Senators have returned a "negative" blue slip to express their opposition to the nomination. I am writing today to apprise you of the blue slip policy I recently announced, which will be followed by the Judiciary Committee for all nominations from this point forward.

When I wrote that letter it followed on a number of oral conversations that we had with the Justice Department, and I was referring to judges and judges only.

But I do not ask my friend from North Carolina to take my word for it or to assume that my imprecision instead of saying all judges it would have been more precise to say district court judges, which is what I was referring to.

I will just read the return letter from the Justice Department to my letter.

DEAR MR. CHAIRMAN: In your June 6, 1989, letter to the Attorney General you set forth the Judiciary Committee's blue-slip policy regarding judicial nominees.

Notwithstanding the fact that the Senator from North Carolina, understandably, on reading it on its face would assume I meant all nominees, the Justice Department knew exactly what I meant. I knew what I meant. There was no disagreement between the Bush administration and me. To the best of my knowledge the Bush administration did not submit a run by the names of nominees for Justice Department positions to Senators from those States.

And I read it again, and I ask unanimous consent that the response to my letter put in the RECORD by the Senator from North Carolina from Carol T. Crawford, Assistant Attorney General, writing on behalf of the Attorney General of the United States in response to my June 6, 1989, letter be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, August 31, 1989.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In your June 6, 1989, letter to the Attorney General you set forth the Judiciary Committee's blue-slip policy regarding judicial nominees. You stated that the return of a negative blue slip would be a "significant factor" considered in a decision to conduct hearings on the nominee but would not "preclude consideration of that nominee unless the Administration has not consulted with both home state Senators prior to submitting the nomination to the Senate."

The Administration believes that nominees submitted to the Senate are entitled to receive full consideration by the Senate consistent with the "advice and consent" clause of the Constitution. The Administration welcomes your decision not to preclude a hearing based on the return of a negative blue slip, as such a policy would bestow a veto power on any individual committee member opposing the nominee, a privilege certainly not intended or implied in the "advice and consent" clause.

Although the Constitution does not envision any prenomination role for the Senate, as a matter of comity, the Justice Department plans to consult with the Senators from each district court nominee's home state, before the nomination is submitted to the Senate, in order to accord the Senators from that state an opportunity to express their opinions toward the nominee.

I look forward to our continuing close cooperation and expeditious handling of judicial nominees.

Sincerely,

CAROL T. CRAWFORD,
Assistant Attorney General.

Mr. BIDEN. Mr. President, let me emphasize again the Attorney General of the United States, the Justice Department, the Bush administration, had no misunderstanding what I was referring to—no misunderstanding, as they point out, " * * * you set out forth the Judiciary Committee's blue-chip policy regarding judicial nominees." We had talked to them on the telephone about it. I had talked to the Attorney General about it. We talked to the Assistant Attorney General about it, and so on.

So I hope at least my assertion that when I said "all" I was referring to district court judicial nominees will be taken as I offer it as my word. I was only talking about judges. If I misunderstood it, so did the correspondent to whom I sent the letter, the Attorney General of the United States of America and the Assistant Attorney General writing for the Attorney General in response to that very letter where I used the word "all," because if you keep in mind, if you read the rest of my letter, which I will not bother to read now, I was talking about advice and consent, and it is the best way to move on.

The only contentious advice and consent methods and seeking advice, written about in the press, legal scholarship, debated among interest groups and on the floor was the advice and consent relative to judicial nominations because we had just come off some fairly contentious nominations and the Senator from Delaware had written articles, hopefully of a scholarly nature, delivered speeches on what the original intent of the Founding Fathers was relative to the advice and consent clause.

So it was in the context of judges, not nominees for other executive positions.

Let me make a second point. I ask the following rhetorical question: Does any Senator in here believe that a single Senator, or even two Senators, or even five Senators, by virtue of the fact they represent the State from which a nominee hails that they should be able to veto out of hand any nomination of the President of the United States for any executive office?

I would respectively suggest that is preposterous. And my friend from North Carolina pointed out referencing the most knowledgeable Member in the Senate in my tenure here on Senate practice and procedure, and one of the two most knowledgeable Members of the Senate, the other being Senator Ervin, since I served here, the distinguished senior Senator from West Virginia [Mr. BYRD] talking about the war powers clause relative to Somalia.

My good friend from North Carolina in this one instance I think he doth elevate individual Senators to the status in the Constitution that no one ever intended. He does confuse the right of a single Senator with the right of the U.S. Senate.

Nowhere in the Constitution does it say or imply that a single U.S. Senator should be able to by virtue of his residence or her residence, or domicile, decide that the President of the United States would be denied a nominee that he or she wished for an executive position, for if they wanted to do that why did they go through this whole malarkey about requiring the advice and consent, about two-thirds? All they would have to put in was an article of the Constitution advice and consent clause in its place: If any Member of the U.S. Senate from the home State of the nominee decides they are not fit to serve in an executive office that person cannot serve. That would be real easy.

Why go through the advice and consent piece? It is preposterous, outrageous, conjured up, silly argument that must generate from the bowels of some midnight discussions of some freshman law students who are there as interns for the distinguished staff. That is the only way it could come up. No one with a brain could think of that as being what the members of our Founding Fathers considered.

So I just ask a rhetorical question: Does anybody think that the Constitution of the United States of America empowers each individual Senator to say who should be Secretary of State, who should be the Attorney General? Who should be whatever? Does anybody think that?

That is the argument you have heard for the last 20 minutes.

I have always admired the ingenuity of my friend from North Carolina, but this one really does plumb the limits, not the depths, the limits of imaginative debate. I mean it really does.

But I am fascinated—I had tickets for the Phillies' game and watching them begin to start to march to the World Series. I would much rather be debating this subject, whether or not a single Senator is empowered to act as a single Senator as the whole in the name of the whole of the U.S. Senate to tell people to tell the President.

Let us assume that my friend means, "No, no, Joe. You misunderstood. What I really was saying was"—and he will; I am sure the Senator will clarify this. "What I was really saying to you, Senator, is that is only for Justice Department nominees."

Oh, I got it now. If that is the argument—I am not sure that is the argument, but let us assume it is—that is very novel. Is there a place in the Constitution that says of all nominations the President can make to the executive branch the first among all equals and the single most important ones are Assistant Attorneys General?

Maybe it does say that. I would like to ask my friend, when he comes back, or anyone on the other side, to show me anyplace in the Constitution that says, implies, infers that.

Now, I am sure the Attorney General would like to know that, by implication, my friend from North Carolina believes the single most important body, the single most important executive agency, making others pale by comparison, is the Justice Department.

Well, the Attorney General would feel good about that. Because what would happen now is, when they line up the Cabinet officers at the State of the Union Address, they should not give the first seat to the Secretary of State. They should say, "No, protocol demands the Attorney General be the first one, because, obviously, the Attorney General and the Justice Department is different than any other department. Everybody knows that."

I assume that is the argument.

Now, I wonder—and I ask this, I know he is not here, he cannot be here, but I am sure he will read the RECORD or staff will convey this is to my friend from North Carolina—I wonder, when he was chairman of the Agriculture Committee, whether or not, for every nominee that required confirmation before that committee, he sent a blue slip to the Senators from those States asking whether or not John Doe could be Assistant Secretary of Agriculture.

You know, sometimes my mom, God bless her—and I hope she is not watching, because she is going to wonder why I am here instead of at the game—my mom says, "Sometimes, you know, we can move from ridiculous to the sublime very quickly, Joey."

Well, I think Joey just witnessed us moving from the ridiculous to the sublime.

To suggest that a single Senator, merely by virtue of having lived in a State and representing a State from which a nominee hails, can, all by himself or herself, by virtue of the power vested in me as an individual Senator, bring the Cabinet of a President to a screeching halt because from whence I come it is a constitutional birthright allowing me to tell a President who can be in the Cabinet, I call that sublime. I mean, really it is. Everybody even has to smile at it. I mean, nobody takes that seriously, for Lord's sake.

Now the other thing is, I remember one time—since I know we are not going to get the vote, I am going to entertain myself, at least for a moment here.

I remember Dennis Healey, former Chancellor of the Exchequer of Great Britain with Hubert Humphrey and Jacob Javits and Clifford Case. I was privileged to be in that group of senior Senators in a foreign policy meeting in England, where, after a long day's meeting on American foreign policy and NATO, Dennis Healey, who was a brilliant fellow and a great, great speaker, was kidding with his very close friend, Hubert Humphrey. And he stood up and he said the following. He made a toast, with an English accent I would not dare to try to copy because I could not, because it always carries such weight with the way they speak.

He stood up and he said, "Well, let me say to you, Hubert, what Winston Churchill said after having been made Prime Minister of England. He had only been Prime Minister for a matter of months and, to his great surprise and chagrin, one of the back benchers in his own party, a young Tory MP, stood up in debate one night in the House of Commons"—which, as my distinguished friend from South Dakota knows, meets in the evening—stood up and out of the blue and excoriated, according to Dennis Healey, excoriated Winston Churchill.

Winston Churchill was dumbfounded. And he turned, I am not sure, across the aisle or where, but I believe he said to Clement Attlee, but I am not sure that is true, but I think that is what he said. Churchill turned to Clement Attlee and said, "Clement, I do not know why the Tory says that of me. I never did a favor for him."

My mom puts it a different way: "You know, sometimes, Joey, when you make the extra effort to be nice to people, they take advantage of it."

Maybe the Judiciary Committee should do what every other committee does, to the best of my knowledge, and say, "Mr. President, send us the nominees and we will act on them," and let any Senator who wants to say anything they want.

But we have extended the courtesy—a courtesy—a courtesy to invite Senators to give us their opinion.

The mere fact we invite Senators—my friend from North Carolina was asked a rhetorical question. He said he was speaking to a colleague of ours the

other night, who remains nameless, who said, "Well, if Biden,"—I do not know if he said "Biden"—but, "If the committee was not going to honor your blue slip, why did they even ask you?"

And the answer is—I can answer it for him—to be courteous. That is why.

But I think what we should do is suggest we do not ask anymore, like other committees. I do not know of any other committee that sends blue slips for nominees for executive positions. I know in the Foreign Relations Committee, we do not. The Senator is ranking member of the Foreign Relations Committee. If he becomes chairman, I doubt very much he is going to send, for the ambassadorial nominees and/or Assistant Secretary positions, letters to all the Senators, blue slips. He may.

I am not on the Agriculture Committee. I do not know whether they do it in the Agriculture Committee. I would be interested to know. I do not think they do it in the Defense Committee. I do not think they do it in the Commerce Committee.

I do not think they do it anywhere in the world, except on my committee. Because we are courteous. It is a tradition. That is the answer to my friend whose name we do not know who said to the Senator from North Carolina, if they sent you the blue slip, why? Why would they not honor it?

My mom was right. Maybe you should not be polite like that. People take advantage of that politeness. Maybe we should be like everybody else.

For where does it say in the Constitution of the United States of America that officials of the Justice Department are so much more important than officials of every other executive agency, that we must check with the home State Senator to get their OK before we can even consider the nomination?

Now I do value the friendship of my friend from North Carolina. I do recognize his prowess and his power.

I do understand there have been powerful women and men who have served in this body. But I respectfully suggest, none has risen to the stature, none has the inherent power, none has the acquired aura that would put them in a position to be able to veto an administration's nominee for an executive position.

I know of no woman or man of that stature. I have never met one. I have never met one before who has asserted that individual Senators should be given that stature.

I cannot believe the American public thinks, as high-bound as this place is, that we should now set a rule in motion, in addition to a rule that I respect, cloture, filibusters—they think that is bizarre to begin with—I cannot fathom them now saying they are further disintegrating to the point that they are going to say, 100 individual Members of the Senate can decide, by virtue of nothing other than "I do not like the fella," that a person cannot serve in the administration.

That is a newfound power. Because no matter how my distinguished friend, who is one of the most skillful debaters in the U.S. Senate, a man who all of us get up to debate with some trepidation, because he knows the rules better than anybody, except possibly one, and probably as well, he cannot really believe that. He cannot believe that.

And if he does, I am here to inform him that, in this Senator's opinion, I doubt whether there is even one-tenth of 1 percent of the American public and even one one-millionth of the legal scholarship of America who believes that was intended by the Constitution. Or that, even if it was not intended, it should be the policy of the U.S. Senate.

We cannot even get the trains running on time, and now we are going to adopt a rule from this point on that if it is from my State, I am President?

Maybe we should call ourselves the President from Delaware, and the President from North Carolina, and the President from Kentucky, and the President from California. Scrap the name Senator, because it gets confusing. If we are going to have Presidential powers, let us take on some of the trappings. We all ought to get cars. I do not have a limo. Presidents have limos. Maybe we could do things like that.

The point I am making is, this is preposterous; innovative, amusing, inventive, beguiling, but preposterous.

So I hope that anybody who thinks that a single Senator of the U.S. Senate, by virtue of the State from which they hail, can veto anyone to serve in an administration, would tomorrow come forward and go on record and say that is their position, so everyone in their State can know just how streamlined we are making this body, one they already think works with great precision and great alacrity. They think we really move along, anyway.

There is no intellectual rationale for that position. There is no political rationale for that position. There is no constitutional rationale for that position. And there is no precedent for that position. I was going to say—but I will not say it. But there is none. So I hope we kind of put that one to bed. OK?

The third point my friend raised was the point about consultation. It is true that I do believe, and I have told this President as well, that I think the President—not the President personally, but the administration—should consult with Senators when they are nominating a judicial nominee from that Senator's State, for two reasons: One, out of courtesy; and, two, that Senator may have important information relative to that nominee and relative to that nominee's position and reputation within the community that the President should know about.

I also believe that I and the entire committee should consult with the person voicing an objection. That is a reasonable thing. But just as the letter that was read relative to Senator THURMOND's view of how this blue slip thing works, I believe that is all it does. It does not allow for, even on a judicial nominee, for a single Senator to have a veto power. It is taken very seriously.

The Senator from South Carolina, writing to the Senator from Delaware on May 16, 1989—and this is the same general timeframe all this discussion about consultation was going on. My letter to the Attorney General was in June, and my response from them is in July. But this is the same general timeframe, because a lot was going on, remember, then, debating about consulting about nominees in the Court. I will read one paragraph from the Senator's letter; the then chairman, previous chairman of the Judiciary Committee.

> The Judiciary Committee has in fact moved forward on nominations over Senators' objections. This did occur on several occasions while I was chairman of the committee. The following examples demonstrate that a Senator's blue slip objection was certainly considered. However, it did not necessarily defeat the nominee.

Let us go to the part about consultation. I do sincerely apologize to the Senator from North Carolina [Mr. HELMS] if I in any way unintentionally affronted him or, from his perspective, violated any Senatorial prerogative or courtesy. But let me put this down in a way that is very basic and very simple, and remind everyone, the Senator from North Carolina, Senator HELMS' reference to the blue slip, that he handed it—he read it; maybe I have it right here. No, I do not have it.

But he says, accurately, in the response to me, asking his view, he said: I checked the box, saying he opposed the nominee. And then underlined that he strongly opposed—here it is. He said, and I quote:

> I oppose strongly for the reasons stated so eloquently by my colleague, Senator FAIRCLOTH, on his May 7 statement, copy of which is attached.

I have served with my friend, Senator HELMS, for a long time. There is not a Member in this body who believes that if Senator HELMS feels strongly about an issue himself, he will not raise it with you. I have never known him not to, if he had a problem with the Senator from Delaware. I remember nominees during the last administration, nominees from North Carolina that President Bush sent up, that Senator HELMS had a keen interest in. He never hesitated—nor should he ever; he is always welcome—he never hesitated to properly buttonhole the Senator from Delaware, to send me handwritten notes, to stop me in the hall, to get me on the floor and grab my lapel—never once to, in Russell Long fashion, put

his arm around me, as I do him, and say, "Joe." He made clear explicitly his keen interest.

I would respectfully suggest to my colleagues, it is not unreasonable for the Senator from Delaware to read from this blue slip that the Senator, the senior Senator, was handing the ball on this one to the junior Senator. So I went to the junior Senator personally, as he will testify to tomorrow, because he is an honorable man. And I put my arm around him. And I said, "All right, Senator; what is the problem? Is there anything else you want to tell me?"

And he did. He said, "Joe, I have heard thus, and so. And if it is true, I cannot be for this man. We should not be for him."

I said, "Fine, what else have you heard?"

The next day, he came back: "I heard something else. I spoke to so-and-so in my home State," and he named the person, a very respected individual, who said they believe Walter Dellinger had done thus and so.

And I said, "Fine." And I went to my staff, and I went to the Republican staff, and I said, "Here is the problem. Let us investigate it."

And we went by telephone, and I do not know what other means, to North Carolina. And we followed up on all of this.

Then I came back to the Senator from North Carolina, whom I thought had been handed the ball. Because, as I said, never before in my 21 years, when the Senator from North Carolina has wanted to get the attention of the Senator from Delaware on any issue, has he been reluctant to say, "Joe, can we talk?" And I think it is fair to say never have I not spoken with him and attempted—and been cordial with him and attempted to cooperate with the Senator.

So on this one, I went back after this investigation to the Senator from North Carolina, whom I thought had been given the ball on this one.

Maybe it is because Senator ROTH and I are of different parties, but that is how we work on Delaware issues: Senator ROTH, making sure he is dealing with the insurance interests on the Banking Committee; my job is to make sure Bennett Johnston and the Democrats did not take out money for the bridges in Delaware. Then it was his job to do so-and-so. That is how we work around here. We all know that.

So I went back to the Senator, the junior Senator, and I said, "Here is what we found out. And here is the name of the woman on my staff who heads this operation. I will have her to your office this minute, if you want her, with any detail you want. You can look at the file. Anything else you want to tell us? Anything at all?"

The Senator, I think, availed himself of the information we had.

We then asked, "Is there anything more, Senator?"

It was not as a slight to my senior colleague that I did not go to him. Quite frankly, I assumed it would be redundant because up to this point, we had heard nary a word from the distinguished senior Senator, other than the blue slip, which says, "Me, too."

So this notion of not extending the courtesy, not consulting with—maybe my friend, my senior colleague, from his perspective, believes that I should have been duplicating all of this with him, notwithstanding the fact he never once spoke to me about this, as the junior Senator had repeatedly.

So then the only time I remember speaking to the senior Senator, again, as is his practice, as most Members are around here, because the one thing is, I think most who have been here this long are fairly commendable to one another. He came to me and said, "JOE, I hear you are going to vote on this nomination in the committee. I don't want you to do that. I have more questions. JOE, don't push this thing, OK?" I am paraphrasing, but that is the essence of what he said to me.

I said, "Why?" He said, "I have more questions." And as is my custom, and my colleagues, I think, will tell you in private conversation I tend to be blunt with them, I said something to the effect, "JESSE, are you just going to filibuster this anyway?" and he said, "No; I want to ask questions," which he did, by the way, some legitimate questions, some not so relevant, in my view, but questions. He is entitled to ask what he wants.

He said, "I want to ask more questions." I said, "OK." But let us assume I never had that conversation. I find I often pay for the sins or omissions of my Republican colleagues. Is it unreasonable, I ask my colleagues, to think—is it unreasonable for the Senator from Delaware to assume that of—how many Republican Members are there on the Judiciary Committee? Are there eight?—that none of the eight members of the Judiciary Committee, knowing of Senator HELMS' objection, would inform Senator HELMS that we were going to have a hearing?

Now, I ask you: It may have been an omission on my part, but I throw myself on the mercy of the Senate. Is it not reasonable for me to assume that either his colleague in his neighboring State, Senator THURMOND, or his colleague, his ideological colleague and my good friend, Senator HATCH, or Senator GRASSLEY, with whom he works on the Agriculture Committee, or Senator BROWN, or any number of Republican Senators would not have said, "By the way, JESS, BIDEN is trying to steamroll one by you here"—is that reasonable? Is that a reasonable hypothesis? Because, if you listen to what my distinguished friend seeking every legitimate argument he can make on this issue is weaving here, the implication is the Senator from Delaware did not invite, essentially tried to sneak by—not his word, mine—sneak by this nominee in the dead of night without any notice, where were those eight Republican Senators?

I mean, I can assure you one thing, if Senator BYRD had passed in a negative blue slip to the Senate Judiciary Committee and I was in the minority as the ranking member, and the majority, the chairman of the committee, then Senator THURMOND, decided to move forward on Senator BYRD's nominee, and I thought Senator BYRD did not know about it, I can promise you I and nine other Democrats would have been tripping over one another to get to BYRD to notify him that the person he opposed was about to have their hearing.

I might add, I realize the Senator—I do not read the CONGRESSIONAL RECORD very often—I realize I do not expect the senior Senator from North Carolina to read it very often, but I want to point out to you what was going on here. There were newspaper articles debating the fact, discussing the fact that the Senators from North Carolina were opposed to this nominee. So I respectfully suggest that there was no attempt in any way by anyone's reasonable reading of the facts to slide one by the Senators from North Carolina.

Two closing points with regard to how controversial this nomination was. I realize that by definition there are certain Senators on this floor, if they say something is controversial, it is, per se, controversial, even though 99 other Members may not have any controversy at the time because they have made clear by force of their intellect and dint of their character that, if they do not want something to happen, everyone is going to take notice on this floor.

There are several powerful Senators like that on this floor. Senator HELMS is one, Senator BYRD—a whole range—Senator DOLE. Everyone takes it seriously, because if they say they feel strongly—Senator BYRD said he wanted to make it real clear, the balanced budget amendment "ain't" going to happen while he is here.

Now, if a new Senator, any Senator stood up and said that, most of us would go, "Yeah, OK, we understand that." But when Senator BYRD stands up and says that, there is not a single Member of this body who does not say, "Oh, we've got a problem."

I say to my friend from North Carolina, when he stands up and says, "I've got a problem," nobody here says he probably does not mean it. We all understand.

But I might add, that is not, I think, a legitimate definition of controversy. That is demonstration of power and respect, but not controversy, because controversy means that a bunch of us have a problem. That is when there is

controversy, as I view it. And "a bunch of us," to use the slang, on the Judiciary Committee had no controversy. Nobody had any controversy. Nobody on the Judiciary Committee came to me and said, "I'm against this guy, don't put him through. I want no part of it. I'm going to fight you on it." Nobody.

I admit, though—and I mean this sincerely—I never took lightly the fact that the Senator from North Carolina said he had a problem. As a matter of fact, one of my colleagues asked me, "Do you think it's going to be trouble?" I said, "I guarantee you it's trouble. I guarantee it. He does not say it lightly. I guarantee you this is trouble."

"Is anybody else with him?" is the next question I had. I said, "It doesn't matter. It doesn't matter whether anybody else is with him. It's trouble."

I say that with great respect. I really mean that, and you know I mean that.

So if you can get rid of all the red herrings, as those of us who admit to being lawyers say, the red herrings that there was no consultation, that they were not invited to testify before the committee, I cannot fathom anyone in this body believing that if they came to the chairman, the Senator from Delaware, and asked whether they could testify before my committee, that there would be any prospect that they would be denied that by the Senator.

As a matter of fact, I am one of the Chairs, when people have asked even though they are not on the committee, can I come and sit as an ad hoc member of the committee and do everything but vote, I have accommodated that, whereas most other committees do not do that. Some do; most do not.

So I would put the reputation of the Senator from Delaware for collegiality and concern for the schedules and interest of his colleagues up there with the best of them.

So, to sum up, as my friend when he summed up: No. 1, there was consultation; No. 2, there was no attempt to slide by anything; for to slide by, it would have had to slide by eight Republican members of the committee, all of whom I believe—I cannot say with certainty, but I would be dumbfounded if they did not know that the distinguished Senator from North Carolina opposed this nominee.

They might not have known that expressly he opposed it. They might not have known what position he had taken on this but he opposed it.

And I would respectfully suggest that the new theory put forward as a case of first instance although truly imaginative—I teach a course in constitutional law at law school. I would give an A to whomever came up with the theory that the Constitution authorizes a single Senator by virtue of his or her objection to prevent a President from filling a Cabinet and sub-Cabinet post in his administration.

The reason I would, it is imaginative. It is truly imaginative. And for that I would give it credit. But it is substanceless. It lacks substance. It is a theory, if we ever in fact adopted, that would bring this place to a screeching halt because I would be prepared, if you were willing to stay, to match my friend Senator METZENBAUM against my friend Senator HELMS in seeing to it, if this were a Republican administration, if this had been a rule, President Bush and President Reagan would have about one-third of their cabinet filled for the entire 12-year period or for certain there would be no one from Ohio ever serving in the administration.

I guess that is how it would have been dealt with because what would happen is if that rule applied, think what a President would do. He would sit down and say, "I want the following 10 people. But, geez, I can't pick anybody from North Carolina. Old Helms, he's there. I can't pick anybody from Utah. Hatch is there. I can't pick anybody—where can I find a State where there is two Democrats so I can be assured that one of them will not, without cause"—there is no requirement of cause here, by the way. The Senator rightfully argues that there is no need to say there is cause to stop them. The argument is a single Senator says for the following reasons I do not like this nominee. That could be it.

So we would have ultimate form of shopping. You could be assured that if there was a Democratic President there would be no one serving in his or her cabinet that required Senate approval that came from a State that had two Republican Senators, or for that matter one Republican Senator, because I assume this theory would work regardless of whether there was a Democratic senior Senator or a Republican senior Senator. So everyone would be in this cabinet—there would be no one from the State of Pennsylvania, no one from the State of Delaware, no one from the State of New York, no one from the State of North Carolina, no one from Connecticut would be filled up. Massachusetts would have a lot of people in the administration. They have two Democratic Senators. Ohio would do well this time around. Illinois would do well. Utah, good bye. Arizona, Texas.

It would be fascinating, would it not, absolutely fascinating.

But again, I compliment my colleague and the staff on their ingenuity, but that is as good as it gets, ingenious.

And the other point that I would make is that—well, the hour is late. I would like to yield. I will make the remaining points tomorrow. But again, it is always a pleasure to debate my friend from North Carolina, and I now would yield to him if he wishes the floor, and I will not seek the floor again unless there is something truly ingenious that comes out of this short exchange.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Senator BIDEN makes serving in the Senate enjoyable because I enjoyed the exhortations that just creep into the rhetoric from thin air. For example, I believe I heard him say that I claimed a single Senator should have the power to kill a nomination.

Well, I had not said any such thing. And I am going to talk about that in just a minute.

And I did not say, I did not imply that I oppose Dellinger because Senator FAIRCLOTH did then and still does. I made my own independent study of information. As I have said four or five times, I never heard of Walter Dellinger until this nomination surfaced. And then I began to investigate and I found all that rattling you hear is skeletons in his closet.

I did say that I opposed him strongly because of the reasons stated in Senator FAIRCLOTH's statement. I did not think there was any point in spending a lot of time repeating what Senator FAIRCLOTH had said because he said it so eloquently and I said he said it eloquently.

But I have to ask—I hate to do this. The Senator made much of his point that no Senator should be able to kill a nomination, no one Senator. I have never suggested that a Senator should. And as I have said, this is the first time in nearly 21 years that I have ever returned a blue slip. Throughout Jimmy Carter's administration, I was consulted in advance. On one occasion, one nominee was withdrawn. But I have never, never returned a blue slip. But I returned this one because it needed to be returned, and I am going to develop that tomorrow a little bit.

Now, I agree and I have agreed that, as the Senator from Delaware says, no Senator should have the power to kill a nomination.

Now I will ask staff to flip the chart here as I ask the Senator from Delaware what about the 86 nominees referred to his committee which were never confirmed in the last Congress, almost all of which he never even held a hearing on.

And I hope the television camera will focus on this chart listing the 86 nominations killed by the Judiciary Committee. Here is one from Alabama; no hearing was ever conducted by the chairman. The nominee waited 7 months. One from Arkansas; another one, no hearing. All of these, no hearings were ever scheduled by the chairman, so the nominations were killed.

Now, as I understand it, it was the chairman of the Senate Judiciary Committee who killed all of these 86 nominations. Now, boy, that is what you

call power. And I remember, Mr. President, one nominee in particular. I was told here on the Senate floor—and I was told here on the Senate floor, "It's going to happen."—I am not going to say who told me that.

But I will flip the charts, or have a staff person flip them for me so the distinguished chairman can see all of the unconfirmed judicial nominees.

Flip another one. Here is Missouri, Nebraska, Nevada, New York, North Carolina, Ohio, Oklahoma.

Flip another one. Now, these were nominees who were killed by one Senator. They did not even have a hearing. Maybe the staff did not tell the chairman about it. But some of us felt very strongly about the way the nominees were ignored or treated. And, yes, I talked to Senator BIDEN about it and I thought up to the last minute we were going to have a new member of the 4th Circuit Court of Appeals from North Carolina.

Now, I do not mind taking the blame for anything of which I am guilty. Since the Senator from Delaware brought up the chairmanship of the Agriculture Committee, I will say that yes, I had a policy. It was to check or have the ranking member check with the Members and the Senators from the States from which nominees came. We did that without fail. And I remember one time we found out that there was enough to cause a question and we sent the nomination back. We did not have the blue slip. But we did check before proceeding, and worked out any problems.

If the Senator wants to complain about the blue slip policy, I believe it started along about 1913. I am not sure about that. But, the Senator ought to announce tomorrow morning we do not like this blue slip and we are going to stop it. I would understand that.

But the Chairman sent me the blue slip, and it is the first and only blue slip I have ever returned. So do not suggest implicitly or explicitly that I am demanding the right to kill a nomination. I am using the rules and traditions of the Senate that are applicable in this case, and that is all I am doing. So I am willing to shut down this dog and pony show for tonight after the Senator has at me one more time.

But we can have at each other tomorrow morning just as well.

Mr. BIDEN. I realize the hour is late, Mr. President. I never want to have at the Senator. I want to have with the Senator. I think if tomorrow there were a cartoon in the paper referring to the Senator from North Carolina as someone who might be considered a Darth Vader of nominees, I think——

Mr. HELMS. Pardon me?

Mr. BIDEN. Let me say it another way. I think if the Senator—everyone on the Foreign Relations Committee knows—there are numerous nominees the Senator has made clear over the years that I have served with him, that he is not inclined to support; and he has gotten the previous State Department, Republican or Democrat, he has been equal in his treatment of the State Department.

Mr. HELMS. The Senator is bipartisan.

Mr. BIDEN. I will acknowledge that and very thoroughly. I will respond in more detail tomorrow because the hour is late.

But with regard to the charts, I would point out in our letter in the RECORD tomorrow that as chairman of the Senate Judiciary Committee, more nominees have passed out when I was chairman of the committee, Republican nominees, than any other time I think in the history of the committee.

I did not do what my Republican friends did when Jimmy Carter was President. I did not do what many of my colleagues wished me to do. And I did not do what the distinguished Senator from South Carolina did, and the distinguished leader from Tennessee, Senator Baker did. I did not the year that the race was under way, and that Bill Clinton was at least in some of our minds likely to defeat the incumbent President; I did not do what Howard Baker did; I did not do what the Republicans uniformly stood and did when Jimmy Carter was President.

They announced very forthrightly, and I respect them for it—they announced that they, the Republicans, would not allow any new nominee after June 1, blanket, just made a statement. After, I think, June 15—June anyway—in June, that because of the upcoming election and the likelihood of President Reagan winning, the Republicans just flatly announced: No more, no more nominees.

The Senator from Delaware not only did not do that. As of the last day of the Senate, I was able to work with the White House and convince my colleagues to add I believe an additional 22 nominees. I did not have to do a single one, not a single one.

I might also point out—we will get that chart tomorrow—to the Senator that what happened was the Bush administration not unlike this administration making a similar mistake, spent, wasted, well over 2 years in sending up nominees.

It was not until the second or the third quarter of the last year of the administration that they sent up batches of 40 and 50 at a shot. Having warned them—I will enter all of this in the RECORD for the Senator—having warned them as chairman, beginning as early as the previous fall, please send me your nominees because we are never going to be able to get them done.

Because I might point out, I went to that administration at this end and said, authorize us to have more investigators. We do not have enough investigators to do this. They said, no. The Republicans on the Judiciary Committee along with the Democrats on the Judiciary Committee the previous November said we will consider no more judicial nominees because you refused to give us access to the FBI files; unprecedented.

So we wasted 4 months, I believe, at least 3, November, December, most of January, into February. We did not act on any nominee because the committee, Republicans and Democrats, said, we will consider none of the nominees because, Mr. President, you are changing the rules of the game. You are saying, because you, I assume because he thought I was going to get political gain in the aftermath of the Anita Hill-Clarence Thomas debacle, they said, we are not going to give you access to information.

Mr. HELMS. Would the Senator yield?

Mr. BIDEN. I am happy to.

Mr. HELMS. I do not mean to be impertinent. But is the Senator suggesting that I even knew any activities of any other Republican?

Mr. BIDEN. No. I am not talking about the Senator. I am responding to the comment.

Mr. HELMS. As this chart shows, here is a nominee referred to the Judiciary Committee on November 20, 1991. Here is one referred in June 1992. Another in November 1991—they were all sitting in the committee for a long time.

Mr. BIDEN. I understand that. I am saying I will submit all of them in the RECORD to answer all of them. I was making the generic point. If the Senator wants to stay, we can go into more detail on it.

The point I am making is the reason some of the nominees did not get through is because they were extremely controversial. The reason many others did not get through is because they were submitted late in the game. I went down and sat with the President of the United States and then sat with the Chief of Staff of the White House. I said, all these nominees you have here we cannot do them all. Who do you want done?

Mr. HELMS. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. HELMS. Is the Senator saying I blue slipped some of these people?

Mr. BIDEN. No.

Mr. HELMS. How did you know they were controversial?

Mr. BIDEN. Because everyone said there were at least a half-dozen occasions, if they come up, there is going to be extended debate on the Senate floor. And Senators not from the States from which they came—Senators from States from which they did not hail were the ones who made clear where they were and how long they were going to debate, just like the Senator from North Carolina is doing now. The

same thing. It is appropriate. It is not inappropriate.

I would just point out, at least notwithstanding that, nobody—and I did not allow anybody on the committee to do what the Senator—not the Senator, the Republican Party—officially did in the Senate in Jimmy Carter's last year. They said no more nominees, Mr. President, period. I will get the statements. I will put it in the RECORD.

Mr. HELMS. If the Senator will yield to me, let my say once more, and I am growing weary of saying it. I never had a minute's problem with the Carter administration's handling on nominations.

Mr. BIDEN. I am not suggesting that the Senator did.

Mr. HELMS. The Senator from Delaware said Republicans. I had no part in that. I do not know what the Senator is talking about. I never blue slipped anybody in my life before now.

Mr. BIDEN. If the Senator will yield, this has nothing to do with blue slips. What I am responding to now is the Senator asserting that all of the judicial nominees he listed on the board were stopped by blue slips. Is that his point?

Mr. HELMS. No.

Mr. BIDEN. I did not think so.

Mr. HELMS. I am saying the Senator from Delaware is talking about one man stopping it. The chairman during all of this time had inordinate power, I say to my friend.

Mr. BIDEN. Mr. President, if the Senator believes I have that much power, I respectfully suggest he yield to me now because he cannot win.

I yield the floor.

Mr. HELMS. I yield the floor. I hope we can go home.

Mr. BIDEN. I am prepared to do that. I look to the acting leader.

Mr. HELMS. Mr. President, I suggest the absence to a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. FORD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 288, the nomination of Walter Dellinger to be an Assistant Attorney General:

Harlan Mathews, Russell D. Feingold, Tom Daschle, Harry Reid, Dianne Feinstein, Barbara Boxer, John Glenn, Patty Murray, David Pryor, Jim Sasser, Wendell Ford, Harris Wofford, Max Baucus, Paul Wellstone, Edward M. Kennedy, Daniel K. Akaka, Joe Biden.

CLOTURE MOTION

Mr. FORD. Mr. President, I send a cloture motion to the desk and ask unanimous consent that, notwithstanding the provisions of rule XXII, the vote on this cloture motion occur at 3 p.m. Thursday, October 7, with the mandatory live quorum waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 288, the nomination of Walter Dellinger to be an Assistant Attorney General:

Harlan Mathews, Russell D. Feingold, Tom Daschle, Harry Reid, Dianne Feinstein, Barbara Boxer, John Glenn, Patty Murray, David Pryor, Jim Sasser, Wendell Ford, Harris Wofford, Max Baucus, Paul Wellstone, Edward M. Kennedy, Daniel K. Akaka, Joe Biden.

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of the following nominees and that they be placed on the calendar: Madeleine K. Albright, William F. Goodling, Sam Gejdenson, Edward S. Walker, Jr., Karl F. Inderfurth and Victor Marrero.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

REPORT OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR FISCAL YEAR 1992—MESSAGE FROM THE PRESIDENT—PM 49

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j-2(j)), I transmit herewith the 16th annual report of the National Institute of Building Sciences for fiscal year 1992.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1993.*

REPORT OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS AND THE NATIONAL HOUSING PARTNERSHIP FOR FISCAL YEAR 1992—MESSAGE FROM THE PRESIDENT—PM 50

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I transmit herewith the twenty-fourth annual report of the National Corporation for Housing Partnerships and the National Housing Partnership for the fiscal year ending December 31, 1992, as required by section 3938(a)(1) of title 42 of the United States Code.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1993.*

MESSAGE FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2446) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes, and agrees to a conference with the Senate; and appoints Mr. HEFNER, Mr. FOGLIETTA, Mrs. MEEK, Mr. DICKS, Mr. DIXON, Mr. FAZIO, Mr. HOYER, Mr. COLEMAN, Mr. NATCHER, Mrs. VUCANOVICH, Mr. CALLAHAN, Mrs. BENTLEY, Mr. HOBSON, and Mr. MCDADE as the managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 102. Joint resolution to designate the months of October 1993 and October 1994 as "Country Music Month."

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 102. Joint resolution to designate the months of October 1993 and October 1994 as "Country Music Month."

At 4 p.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2401. An act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 2659. An act to amend the Public Health Service Act to revise and extend programs relating to the transplantation of organs and of bone marrow.

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

S. 422. An act to amend the Securities Exchange Act of 1934 to ensure the efficient and fair operation of the government securities market, in order to protect investors and facilitate government borrowing at the lowest possible cost to taxpayers, and to prevent false and misleading statements in connection with offerings of government securities.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2659. An act to amend the Public Health Service Act to revise and extend programs relating to the transplantation of organs and of bone marrow; to the Committee on Labor and Human Resources.

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-1582. A communication from the Director of Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, report on the production and exchange of cartographic products and services; to the Committee on Energy and Natural Resources.

EC-1583. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Heavy Duty Transport Technology Program Plan 1994-1998"; to the Committee on Energy and Natural Resources.

EC-1584. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on a plan for improving the integration of Department of Energy basic energy research with other departmental energy programs; to the Committee on Energy and Natural Resources.

EC-1585. A communication from the Acting Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting, a notice relative to a bill (H.R. 2445) entitled "Energy and Water Development Appropriations Act, 1994"; to the Committee on Appropriations.

EC-1586. A communication from the Principal Deputy Comptroller, Comptroller of the Department of Defense, transmitting, pursuant to law, the report on program activities to facilitate weapons destruction and nonproliferation in the Former Soviet Union for the period April 1, 1993 through June 30, 1993; to the Committee on Armed Services.

EC-1587. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on public housing agency use of the Section 8 project-based component of the Rental Certificate Program; to the Committee on Banking, Housing and Urban Affairs.

EC-1588. A communication from the Interim Chief Executive Officer of the Resolution Trust Corporation and the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, a report of the unaudited financial statements for the period December 3, 1992 through June 30, 1993; to the Committee on Banking, Housing and Urban Affairs.

EC-1589. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Perishable Agricultural Commodities Act to raise the statutory ceiling on license fees; to the Committee on Agriculture, Nutrition and Forestry.

EC-1590. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a report of a building project survey for Jacksonville, Florida; to the Committee on Environment and Public Works.

EC-1591. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a report of a building project survey for Brownsville, Texas; to the Committee on Environment and Public Works.

EC-1592. A communication from the Inspector General, Department of Energy, transmitting, pursuant to law, a report entitled "Superfund Costs Claimed by the Department of Energy Under Interagency Agreements with EPA—Fiscal Year 1992"; to the Committee on Environment and Public Works.

EC-1593. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the assessment of needs for publicly owned wastewater treatment facilities, correction of combined sewer overflows, and management of storm water and nonpoint source pollution in the United States; to the Committee on Environment and Public Works.

EC-1594. A communication from the Inspector General, Environmental Protection Agency, transmitting, pursuant to law, a report on the Superfund program for fiscal year 1992; to the Committee on Environmental and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 773. A bill to require the Administrator of the Environmental Protection Agency to establish a program to encourage voluntary environmental cleanup of facilities to foster their economic redevelopment, and for other purposes (Rept. No. 103-157).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science and Transportation:

David J. Barram, of California, to be Deputy Secretary of Commerce.

Diane Blair, of Arkansas, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 1998.

Reed E. Hundt, of Maryland, to be a member of the Federal Communications Commission for a term of 5 years from July 1, 1993.

Steven O. Palmer, of Michigan, to be an Assistant Secretary of Transportation.

Frank Eugene Kruesi, of Illinois, to be an Assistant Secretary of Transportation.

James E. Hall, of Tennessee, to be a member of the National Transportation Safety Board for the term expiring December 31, 1997.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably three nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORDS of September 7 and 14 and October 4, 1993, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. There being no objection, it is so ordered.

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Anne H. Lewis, of Maryland, to be an Assistant Secretary of Labor.

Katharine G. Abraham, of Iowa, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of 4 years.

Hulett Hall Askew, of Georgia, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1995.

Laveeda Morgan Battle, of Alabama, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1995.

John G. Brooks, of Massachusetts, to be member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1995.

Nancy Hardin Rogers, of Ohio, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1995.

Douglas S. Eakeley, of New Jersey, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

F. William McCalpin, of Missouri, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

Maria Luisa Mercado, of Texas, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

Thomas F. Smegal, Jr., of California, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996

John T. Broderick, Jr., of New Hampshire, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

Ernestine P. Watlington, of Pennsylvania, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

Edna Fairbanks-Williams, of Vermont, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1995.

Neal F. Lane, of Oklahoma, to be Director of the National Science Foundation for a term of 6 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SHELBY (for himself, Mr. GORTON, Mr. MATHEWS, Mr. PACKWOOD, Mr. COCHRAN, and Mr. HEFLIN):

S. 1521. A bill to reauthorize and amend the Endangered Species Act of 1973 to improve and protect the integrity of the programs of such Act for the conservation of threatened and endangered species, to ensure balanced consideration of all impacts of decisions implementing such Act, to provide for equitable treatment of non-Federal persons and Federal agencies under such Act, to encourage non-Federal persons to contribute voluntarily to species conservation, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. CAMPBELL, Mr. INOUYE, and Ms. MOSELEY-BRAUN):

S. 1522. A bill to direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for hate crimes; to the Committee on the Judiciary

By Mr. KENNEDY (for himself, Mrs. KASSEBAUM, Mr. DODD, Mr. SIMON, and Mr. WOFFORD):

S. 1523. A bill to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SHELBY (for himself, Mr. GORTON, Mr. MATHEWS, Mr. PACKWOOD, Mr. COCHRAN, and Mr. HEFLIN):

S. 1521. A bill to reauthorize and amend the Endangered Species Act of 1973 to improve and protect the integrity of the programs of such act for the conservation of threatened and endangered species, to ensure balanced consideration of all impacts of decisions implementing such act, to provide for equitable treatment of non-Federal persons and Federal agencies under such act, to encourage non-Federal persons to contribute voluntarily to species conservation, and for other purposes; to the Committee on Environment and Public Works.

THE ENDANGERED SPECIES ACT PROCEDURAL REFORM AMENDMENTS OF 1993

Mr. SHELBY. Mr. President, I am pleased to be here today with Senator GORTON to introduce the Endangered Species Act procedural reform amendments.

This bill that we are going to introduce in a few minutes would reauthorize the Endangered Species Act while making many long overdue changes in the statute itself.

This legislation, Mr. President, is the culmination of over a year of work to put together comprehensive legislation that maintains strong species preservation while bringing new balance and clarity to the Endangered Species Act.

Most importantly, the bill addresses the legitimate concerns of States in every region of the country, whether they are characterized by a preponderance of either public or private lands.

With respect to balance, Mr. President, the procedural reform amendments would make several needed changes in the ESA. Currently, as you well know, the Endangered Species Act treats private landowners far differently from public agencies. This legislation would create a consultation process for private individuals similar to that process that is now available to Federal agencies. At present, there is no set process where private citizens can even find out if they are in violation of the Endangered Species Act.

In addition, the bill will create a workable exemption process for individuals when a given action would not jeopardize an entire species or when an individual complies with an alternative plan that is offered by the Secretary of the Interior.

Mr. President, such a mechanism is absolutely necessary because while thousands of incidental take permits have been granted to Federal agencies, less than 20 such exemptions have been provided for private landowners in the past 20 years of the Endangered Species Act's existence.

In addition, the entire cost of the compliance with the ESA falls on private individuals. At present, there is no recourse for private property owners to gain compensation for diminished value when they are affected by Endangered Species Act.

In addition, the entire cost of creating a habitat conservation plan and any accompanying legal expenses must be borne by the private citizen. The procedural reform amendments provide for compensation for substantially diminished property value and for part of the cost of complying with the conservation plan itself.

Mr. President, this feature of the bill is of critical importance because it asks the Congress to recognize and affirm the constitutional right to compensation for property loss. Far too much regulatory law, including the Endangered Species Act, fails to account for the trampling of private property rights and places a hidden tax of billions of dollars per year on citizens of this country.

These compensation provisions would establish a precedent for Congress to account for the impact of regulatory law on private property owners.

With respect to the listing process and the designation of critical habitat, this legislation that we are introducing today would make several significant moderating changes.

First, the bill creates a mandatory exclusion of areas from critical habitat designation in cases when economic impact outweighs the benefits of habitat declaration.

Second, the bill allows the judicial review of petitions to list species. At present, only decisions not to list are subject to challenge. All three of these provisions provide fairness and flexibility that the current law lacks.

With respect to focus, Mr. President, the legislation makes several important changes in the act.

First, it establishes a priority for species listing that begins with a single species genus. At present, we have seen the proliferation of listing proposals based on what is commonly called the splitter approach to species listed. As a result, local populations that may be in decline are being listed as distinct species regardless of the overall status of the entire species in other areas.

In my State of Alabama alone, there are now 375 listed or candidate species because of species splitting.

Second, the bill will establish a workable recovery process for viable recovery plans. At present, the Endangered Species Act is an open ended and unfocused act with respect to the procedures for species recovery. A workable recovery process will provide a clear goal and direction for recovery of each listed species.

Finally, Mr. President, the bill tightens the take provision that I alluded to. The definition of "take" is more narrowly defined so as to get away from the present and I believe absurdly broad interpretation of take to mean any modification of habitat.

Mr. President, the Endangered Species Act is 20 years old and in dire need of restructuring. The changes that I outlined above are moderate and sensible. They simply ask that we make the ESA work for humans as well as other species.

While some extremists may brand this bill as an attempt to gut the Endangered Species Act, this legislation in reality does nothing to harm the ability of the act to preserve species. Rather, Mr. President, these amendments only bring the calculation of human economic needs and sensible enforcement into play with respect to an inflexible and outdated statute.

If the goal of the Endangered Species Act is species preservation, as I think it should be, then I see no reasonable objection to these amendments. If, however, one sees the Endangered Species Act as a vehicle to impede economic development, deprive people of property and to strip human dignity, then they will surely object to this type of legislation.

I would note to my colleagues that this debate will only continue to grow in importance. As more and more species are listed and greater numbers of jobs and livelihoods are lost because of the inflexibility of the present law, the cry will continue to grow from citizens in every region of the country for human dignity to be given equal weight to species preservation under Federal law.

The northern spotted owl is only the tip of the iceberg. For every spotted owl, there is an Alabama sturgeon or California gnatcatcher waiting to deprive Americans of their jobs or property. This is not a Republican or Democratic issue. I believe that the Endangered Species Act is an act that knows no geographical boundaries or political identifications.

In this spirit I urge my colleagues to join us in this important endeavor.

Mr. President, I ask unanimous consent that Senator GORTON, Senator MATHEWS, Senator PACKWOOD, Senator HEFLIN, and Senator COCHRAN be listed as original cosponsors of this legislation.

Mr. GORTON. Mr. President, I am proud to appear here today with my distinguished friend and colleague, Senator RICHARD SHELBY, in introducing the Endangered Species Act Procedural Reform Amendments of 1993.

This act must be made to work better for both the troubled species it is designed to save and, certainly as important, it must work better for the people whose lives are impacted by what the Government does in the name of the environment. We can and must have a Federal law which is designed to prevent the wholesale extinction of species of plants and animals. We cannot, however, justify and ratify the economic devastation and dislocation of American families and communities in the name of the environment, without any attempt to balance competing goods and costs.

The amendments to the Endangered Species Act in this bill will provide a balanced approach to making the ESA work for all of God's creatures by putting human values back into the equation. While the procedural changes included in this bill will affect such things as the listing of species, critical habitat designation and the consultation processes, these amendments not gut the ESA, as many environmental lobbyists will try to claim. These same environmentalists are trying to escape serious debate about reauthorizing the ESA even as the economic dislocation caused by the act is starting to cause a groundswell of support for the kind of changes embodied in this bill.

The environmentalists and many in Congress claim that we incorrectly frame this debate as one of economics—a jobs versus the species of the month conflict. Environmentalists are now claiming that it is "12 years of neglect" that has created such draconian ESA requirements. And, they claim, if we take an ecosystems approach to saving species, the ESA can be made to work more effectively. Perhaps it will, but only at the expense of the devastation of more people and communities. In fact, to some in Congress the President's Pacific Northwest forest conference plan is an indication of ecosystems management that is a better method of enforcing the ESA.

To the contrary, the President's forest plan represents everything that is wrong with the ESA. The President's plan was developed with only perfunctory consultation with those people most directly impacted and with the sole goal of determining what was necessary to recover the species irrespective of the economic and social impacts.

The administration publicly admitted that it could do no more for the Northwest's timber communities because of the Endangered Species Act. The administration believes that the ESA requires it to reduce timber harvests in the Northwest so dramatically that thousands more people will be thrown out of work on top of the thousands already out of work. The communities in which these people live, work, and pray will be sentenced to die because of a decision by our Federal Government that the assured survival of the spotted owl must be given precedence over human lives and communities.

Look at the communities of people who were first overlooked and destroyed in the wake of the President's plan. These two tables, Mr. President, show that since 1989, the year that marks the beginning of the spotted owl-related timber supply problems, more than 3,000 people have lost their jobs in Washington State alone in sawmills and plywood/panel/veneer producing manufacturing. In the entire Pacific Northwest, this figure is more than 16,000 people.

Perhaps even more dramatic is this picture, a map of the State of Washington alone. Each star on this map represents a mill in which there are real, hard-working Americans, in communities like Grays Harbor, Forks, Hoquiam, Aberdeen, White Swan, Stevenson, Morton, Goldendale, and Longview. The stars represent people like Larry Mason and Ken Corey and the people they employed. The stars and the numbers I have outlined represent only losses of jobs in mills which have entirely closed down, Mr. President. They do not include dramatic job losses in mills which are operating at 75 percent or 50 percent or 25 percent of their previous capacity. Nor do these figures include the three, four or five other jobs that are supported by these high-paying manufacturing jobs.

For example, these figures miss people like Jim Gold, Barb Mossman, and Bob Lloyd, who harvested the timber or got the timber to the mills. These figures also missed people like Keith Steele and his employees. Keith owns a couple of small department stores in timber-dependent communities and has suffered a 20-percent drop in business, a drop he attributes to the spotted owl.

How can the environmental community and those who do their will in Congress claim that the problems of the ESA should not be framed as a jobs versus species conflict? Can you tell a displaced timber worker or pulp and paper mill worker or someone whose job was dependent on a timber industry worker that he or she would be better off under the Clinton ecosystems approach? I do not think you can honestly say that, and that is why I am here today. Clearly, the ESA is broken, and it must be fixed.

Let me touch briefly on some of the important changes that our bill will make in the Endangered Species Act. Under the ESA, as amended by this bill, biology will remain the sole basis upon which threatened or endangered status is determined for a species. The only significant change these amendments make to the listing process is to require a blind peer review of the data used in listing if requested by any member of the public.

For example, "NBC News" just did an extended piece which calls into question both the scientific determinations that there are few remaining owls and that the owls only breed in old growth. Given the economically disastrous impact on the Northwest and the new data, I think that no one can reasonably oppose making sure that the science that goes into a listing is the best science available.

Next, our bill adds an entirely new section to the Endangered Species Act relating to the development and implementation of recovery plans for species that are listed as endangered or threatened. This section of the bill requires the Federal Government to do three things after listing:

First, a biological assessment which considers the significance of the species, its geographic ranges and the practicality of recovery of the species.

Second, assess the social and economic impacts of listing in the attendant conservation measures which may be required.

Third, assess the intergovernmental impacts on local laws and regulations.

This section of the bill also requires the development of a wide range of alternatives. These options must range from no Federal action to intensive Federal management of the species and/or its habitat. Under this section, the Government is required fully to explain the option it chooses, report the status of the species to Congress every 2 years, and thoroughly review these plans every 5 years. Adding new sections to a portion of Federal law is not

gutting it by any stretch of the imagination.

Some of the most important changes that our bill will make in the Endangered Species Act will require that non-Federal agencies and private individuals bear burdens under the act no more onerous than those imposed on Federal agencies. Currently, non-Federal agencies and private individuals do not have a right to the consultation process set out in the ESA. Only Federal agencies can use the consultation process to deal with problems arising after listing of a species. Our bill modifies the ESA to provide access to the consultation process for non-Federal agencies and for private individuals. This new consultation process requires the Federal Government to complete the consultation within 90 days. If no jeopardy is found or if an individual is willing to accept a reasonable alternative to the action for which he requested consultation, the agency must issue an incidental take permit.

Our ESA amendments will add a new section to protect individuals whose private property is significantly reduced in value because of the ESA. This section requires the Federal Government to pay those individuals whose property is diminished in value by actions of a Federal agency under the ESA or by result of processing an incidental take permit, the fair value of the loss imposed by those governmental actions.

This provision is especially important to the families whose lives are being destroyed by the ESA—and it will undoubtedly draw screams from some environmentalists. I hope that those who dare oppose this provision will take time to reflect on their own lives, their own finances, and their own senses of security. I hope that they will try to understand the trauma of having the bottom ripped out of a family's financial security. It is utter cruelty for Government actions to destroy completely everything from a family's income to its lifetime investment. This reasonable provision will only ease the economic blows dealt to people whose lives are impacted by the ESA.

In my view, there is no more fundamental right in the Constitution than that embodied in the fifth amendment protections against the taking of private property without just compensation. Our amendments ensure that the rights embodied in the Constitution are also respected in the implementation of the Endangered Species Act.

Finally, our bill amends the ESA to provide a mechanism to enter into the kinds of agreements that those championing the ecosystem approach should applaud. Here our bill gives the Government the ability to enter into cooperative management agreements with States, local governments and willing private parties that control critical habitat affected by the ESA. The CMA's envisioned in our amendments to the ESA must: First, promote the conservation of the species; and second, provide for a public comment period on a CMA. After approval, the bill suspends the listing, critical habitat, recovery planning, and consultation requirements for activities by a party to a CMA.

I look forward to working with Senators SHELBY, PACKWOOD, MATHEWS, HEFLIN, and COCHRAN on this cause. I hope to see many more Senators join us in this fight. Many communities and lives depend on our fixing the ESA. For these people as well as for the species the ESA is designed to protect, it is a fight we must win.

Mr. President, I ask unanimous consent that replicates of the charts and map which I pointed to be printed in the RECORD.

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

TABLE 1.—OREGON/WASHINGTON/IDAHO/CALIFORNIA MILL CLOSURES

	Sawmills			Plywood/panel/veneer			Combined sawmill and panel	
	Number of mills	Production (million board feet)	Number of employees	Number of mills	Production (million square feet 3/8 basis)	Number of employees	Number of mills	Number of employees
1993	13	355	748	[1] 8	362	762	21	1,510
1992	22	912	2,128	[1] 15	1,403	2,720	37	4,848
1991	34	1,273	2,619	[2] 14	833	1,230	48	3,849
1990	31	1,142	2,162	21	2,223	1,919	52	4,081
1989	18	959	1,643	6	878	880	24	2,523
Total	118	4,461	9,300	64	5,699	7,511	182	16,811

[1] Includes two pulp mills.
[2] Includes one pulp mill.
Source: PFE & Associates, Eugene, OR.

TABLE 2.—WASHINGTON MILL CLOSURES

	Sawmills			Plywood/panel/veneer			Combined sawmill and panel	
	Number of mills	Production (million board feet)	Number of employees	Number of mills	Production (million square feet 3/8 basis)	Number of employees	Number of mills	Number of employees
1993	1	2	6	1	35	25	2	31
1992	3	42	109	[1] 5	246	1,310	8	1,419
1991	13	186	511	5	187	208	18	719
1990	8	116	270	2	204	95	10	365
1989	7	455	547	2	286	179	9	627
Total	32	791	1,353	15	957	1,808	47	3,161

[1] Includes one pulp mill.
Source: PFE & Associates, Eugene, OR.

Year	Type	Company	County	City	Production	Employment
1993	S	Beaver Lumber	Clallam	Beaver	2	6
1993	VE	West Veneer	Lewis	Randle	35	25
1992	PL	Custom Plywood Inc	Skagit	Anacortes	40	100
1992	PU	ITT Rayonier	Grays Harbor	Hoquiam	310	600
1992	S	Jeld-Wen/White Swan Forest Products	Yakima	White Swan	40	100
1992	S	M. J. Lumber Company	Clallam	Sequim	1	5
1992	PL	Puget Sound Plywood	Pierce	Tocam	92	150
1992	S	Raymong II. Sartwell Portable Sawmill	Grays Harbor	Hoquiam	1	4
1992	PL	Stevenson Co-Ply, Inc	Skamania	Stevenson	114	175
1992	PU	Weyerhaeuser	Snohomish	Everett	385	285
1991	S	Auburn Sawmill	King	Auburn	1	0
1991	S	Bergeron Lumber and Hardwood	Clark	Vancouver	1	3
1991	S	Carey and Sons	Clallam	Port Angeles	3	28
1991	VE	Dahlstrom Lumber	Grays Harbor	Hoquiam	40	20
1991	S	Far West Lumber Co. Inc	Skagit	Mount Vernon	1	0
1991	S	ITT Rayonier	Grays Harbor	Hoquiam	34	100
1991	S	Loth Lumber	Snohomish	Gold Bar	22	120
1991	S	Master Halco Inc	Jefferson	Port Townsend	4	21

Year	Type	Company	County	City	Production	Employment
1991	VE	Prime Veneer	Mason	Shelton	10	30
1991	S	Shukson Lumber Mfg. Inc	Snohomkish	Stanwood	6	10
1991	S	Spokane Lumber Co	Okanogan	Tonasket	84	170
1991	S	Ted Butcher Inc	Clallam	Sequim	2	5
1991	S	Thomas Kreger	do	Port Angeles	1	2
1991	VE	WTD/Morton Forest Products	Lewis	Morton	65	30
1991	S	WTC/Pacific Hardwoods	Grays Harbor	Hoquiam	9	20
1991	S	Westcap Forest Products Inc	Clallam	Port Angeles	18	32
1991	PL	Wid/Graham Plywood Co	Pierce	Graham	72	120
1991	VE	Wilkins, Kaiser & Olsen, Inc	Skamania	Carson	0	8
1990	VE	Agnew Lumber	Lewis	Centralia	160	70
1990	S	Brazier Forest Ind., Inc./Arlington	Snohomish	Arlington	14	43
1990	S	Charles E. Dagnon	Okanogan	Okanogan	1	2
1990	S	Husby Farm and Mill	Snohomish	Arlington	1	5
1990	S	Mason Lumber Products	Clallam	Beaver	4	20
1990	S	Quinalt Shingle & Lumber	Grays Harbor	Amanda Park	4	15
1990	S	W.I. Forest Products, L.P	Chelan	Peshaslin	35	130
1990	VE	WID/Cle Elum Lake	Kittilas	Ronald	44	25
1990	S	WID/Valley Wood Products	Stevens	Valley	50	40
1990	S	Waterman Mill Co	Island	Langley	7	15
1989	S	Biose Cascade	Klickilat	Goldendale	25	65
1989	S	Mt. Adams Timber Products	do	Bingen	16	25
1989	S	Preston Capac	King	Preston	10	12
1989	S	WTD/Olympia Forest Products	Thurston	Olympia	24	40
1989	S	WTD/Orient Timber	Ferry	Orient	20	35
1990	PL	Weyerhaeuser	King	Snoqualmie Falls	85	100
1989	S	do	Cowlitz	Longview	200	180
1989	S	do	King	Snoqualmie Falls	150	100
1989	VE	do	Cowlitz	Longview	200	70

Mr. PACKWOOD. Mr. President, I am pleased to join with my colleagues today in introducing the Endangered Species Act Procedural Reform Amendments of 1993.

The Endangered Species Act in its current form is an Act gone awry and is wreaking havoc on our communities, particularly in the Pacific Northwest, but increasingly nationwide.

In the Northwest alone, since the spotted owl was listed as threatened in 1990, millions of acres of Federal timberland and thousands of private acres have been set aside for owls. Estimates of the number of jobs that will be lost as a result of this action range anywhere from 35,000 to 150,000.

Little did we know when we passed the Endangered Species Act back in 1973, the direction it would take and how it would be used as a tool by environmentalists to shut down entire regions. The Endangered Species Act is today being applied in a manner far beyond what any of us envisioned when we wrote it 20 years ago. It was originally conceived as a law to ensure the survival of species threatened with, or in danger of, extinction because of individual actions such as roads, sewer systems, dams, and other such projects, on a site-specific species-specific basis. Today the Endangered Species Act is being applied across entire States, across entire regions. The result is that it now affects millions upon millions of acres of publicly and privately owned land, tens of thousands of human beings, and hundreds of rural communities.

According to Edward O. Wilson, a renowned entomologist at Harvard, there may be something on the order of 100 million species, of which only 1.4 million have been named. How many billions of dollars are we willing to spend attempting to save fungi, insects, and bacteria we've never heard of, and for which there may be little or no chance of recovery in any case. The Federal Government has already spent hundreds of millions of dollars and, according to the U.S. Department of the Interior, will have to spend billions more for the recovery of currently listed and candidate species. Additional indirect costs imposed on American citizens already potentially reach into the billions.

Mr. President, for years we considered the needs of humans as though nothing else mattered. Now, under the Endangered Species Act, we are attempting to consider the needs of fish, wildlife, and plants as though nothing else matters. Both policies are shortsighted and flawed. We need a process to protect plants and animals which recognizes legitimate human needs. The present Endangered Species Act does not achieve this balance.

That is why today I am joining with my colleagues in introducing legislation to bring balance to the Endangered Species Act. This legislation will require not only that economic and social impacts of designating critical habitat be considered, but also impacts from listing the species. The bill requires, rather than allows, the Secretaries of Interior and Commerce to exclude areas from critical habitat based on the balancing of costs and benefits to society.

Mr. President, I support the original intent of the Endangered Species Act. It is not our goal with this legislation to abandon our national commitment to the protection of endangered species. However, we believe the act can, and should, do a better job of balancing jobs and economic opportunity with species protection.

All we are asking is that the Endangered Species Act be amended so that the decision to protect a species is a balanced decision, not one based solely on science, to the exclusion of all other factors. This bill achieves the balance we are seeking. It contains several key components that I consider essential to any bill to amend and reauthorize the Endangered Species Act. Those components are:

First, ensuring scientific integrity in the listing, critical habitat designation, and consultation process.

Second, requiring that a range of recovery options be analyzed, giving priority to those measures that impose the least cost to the economy and employment.

Third, requiring the recovery team to assess both economic and social impacts in its recovery planning options.

Fourth, requiring compensation for property owners denied use and value of their land.

While this bill is not a perfect bill, it will begin the debate which is long overdue. I believe this legislation is the best vehicle for bringing balance to the Federal listing and protection process.

Our bill is supported by a wide coalition of grassroots groups which rely upon natural resources. The coalition counts among its members miners, ranchers, timberland owners, farmers, manufacturers, and the fisheries industry, as well as organized labor. Through this coalition, the other side of the protection argument is finally being heard.

Mr. President, the time is ripe to enact meaningful reform, and I urge my colleagues to work with us in the months ahead to make the necessary changes which will permit the consideration of economic factors and ensure that humans are once again included in the equation.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. CAMPBELL, Mr. INOUYE, and Ms. MOSELEY-BRAUN):

S. 1522. A bill to direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes; to the Committee on the Judiciary.

HATE CRIMES SENTENCING ENHANCEMENT ACT OF 1993

Mrs. FEINSTEIN. Mr. President, I am pleased today to introduce the Hate

Crimes Sentencing Act of 1993 on behalf of myself and Senators BOXER, CAMPBELL, INOUYE, and MOSELEY-BRAUN.

I am also pleased to join with my colleagues to speak today about an issue that concerns us all greatly—the rise in crimes of hate and prejudice around this country. In fact, in Los Angeles County alone, the level of hate crimes rose 11 percent in 1992, and hit an all-time high—736 incidents, including 3 murders.

Within a square mile in Sacramento, there have been four racially motivated firebombings in the past 10 weeks—and two have occurred in just the last week. Just yesterday, the home of Chinese-American Councilman James Yee in Sacramento was firebombed with a molotov cocktail.

Just this past Saturday, at 1:45 in the morning, someone deliberately threw a molotov cocktail through the front door of the Japanese-American Citizens League office in Sacramento, burning it to the ground.

Earlier this summer, the Sacramento chapter of the NAACP and a synagogue were firebombed. After Saturday night's firebombing of the Japanese-American Citizens League, an anonymous caller representing the Aryan Liberation Front said, "Anyone who shows support for the JACL will be shot."

Last New Year's Day in Tampa, FL, two white men set an African-American man on fire with the intent to kill him—a crime none of us can condone. Thirty-two-year-old Christopher Wilson was taken to a field, doused with gasoline, and set on fire. All the while, the two men verbally assaulted Wilson with racial slurs. Just recently, those two men were convicted and now face possible life imprisonment.

This past August in Concord, just outside San Francisco, a 25-year-old Japanese exchange student was found shot to death near a Bay Area Rapid Transit system station. At the time of the slaying it was thought that the motive for the shooting was robbery—however, the victim was found with his money still in his wallet.

In another case, disaster was averted when Federal agents and Los Angeles police officers uncovered plots by white supremacists to assassinate Rodney King and prominent African-American and Jewish city leaders, and to blow up the First African Methodist Episcopal Church in Los Angeles.

According to the FBI, racial bias motivated 7 out of 10 hate crime offenses reported in 1991. Of those bias crimes, 36 percent were directed against African-Americans.

In addition, the Klanwatch project of the Southern Poverty Law Center found that the number of white supremacist hate groups increased by 27 percent, from 273 to 346 in 1991.

The National Gay and Lesbian Task Force reported a 31-percent increase in antigay and lesbian violence between 1990 and 1991 in five major cities: Boston, Chicago, Minneapolis/St. Paul, New York, and San Francisco.

The Anti-Defamation League's 1991 national survey of anti-Semitic attacks showed 1,879 incidents of vandalism, harassment, or violence, an increase of 11 percent over 1990 totals.

More than ever, I believe the Federal Government needs to help deter these violent assaults by severely punishing their perpetrators.

The legislation we are introducing today—which recently passed by a voice vote in the House of Representatives and is patterned after State legislation unanimously upheld by the Supreme Court in June—will substantially increase the penalties now available for hate crimes under Federal sentencing guidelines.

The Hate Crimes Sentencing Enhancement Act of 1993 will:

Define a hate crime as any crime in which the defendant intentionally selects a victim or property as the object of a crime because of an individual's actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation;

Requires the U.S. Sentencing Commission to promote new sentencing guidelines, or amend existing ones, for hate crimes; and

Requires the Federal Sentencing Commission to increase the penalty for hate crimes by at least three offense levels over the present sentencing guidelines.

In general, the act is expected to keep hate crime offenders behind bars one-third longer.

Crimes based on hate and intolerance have no place in our society. Someone who selects a victim of a crime based on bigotry and hatred, should be subject to the stiffest penalties. Increasing the penalties for such criminals is both reasonable and necessary to deter further attacks based on hate and prejudice.

I look forward to working closely with Senator BIDEN, the majority leader, and the other sponsors of this legislation to bring the Hate Crimes Sentencing Enhancement Act to the Senate floor as quickly as possible.

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

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

S. 1522

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 "Hate Crimes Sentencing Enhancement Act of 1993".

SEC. 2. DIRECTION TO UNITED STATES SENTENCING COMMISSION.

(a) DEFINITION.—In this Act, "hate crime" means a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person.

(b) SENTENCING ENHANCEMENT.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes. In carrying out this section, the United States Sentencing Commission shall ensure that there is reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances that might justify exceptions.

Mr. CAMPBELL. Mr. President, I am cosponsoring legislation today that I believe will go a long way in punishing criminals convicted of hate crimes—acts committed against individuals solely because of their race, religion, gender, or sexual orientation.

Mr. President, as you're well aware, there has been a disturbing increase in hate crimes over the past few years. Just a few months ago, two offices of the NAACP were bombed. Nationwide, the incidence of hate crimes has increased dramatically. In fact, a hate crime occurs in the United States every 14 minutes according to a recently released study conducted jointly by a Stanford Law School visiting scholar and the Center for the Study of Ethnic and Racial Violence. The study indicates that there were 8,303 hate crimes reported to law enforcement agencies in 1992. A conservative estimate of the total number of hate crimes is 37,000 nationwide. This number is far in excess of previously reported figures on hate crimes. The study examined bias crimes based on race, national origin, sexual orientation, and religion. Assaults appear to be five times as prevalent in hate crimes, than in crime overall. Assault and intimidation are the most common type of offense. The report also documents at least 19 bias homicides so far in 1993, many committed by skinheads.

Because these are developments with national implications, it's clear to me that it is time to act. The Hate Crimes Sentencing Act of 1993 would direct the U.S. Sentencing Commission to draft sentencing guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes. Currently, approximately 20 States have laws that increase sentences for underlying crimes when bias is proven. Almost two dozen States have similar statutes making bias crimes a distinct chargeable offense. Federal legislation that enhances penalties for bias crimes has been pending for the past two congressional sessions.

Hate crimes are not separate, distinct offenses, but traditional crimes motivated by the offender's bias. These

acts of domestic terrorism strike at the essence of the American ideals of diversity and individuality, and the impact is felt not just by the specific target of the criminal act, but by all members of that group. Any one of us can be the victim of a crime motivated by hatred or bigotry. But more important, all of us suffer and are outraged when a hate crime is committed in our community.

Not more than a decade ago in many Western and Midwestern States, restaurants once prominently displayed signs that read "No Dogs or Indians Allowed." It is still common in some States to see bumper stickers that say "Save a Walleye Salmon, Spear an Indian."

Those visual expressions have led to hate crimes directed at American Indians, particularly those individuals living near towns that border reservations. As we all know, hate crimes are not limited to a specific group of people or a particular region of the country. For example, in the State of Colorado, hate crimes have flourished:

Denver man gets 75-year term for attacks on Japanese students;

Gay and Lesbian Community Service Center of Colorado complaints up 275 percent;

University of Denver—anti-Semitic graffiti, July 22, 1992;

Twenty anti-Semitic incidents in 1992, in Colorado, up from 17 in 1991; and,

In Colorado Springs man is shot to death during a fight involving Latinos and African-Americans; in Fort Collins a black male is struck by assailants making racial slurs and three alleged skinheads attack minority college students.

The U.S. Supreme Court ruled unanimously on June 11, 1993, in the case Wisconsin versus Mitchell, that these sentencing enhancements are constitutional.

In a concise, strongly worded opinion, authored by Chief Justice William Rehnquist, the Supreme Court held bias crime laws were valid for three main reasons:

First, while the Government cannot punish a person's abstract beliefs, it can punish a vast array of depraved motives for crimes, including selecting a crime victim based on race, religion, gender, or sexual orientation.

Second, the Court found that rather than punishing thought, bias crime laws properly address the greater individual and societal harm caused by these offenses. Reports from the National Institute Against Prejudice and Violence, the Center for Democratic Renewal, Northeastern University, Stanford Law School, the University of California, the Southern Poverty Law Center Klanwatch, and the Anti-Defamation League were cited in briefs submitted in the case. These studies led the Court to conclude that bias crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims and incite community unrest.

Last, the Court upheld bias crime penalty enhancement laws because they do not prevent people from expressing their views or punish expression. The Court drew a clear line that allows authorities to specifically target threats, assaults, and property damage when they are motivated by prejudice. Nonthreatening bigoted expression in and of itself remains off limits to criminal prosecution.

We, as Americans, have a stake in developing an effective response to such violent bigotry. As President Clinton stated in 1992:

> I would support hate crimes legislation to enhance the penalty for those kinds of offenses. I think it's important in this climate to make that kind of statement and I support it strongly.

We can no longer stand back and allow such crimes to be committed without trying to do something to both deter these acts and punish those who commit them.

These crimes demand a priority response because of their special impact on both the victim and the victim's community. Failure to address this unique type of crime could cause an isolated incident to explode into widespread tension within the local community and throughout the Nation.

It's important to remember that the damage done by hate crimes cannot be measured solely in terms of physical injury or monetary compensation. We simply cannot tolerate such hatred and prejudice, nor can we take the risk of having this hatred infiltrate our communities nationwide. I am hopeful that many of my colleagues will feel the same way that I do and will join me by cosponsoring this important piece of legislation.

By Mr. KENNEDY (for himself, Mrs. KASSEBAUM, Mr. DODD, Mr. SIMON, and Mr. WOFFORD):

S. 1523. A bill to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes; to the Commission on Labor and Human Resources.

STEWART B. MC KINNEY HOMELESS ASSISTANCE REAUTHORIZATION ACT OF 1993

Mr. KENNEDY. Mr. President, today, on behalf of Senators KASSEBAUM, DODD, SIMON, WOFFORD, and myself, I am introducing legislation to reauthorize certain Stewart B. McKinney Homeless Assistance Act programs. These programs, which expire this year, will be authorized for 1 year in order to put them on the same time line with the rest of the McKinney programs. Next year we will have the opportunity to conduct a thorough review of all the McKinney programs as part of the reauthorization process.

The original Stewart B. McKinney Homeless Assistance Act, enacted in 1987, was the first comprehensive legislation designed to stem the tide of homelessness. The legislation we are introducing is the first step in the renewal of our commitment to the homeless. President Clinton has led the way in calling for additional initiatives. He has directed the Interagency Council on the Homeless to develop a coordinated Federal plan, due in February 1994, to break the cycle of homelessness. This 1-year continuation of expiring programs will give us the opportunity to review the McKinney programs as a whole next year, and to incorporate the President's recommendations and other up-to-date information.

The legislation we are introducing today will reauthorize for 1 year the primary health services for homeless children, community demonstration projects, adult education assistance to homeless persons, education for homeless children and youth, job training for the homeless, emergency community services for the homeless, and family support centers. These programs are essential to facilitate the transition from homelessness to self-sufficiency, and to provide the training and support necessary to enable the homeless to rebuild their lives.

Support for the homeless is a priority we cannot ignore. This legislation lays the groundwork for a more comprehensive reform next year, and I urge the Senate to enact it.

I 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. 1523

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 "Stewart B. McKinney Homeless Assistance Reauthorization Act of 1993".

SEC. 2. PRIMARY HEALTH SERVICES FOR HOMELESS CHILDREN.

Section 340(s)(8) of the Public Health Service Act (42 U.S.C. 256(s)(8)) is amended by striking "1993" and inserting "1994".

SEC. 3. COMMUNITY DEMONSTRATION PROJECTS.

Section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking "1993" and inserting "1994".

SEC. 4. ADULT EDUCATION ASSISTANCE TO HOMELESS PERSONS.

Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by striking "and 1993" and inserting "through 1994".

SEC. 5. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 722(g)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11422(g)(1)) is amended by striking "and 1993" and inserting "through 1994".

(b) LOCAL EDUCATIONAL AGENCY GRANTS.—Section 723(b) of such Act (42 U.S.C. 11433(b)) is amended—

(1) by inserting after the subsection heading the following: "Authorized activities may include—";

(2) by striking paragraph (1);

(3) in paragraph (2)—

(A) by striking "(2)" and all that follows in the matter preceding subparagraph (A); and

(B) by redesignating subparagraphs (A) through (O) as paragraphs (1) through (15), respectively; and

(4) by realigning the margins of paragraphs (1) through (15) (as redesignated by paragraph (3)(B)) so as to align with paragraph (3) of subsection (a).

SEC. 6. JOB TRAINING FOR THE HOMELESS.

Section 739(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)) is amended by inserting after paragraph (3), the following new paragraph:

"(4) Such sums as may be necessary for fiscal year 1994.".

SEC. 7. EMERGENCY COMMUNITY SERVICES FOR THE HOMELESS.

Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11464) is amended by striking "and 1993" and inserting "1993 and 1994".

SEC. 8. FAMILY SUPPORT CENTERS.

Section 779 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11489) is amended by striking "fiscal year 1993" and inserting "each of the fiscal years 1993 and 1994".

Mrs. KASSEBAUM. Mr. President, I join with Senator KENNEDY to introduce legislation reauthorizing seven of the Stewart B. McKinney Act homeless programs. This legislation is meant to pave the way for a comprehensive reauthorization of all of the McKinney Act programs next year.

Currently, the Federal Government provides over $1 billion a year in homeless-specific support programs. Through nearly 40 different programs—many authorized through the McKinney Act—the homeless are provided shelter, job training, education, health care, and many other support services. And yet, our national homeless problem continues. A comprehensive review of these programs by Congress and the administration is needed.

As a result of an Executive order signed by President Clinton, the administration is currently reviewing the homeless-specific activities carried out through 17 different Federal agencies. With the help of the administration findings, I plan to work with Senator KENNEDY and the chairmen of the other relevant Senate committees to construct a comprehensive and thorough reauthorization of all Federal homeless programs next year.

A comprehensive review of the nearly 40 different programs should help prevent duplication of program efforts. In addition, through such a review, I hope to authorize only those programs which have proven effectiveness. I look forward to working with my colleagues to develop solutions for our Nation's growing homeless problem.

ADDITIONAL COSPONSORS

S. 414

At the request of Mr. METZENBAUM, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 414, a bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

S. 421

At the request of Mr. DASCHLE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 421, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 515

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 515, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare.

S. 653

At the request of Mr. METZENBAUM, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 653, a bill to prohibit the transfer or possession of semiautomatic assault weapons, and for other purposes.

S. 732

At the request of Mr. KENNEDY, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 784

At the request of Mr. HATCH, the names of the Senator from Tennessee [Mr. SASSER] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 784, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 969

At the request of Mr. THURMOND, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 969, a bill to amend title 10, United States Code, to establish the U.S. Army Reserve Command as a permanent major command of the Army, to designate the Chief of Army Reserve as commander of the U.S. Army Reserve Command, and for other purposes.

S. 1030

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor 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. 1118

At the request of Mr. HATFIELD, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor 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. 1353

At the request of Mrs. BOXER, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1353, a bill to amend title 23, United States Code, to permit the use of funds under the Highway Bridge Replacement and Rehabilitation Program for seismic retrofit of bridges, and for other purposes.

S. 1432

At the request of Mr. HOLLINGS, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 1432, a bill to amend the Merchant Marine Act, 1936, to establish a National Commission to Ensure a Strong and Competitive United States Maritime Industry.

S. 1443

At the request of Mr. EXON, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1443, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on luxury passenger vehicles.

S. 1458

At the request of Mrs. KASSEBAUM, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 1458, a bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

SENATE JOINT RESOLUTION 105

At the request of Mr. INOUYE, the names of the Senator from Nevada [Mr. REID] and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Senate Joint Resolution 105, a joint resolution designating both September 29, 1993, and September 28, 1994, as "National Barrier Awareness Day."

SENATE JOINT RESOLUTION 122

At the request of Mr. LAUTENBERG, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Mr. SIMON], the Senator from Alabama [Mr. HEFLIN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Indiana [Mr. LUGAR], the Senator from Texas [Mr. GRAMM], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. ROBB], the Senator from Tennessee [Mr. MATHEWS], the Senator from Montana [Mr. BAUCUS], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Joint Resolution 122, a joint resolution designating

December 1993 as "National Drunk and Drugged Driving Prevention Month."

SENATE JOINT RESOLUTION 131

At the request of Mr. BRADLEY, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Montana [Mr. BAUCUS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Tennessee [Mr. MATHEWS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Maryland [Mr. SARBANES], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from New York [Mr. MOYNIHAN], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], the Senator from Ohio [Mr. GLENN], the Senator from California [Mrs. FEINSTEIN], the Senator from Delaware [Mr. BIDEN], the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. EXON], the Senator from Nevada [Mr. REID], the Senator from Oregon [Mr. HATFIELD], the Senator from Georgia [Mr. COVERDELL], the Senator from Mississippi [Mr. LOTT], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Carolina [Mr. THURMOND], the Senator from Wyoming [Mr. SIMPSON], the Senator from Maine [Mr. COHEN], the Senator from Delaware [Mr. ROTH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. STEVENS], the Senator from New York [Mr. D'AMATO], the Senator from Iowa [Mr. GRASSLEY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Montana [Mr. BURNS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. GREGG], the Senator from North Carolina [Mr. HELMS], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week."

SENATE JOINT RESOLUTION 134

At the request of Mr. BIDEN, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Alabama [Mr. HEFLIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 134, a joint resolution to designate October 19, 1993, as "National Mammography Day."

SENATE RESOLUTION 70

At the request of Mr. BRADLEY, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Resolution 70, a resolution expressing the sense of the Senate regarding the need for the President to seek the advice and consent of the Senate to the ratification of the United Nations Convention on the Rights of the Child.

SENATE RESOLUTION 128

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Resolution 128, a resolution expressing the sense of the Senate regarding the protection to be accorded United States copyright-based industries under agreements entered into pursuant to the Uruguay round of trade negotiations.

AMENDMENTS SUBMITTED

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

DOLE (AND BOND) AMENDMENT NO. 1023

Mr. DOLE (for himself and Mr. BOND) proposed an amendment to the bill (H.R. 2750) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes, as follows:

On page 2, insert between lines 11 and 12 the following:

For the necessary legal expenses of the 5 former employees of the White House Travel Office who were placed on paid administrative leave during calendar year 1993, $150,000 to be made available to the Office of the General Counsel: *Provided*, That such funds shall be deposited in a Fund established by the General Counsel: *Provided further*, That the General Counsel shall disburse a portion of such funds to any such employee—

(1) after submission of a valid claim for reimbursement of necessary legal expenses incurred as a result of an investigation conducted by the Federal Bureau of Investigation of the operations of the White House Travel Office during calendar year 1993; and

(2) upon notification of finding by the Department of Justice that such employee is not a subject of such investigation.

On page 3, line 14, strike out "$1,538,000" and insert in lieu thereof "$1,388,000".

LOTT (AND OTHERS) AMENDMENT NO. 1024

Mr. D'AMATO (for Mr. LOTT for himself, Mr. COCHRAN, Mr. BREAUX, Mr. JOHNSTON, Mr. SHELBY, and Mr. GORTON) proposed an amendment to the bill H.R. 2750, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . If any State or local interest, within one year following the date of the enactment of this Act, can demonstrate to the satisfaction of the National Railroad Passenger Corporation that such State or local interest can cover any potential operating losses including the cost of equipment depreciation, or that the National Railroad Passenger Corporation will not incur or absorb any part of operational losses including the cost of equipment depreciation due to the initiation of new State-supported service, the Corporation shall initiate such new service provided that the corporation determines equipment is available to initiate such service.

JOHNSTON AMENDMENT NO. 1025

Mr. LAUTENBERG (for Mr. JOHNSTON) proposed an amendment to the bill H.R. 2750, supra, as follows:

On page 68, between lines 5 and 6, insert the following new section:

SEC. 345. Paragraph (18) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032) is amended to read as follows:

"(18) Corridor from Indianapolis, Indiana, through Evansville, Indiana, and Memphis, Tennessee, traversing Arkansas and Louisiana, to Houston, Texas.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FORD. 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 Wednesday, October 6, 1993, at 9:30 a.m. in SD-138 on proposals to reorganize the Department of Agriculture.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Prevention and the Health Security Act: Investment in Good Health, during the session of the Senate on Wednesday, October 6, 1993, at 10 a.m.

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

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony on the subject of the causes of rising health care costs.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an executive session to consider S. 1224, the Multiethnic Placement Act, and the nominations of Katharine Abraham to be Commissioner of Labor Statistics; Neal F. Lane to be Director of the National Science Foundation; Anne H. Lewis to be Assistant Secretary for Public Affairs at the Department of Labor; and the Legal Services Corporation Board, consisting of Hulett Askew; Laveeda Morgan Battle; John T. Broderick; John G. Brooks; Douglas S. Eakeley; Edna Fairbanks-Williams; William F. McCalpin; Maria Luisa Mercado; Nancy Hardin Rogers; Thomas F. Smegal; and Ernestine P. Watlington, during the session of the Senate on Wednesday, October 6, at 9:45 a.m. in SD-430.

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

ADDITIONAL STATEMENTS

GERMAN-AMERICAN DAY

• Mr. RIEGLE. Mr. President, I rise today in celebration of German-American Day which recognizes and honors the historical and cultural contributions of German-Americans to our society. Not only am I honored to commemorate this day because I am a proud member of the 300-year-old German-American community, but as the sponsor of the legislation which designated this day, October 6, 1993, as German-American Day, I am also pleased to observe this important event.

German immigrants were among the first groups to settle this great land when they arrived in the town they named Germantown, in Pennsylvania in the 1680's. Since then, German-Americans have participated in all walks of American life and have been crucial in defining the accomplishments and spirit of the United States. American citizens of German ancestry now number over 50 million and continue to be active contributors to America's prosperity and culture. In fact, many of the items we encounter daily and consider uniquely American, such as apple pie and hot dogs would not exist without the influence of German cuisine. The baseball great, "Babe" Ruth, was a German-American as was Levi Strauss, the inventor of blue jeans.

The strong bond of friendship between the United States and Germany has been bolstered by our common heritage. Germany is a proud ally of the United States, aiding in the defense and promotion of democracy and freedom around the world. Germany's prominent role in NATO and its leadership in the European Community puts it at the forefront of European affairs, offering a promise of a more stable and better integrated Europe of the future. Its powerful economy and participation in GATT and the G-7 group of nations demonstrates Germany's work toward opening world markets which will bear economic fruits on a global scale.

This day should also stand as a celebration of the reunification of Germany. When communism drove a wedge through Germany and the rest of Europe, it also tore at German-Americans' hearts. Now that the era of totalitarian rule has been pushed aside, we can celebrate the liberation of the East German people and their reunification with their western brothers and sisters. Much attention has been attracted recently to the economic difficulties which unification has produced. But regardless of the current economic pinch, Germany has taken great steps to transform East Germany's centralized economy into a free one. By the end of this year, Germany will have completed the privatization of most of the East's state run economy—a task which many Eastern European countries have hardly even begun.

Today, we honor German-American Day and celebrate the invaluable contributions which this unique community has made over the years. German-Americans add important cultural and intellectual diversity to America's social fabric, helping to make the United States a strong and vibrant country. Besides lending its diversifying strength to our ranks, German-Americans have helped in establishing the work ethic which rewards initiative and hard work. Our shared heritage and commitment to democratic principles ensures an expansion of the friendship between the United States and Germany and a more prosperous promise for the future.•

HONORING STEPH DUTTON

• Mr. GORTON. Mr. President, on Sunday, October 3, 1993, Steph Dutton, a native of Everett, WA, will have completed a 1,600-mile journey which has taken him from Victoria, BC, to Baja, CA. Traveling by kayak, Mr. Dutton has spent over 50 days battling wind, rain, and the coastal waters to reach his final destination and fulfill a lifelong dream.

What is so remarkable about Steph Dutton is more over 10 years ago, Steph lost one of his legs when he was struck by an oncoming car while helping a car accident victim. Rather than let his disability limit him, Steph Dutton chose to live his life helping others, raising public awareness about the abilities of persons with disabilities and always challenging himself.

Through his strong will, belief in himself, and his ability to overcome insurmountable odds, Mr. Dutton has fought the rapids of the Pacific Ocean and prevailed. When he landed in Baja Sunday, he was greeted by family, friends, and admirers who have supported and cheered him throughout his journey. I am honored to have the opportunity to send my congratulations to Mr. Dutton on his special day.

Mr. President, Steph Dutton is truly a remarkable individual whose courage and determination serve as a role model for people of all ages. I commend all that he has accomplished and wish him well in his future endeavors.•

FEDERAL GRAIN INSPECTION SERVICE

• Mr. KERREY. Mr. President, on September 29 the Senate approved, by voice vote and without debate, the bill S. 1490, legislation extending the authority of the Federal Grain Inspection Service [FGIS] and making several changes in the Grain Standards Act, the statute governing FGIS operations. I want to express my support for S. 1490 as approved, and I want to commend the Senator from South Dakota, Senator DASCHLE, for his efforts to find agreement on some of the more difficult issues relating to the reauthorization of the Federal Grain Inspection Service [FGIS].

Probably the most contentious issue we faced during this reauthorization process was the question of whether to allow the continued use of water as a dust suppressant. A number of witnesses testified at the subcommittee's recent hearing that the practice should be banned altogether because, in their view, it could not be properly regulated to prevent abuse.

In light of some of the abuses that have occurred, and given some of the very crude technology that was originally employed to add water to grain, I must say that I was tempted to reach that conclusion myself—despite strong evidence that water is effective in controlling the dust that has fueled numerous fatal grain elevator explosions.

What caused me to conclude that water could be used responsibly, Mr. President, was the development of new technology that allows water to be applied as a fine mist or a fog. These new generation nozzles have the added virtue of being much less susceptible to tampering or fraudulent use.

Nevertheless, it is clear that the economic incentive to misuse water remains a powerful one—even if we attempt to ban water use altogether. As one grain industry official testified at our hearing, the addition of water sufficient to increase by 1 percent the moisture content of a typical shipload of soybeans bound for export can add $50,000 to the pockets of the exporter. That is a huge incentive to beat any ban or restriction that the Federal Government may try to impose.

For this reason, Mr. President, I support the limited use of water only if

the practice is accompanied by enforcement measures sufficient to minimize the potential for abuse. That is why I worked with the chairman of the subcommittee to ensure that S. 1490 provides for the use of water only under a permit process administered by FGIS. It would be my expectation that, under such a permit system, a permit would be required for each grain facility that used water, and that permits would be granted only if FGIS concluded that the technology and other measures employed at the facility provided reasonable assurances that the water would be used in a responsible manner to control grain dust.

It would also be my expectation, Mr. President, that FGIs would provide those grain facilities currently using water a reasonable transition period that would allow the continued, responsible use of water until those facilities had the opportunity to obtain permits under the system to be established by FGIS.

As the chairman of the subcommittee, the Senator from South Dakota, knows the permit requirement alone was not sufficient to win my support for allowing water use in grain elevators. My continued reservations about the practice stemmed from the testimony by FGIS officials before the subcommittee that their agency did not have the resources essential to enforcing restrictions in the 10,000 or so elevators across the United States.

Because of my concern about the Government's ability to enforce any restrictions that may be imposed, I prepared and I am pleased that the chairman of the subcommittee agreed to accept two additional provisions intended to strengthen the agency's enforcement of the bill's water restrictions.

The first of these provisions would substantially increase the monetary penalty for misuse of water—including the use of water without a permit. Under my amendment, the penalty for such a violation could be up to $50,000—two-and-one-half-times the penalty provided under the bill for any other violation of the Grain Standards Act.

The second provision goes to the heart of the concern raised by FGIS officials—that they do not have the resources to enforce water restrictions. My amendment would provide FGIS specific authority to impose fees on permit holders for the enforcement costs incurred by FGIS. The additional revenue is intended to provide the agency with the resources that it needs to monitor and otherwise oversee the proper use of water under the act.

Again, I appreciate the cooperation of Senator DASCHLE in pushing us to a prompt consensus on this legislation, and I pledge my support in seeing that this bill becomes law in the very near future.

Let me also say, Mr. President, that I hope to see the FGIS move forward on the issue of allowing official agencies to perform services, such as the inspection of value-added commodities, under the Agricultural Marketing Act. I have communicated with FGIS officials on this point, and they have informed me that they intend to go ahead under the Agricultural Marketing Act to contract out for such services in areas where such work cannot be readily performed by FGIS personnel. I, for one, intend to follow closely FGIS's continued progress on this issue.●

REGARDING JASON SILVA

● Mr. McCAIN. Mr. President, we have a very special young man visiting the U.S. Capitol today. His name is Jason Silva. Jason is a 10-year-old from Phoenix, AZ, who is putting up a very brave fight against Hodgkins disease. Jason's wish has been to come and visit the Capitol, and with the generous help of many individuals, we were able to make Jason's dream come true. I would like the U.S. Senate to extend a warm welcome to Jason and his parents Linda and Protacio Silva. It is a great honor to have Jason visiting us today.

Without the more than generous help of many people this trip would not have been possible. I would like the Senate to take note and extend a special thank you to all those who made Jasons's dream come true. Thank you again for your generosity and compassion.

Mr. President, I know Jason will have a wonderful day at the U.S. Capitol. I am thrilled to have him as our special guest today, and I wish Jason and his parents the very best. Jason will leave the Capitol with many new friends.●

DON SHANK: A HEART AS BIG AS SUPERIOR

● Mr. DURENBERGER. Mr. President, well over a century ago the Frenchman Alexis de Toqueville proclaimed a lasting truth about our country. He said that the greatness of America comes from the goodness of its people. Duluth is a great city and Minnesota is a great State because of the goodness of people like Don Shank. Don is being honored by his friends and neighbors this evening in Duluth, and I wanted to take this floor to say a few words about him.

Don grew up in Biwabik, on Minnesota's great Iron Range. His dad operated a logging camp and owned a 26-mile railroad to transport logs, principally to the iron ore mines, that would be used to shore up the walls inside the mines. It was the connection with the railroad together with the lore of the Arrowhead region that shaped Don's life. His first job, as an engine foreman for the Duluth Missabe & Iron Range Railway, began a career for 41 years for that railroad, including 17 years as vice president and general manager. He has been the founder and president of the Lake Superior Transportation Museum, a must-see for all visitors to Minnesota's north shore.

His love for the ancient peoples and the cultural history of the Arrowhead—from Duluth to Lake Eshquagama to Grand Portage, that earned him national honors from the American Association of State and Local History.

Don is probably one of the smartest and the best educated and the best looking guy I ever met, and he has a heart as deep and rich and beautiful as Lake Superior itself.

His amazing vision, which sees finished projects before they have even begun, comes from that heart. His boundless energy, which infects and inspires everyone around him, comes from that heart. His encouragement, which values and builds up each life he touches, comes from that heart.

The best definition of leadership I've ever found is this one from Lord Montgomery: "Leadership is the capacity and the will to rally men and women to a common purpose, and character which inspires confidence." Nobody I know fits that definition on all points—capacity, will, purpose, character, and confidence—better than Don Shank.

I want to express my love and admiration to Don and my thanks—today on behalf of all the good you have done for all of us, and for tomorrow for the way your good works and spirit will nourish future generations who know you only as a memory.

We are all so much richer because he has shared so abundantly from the wealth and goodness of his heart.●

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, October 7; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that the Senate then return to executive session to resume consideration of the Dellinger nomination.

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

ORDER OF PROCEDURE

Mr. FORD. Mr. President, on behalf of the majority leader, I wish to inform all Senators—and I hope that this message gets to them—that rollcall votes, including procedural votes, are possible at any time tomorrow, from the time the Senate convenes at 9 a.m. until the close of business.

So, Mr. President, let me reiterate the fact, if I may, that the majority

leader asked me to inform all Senators that rollcall votes, including procedural votes, are possible at any time tomorrow from the time the Senate convenes at 9 a.m. until the close of business tomorrow.

RECESS UNTIL THURSDAY, OCTOBER 7, 1993, AT 9 A.M.

Mr. FORD. Mr. President, if no Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order until 9 a.m., Thursday, October 7.

There being no objection, the Senate, at 10:04 p.m., recessed until Thursday, October 7, 1993, at 9 a.m.