

## SENATE—Tuesday, April 19, 1994

(Legislative day of Monday, April 11, 1994)

The Senate met at 9:30 a.m. on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate chaplain, Rev. Dr. Richard C. Halverson. Mr. Halverson, please.

## PRAYER

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

Let us pray:

In a moment of silence, let us all pray for the Official Reporter, Mary Jane McCarthy, and her family, in the loss of her mother.

*As the hart panteth after the water brooks, so panteth my soul after thee, O God. My soul thirsteth for God, for the living God: when shall I come and appear before God? My tears have been my meat day and night, while they continually say unto me, Where is thy God? When I remember these things, I pour out my soul in me: for I had gone with the multitude, I went with them to the house of God, with the voice of joy and praise, with a multitude that kept holyday. Why art thou cast down, O my soul? and why art thou disquieted in me? hope thou in God: for I shall yet praise him for the help of his countenance.—Psalm 42:1-5.*

*The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures; He leadeth me beside the still waters. He restoreth my soul. He leadeth me in the paths of righteousness for His name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil, for Thou art with me. Thy rod and Thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies; Thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life, and I will dwell in the house of the Lord forever.—Psalm 23. Amen.*

## RESERVATION OF LEADER TIME

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

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. MITCHELL. Mr. President, we will begin today's session of the Senate

with the swearing in of Martha Pope to be the Secretary of the Senate.

Immediately thereafter, I will ask the Senate to act on two resolutions relevant to that office. There will then be a period for morning business which was originally scheduled and by prior order will extend until 10 a.m., and then we will proceed to the airport improvements bill.

The amount of time for morning business may extend somewhat beyond 10. And so we will proceed to the bill no earlier than 10, and perhaps a little after, to accommodate Senators who ask for the opportunity to address the Senate in morning business.

## ADMINISTRATION OF OATH TO THE SECRETARY OF THE SENATE, MARTHA POPE

The PRESIDENT pro tempore. The Secretary of the Senate will now present herself for the taking of the oath of office.

Miss Pope, escorted by Mr. MITCHELL, advanced to the desk of the President pro tempore and the oath was administered to her by the President pro tempore.

[Applause.]

Mr. MITCHELL addressed the Chair. The PRESIDENT pro tempore. The majority leader.

## NOTIFICATION TO THE HOUSE OF REPRESENTATIVES OF ELECTION OF SECRETARY OF THE SENATE

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask that it be stated by the clerk, and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the title of the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 200) notifying the House of Representatives of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 200) was considered and agreed to, as follows:

*Resolved*, That the House of Representatives be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PRESSLER. I move to lay that on the table.

The motion to lay on the table was agreed to.

## NOTIFICATION TO THE PRESIDENT OF THE UNITED STATES OF ELECTION OF SECRETARY OF THE SENATE

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask that it be stated, and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the title of the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 201) notifying the President of the United States of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 201) was considered and agreed to, as follows:

*Resolved*, That the President of the United States be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 o'clock, with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. PRESSLER addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I ask to speak for 4 minutes as in morning business.

The PRESIDENT pro tempore. The Senate is in morning business and, under the order, the Senator is recognized for no more than 5 minutes.

## PUBLIC USE REQUIREMENT

Mr. PRESSLER. Mr. President, 1 year ago today, the Governor of South Dakota, George Mickelson, died in a plane crash, along with seven other South Dakota citizens. Our State lost a

great deal of leadership in that plane crash. They are still deeply mourned today.

I plan to offer an amendment later today regarding the status of public aircraft. This amendment will impose on public use planes, planes used by the States and the Federal Government, the same regulations now applicable to all private and commercial aircraft.

It may be surprising to some that public aircraft are exempt from most Federal Aviation Administration regulations. The Governor's plane crash was, according to the National Transportation Safety Board, caused by a defect in the plane's propeller hub. This defect could have been tested for, as was urged by the NTSB in letters sent to the FAA. However, had the FAA acted on the NTSB's recommendations, the State would have been under no legal obligation to abide by the FAA's regulations.

In any event, I do not blame this tragedy on any person or on any agency. But I think we should be vigilant in our efforts to improve the safety of public aircraft.

Later today, I shall offer an amendment to require that public aircraft meet the same standards. We should take all steps necessary to promote aviation safety.

#### AIRLINE PRICING POLICY

Mr. PRESSLER. Mr. President, on the subject of airlines and aircraft, I continue to be greatly disturbed about what is happening to our smaller airports. Not only in the Midwest, but in States across the country, our smaller airports are struggling to maintain adequate and affordable air service. Unfortunately, the ticket prices for people who do not live near hub airports are going up and up.

I am a Senator who is against regulation, generally speaking. I hope that the airlines will take the steps necessary to carry out a pricing policy that is even and fair, without the Government getting involved.

As ranking member of the Aviation Subcommittee, I do not want to see us go back to full-scale economic regulation, but our smaller cities, where airline profits could be made are crying out for increased air service. I will concede that perhaps more money can be made for the airlines when they fly in and out of urban areas, but small cities and rural areas need reliable air service, too.

I know that many other States are facing similar air service problems. In fact, some small airports have lost all, or nearly all, jet service. This problem is growing. The Senate of the United States should not sit still if our air service struggles continue.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from North Dakota [Mr. DOR-

GAN] is recognized for not to exceed 5 minutes.

#### FEDERAL RESERVE BOARD'S OUTRAGEOUS ACTIONS

Mr. DORGAN. Mr. President, last year, the Congress, with the participation of the American people, debated fiscal policy in a wrenching, crippling manner. We debated taxing policies and spending policies to try to find a way to reduce the Federal deficit, to lower interest rates, and to promote new jobs and economic growth. That debate lasted a long, long time. And we successfully passed by one vote the largest deficit reduction bill in history.

Yesterday, and twice before in the last 2½ months, the Federal Reserve Board took action to increase interest rates, to slow down this economy, and to thwart job creation. There were stark differences between the two actions. The deficit reduction bill was debated openly by Members of the House and Senate who are ultimately accountable to the American people. The Federal Reserve Board's actions were made in secret, behind closed doors, with no public debate and input. Yet the Federal Reserve Board is accountable to no one.

Mr. President, the action by the Federal Reserve Board is an outrage. Yes, they have a right to do what they have done. It is the last policy dinosaur that exists in this country that operates secretly behind closed doors. Yes, they have the right to do that, but we ought to change things down at the Fed. And we ought to do it soon.

At the very time this country needs economic growth and new jobs, at the very time we need a coordination between fiscal policy and monetary policy that recognizes reality and tries to promote this economy and raises the economy, we have the Fed putting on the brakes. This is like an economic bicycle built for two. We are on the front seat peddling hard uphill and the Fed, on the back seat, is applying the brakes.

Now, why does the Fed do what it does? There is no credible evidence that inflation is rearing its ugly head again. For 4 straight years, we have had lower inflation. We have plenty of capacity left in the economy. We have people still out of work. The signs are good signs for our economy, and there are no signs of renewed rampant inflation. The Fed is now behaving like a doctor who says, "I can't find anything wrong with you, Mr. or Mrs. Patient, but let me give you some medicine just in case."

What is the real reason then for the behavior of the Federal Reserve Board? The real reason is this is a collection of bankers and economists whose interest is to serve the big money center banks in this country. We have twin goals in America: Full employment and stable

prices. Those have always been our twin economic goals. But they do not have equal weight at the Federal Reserve Board. The Federal Reserve Board has consistently, and now especially, valued stable prices much more than full employment. Why? Because they are a creature of the banking system and they serve their constituency, the big money center banks. They are more concerned about inflation because big money center banks are injured by inflation. Families are injured by losing their jobs. So we have a Fed that chooses financiers over families; it chooses bankers over builders.

I hope that we one day can get a bill in this Chamber, which I have coauthored, that opens the doors of the Fed and blinds them with the shining light of public inspection to find out how they make their policies and on whose behalf they act.

Tomorrow, I hope to bring to the floor a chart which shows the pictures of all the folks who make these decisions—yes, the Board of Governors, but even more than that, the Open Market Committee, on which serves some regional Fed presidents who have neither been elected to anything, nor appointed to anything by the Senate or the House. They make public policy decisions that will cost families and businesses billions of dollars in this country, and they are unaccountable. They are accountable to no one.

That ought to change and ought to change soon. I just think we ought to give the opportunity to America to see who these people are, so I will tomorrow bring their pictures to the floor. We will talk about who is making the decisions to increase interest rates, to slow down the economy at the very time this economy continues to need a lift. We have come through a difficult, dangerous recession. We have not nearly reached cruising speed in our economy. We desperately need the creation of new jobs and more jobs, and the Federal Reserve Board acts to salve the interests of the big money center banks, in my judgment, to the detriment of the American people.

Yes, they have a right to be wrong, but they do not have a right to be unaccountable, in my judgment.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY], is recognized for not to exceed 5 minutes.

Mr. KENNEDY. I thank the Chair.

#### 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. KENNEDY. Mr. President, this Sunday, April 24, marks the 79th anniversary of the commencement of one of the most tragic events in recorded history: the extermination of more than 1½ million Armenian men, women, and children during the final years of the Ottoman empire.

Today, in recognition of this cruel and senseless outrage, we honor the courage and the memory of the individuals who perished, and we renew our commitment to stand firm against such crimes against humanity—whether in Armenia, Bosnia, or Rwanda.

I commend the tireless efforts of the Armenian National Committee of America, the Armenian Assembly of America, and other groups to ensure that the memory of the victims of this genocide is not dimmed by the passage of time.

These groups have also been instrumental in promoting a peaceful settlement of the current conflict in Armenia and Nagorno-Karabakh and in educating all Americans about the issues facing the Armenian people.

Between 1915 and 1923, officials in the Ottoman empire carried out a systematic campaign of genocide against all Armenians. In a July 16, 1915 telegram to the Secretary of State, U.S. Ambassador Henry Morgenthau stated that,

Deportation of and excesses against peaceful Armenians is increasing and from the harrowing reports of eyewitnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.

In the course of this campaign, large numbers of innocent Armenian civilians were murdered and many more were forced into exile.

Members of the Armenian leadership were executed. Those already conscripted by the Ottoman army were disarmed, placed in work battalions, and often starved to death.

Armenian civilians were deported from their homes and villages. Women, children, and elderly Armenians were sent on forced death marches, during which many were brutally assaulted and tortured. Within a scant few years, over 1 million innocent Armenians were killed through massacres, disease, and starvation.

These people had committed no crime. They were killed not for what they had done, but for who they were, as part of an inhuman, racist policy that robbed its victims of both life and dignity.

The bravery with which the Armenians bore this tragedy is a timeless tribute to their enduring faith.

In recognition of their remarkable courage, I have strongly supported efforts to make April 24 a national day of remembrance for the Armenian victims.

Miraculously, half a million refugees escaped across the Russian and Arab borders, and many later made their way to Europe and the United States. More than 130,000 Armenian orphans were sent to the United States for adoption or foster care.

These Armenian Americans and their descendants have found security and opportunity in this country and have made significant contributions to every aspect of American life.

The Armenian people's courage and perseverance in surviving brutal repression in their homeland is a monument to their endurance and their will to live. Today, we honor both the victims and their descendants who have continued to keep the faith with this proud heritage.

Since 1991, in spite of overwhelming challenges and difficulties, the Armenian people have constructed a stable republic under which the rights of all citizens are respected. President Ter-Petrosyan's government strongly supports the ideals and principles of democracy and stands as a model for other New Independent States.

Unfortunately, the Armenian people face continued violence and ethnic hatred, the 6-year conflict between Armenia and Azerbaijan for control over Nagorno-Karabakh has claimed the lives of more than 15,000 people, displaced over 1 million innocent civilians, and undermined progress toward democracy and respect for human rights.

Thousands more have died in Armenia for lack of food, fuel, and medical care due to the blockade by Azerbaijan of products for Armenia.

As we commemorate the tragic deaths at the beginning of this century, we must redouble our efforts to end the current crisis.

In honoring the victims of the Armenian genocide, we also strengthen our resolve to deal with injustice and conflict in other parts of the world, and bring all peoples on our planet closer to peace.

Mr. LAUTENBERG. Mr. President, I rise today to commemorate the 79th anniversary of the Armenian genocide.

The Armenian genocide marks an ignominious chapter in world history. It reminds us, once again, how low unchecked hatred can drag the human spirit, unleashing cruelty and brutality. As we memorialize the Armenians who died needlessly in the genocide, we must resolve never to forget how they suffered at the hands of their oppressors.

Nor can we forget how the Armenian people suffer today as the country struggles to cope with the devastating impact of Azerbaijan's blockade. The blockade has put a strangle-hold on the Armenian people. Basic necessities—like food and heating oil—are in scarce supply. Such shortages endanger the lives of many in Armenia, especially during the harsh winter months.

Fortunately, the United States is able to provide some humanitarian assistance. We've provided home heating oil. We've provided seed stock to assist the Armenians in combating food shortages. As a member of the Senate Foreign Operations Appropriations Subcommittee, I have worked to set aside this and other humanitarian assistance for Armenia to help the people meet these life threatening challenges.

While our humanitarian assistance can help alleviate the pain, it cannot erase the blockade. Only the Government of Azerbaijan can do that.

That is why I am so opposed to efforts to provide foreign aid to the Government of Azerbaijan as long as the blockade of Armenia remains in place. I supported legislation to ban aid to Azerbaijan when the Senate considered the Freedom Support Act, and I will continue to support the ban until blockade is lifted. Azeri cruelty cannot be rewarded with U.S. foreign assistance.

Mr. President, I hope my colleagues will join me in commemorating this anniversary and vow to support efforts that will provide the Armenian people an opportunity to live in peace.

Mr. BRADLEY. Mr. President, each April we pause to remember the first great crime of the 20th century, the massacre of 1½ million Armenians by the Ottoman empire and its successor state between 1915 and 1923. It is particularly appropriate that in this year, a year in which "Schindler's List" won the Oscar for best motion picture, and a year in which we are shamed by the continued ethnic cleansing in Bosnia, that we take a moment to think back to the first European genocide of this tragic century.

The international community did not act in 1915. The international community was slow to act in the 1930's and 1940's. The international community is just now acting in the 1990's. Every time we soberly intone, "never again." And every time the murderers catch us napping. We do not get involved and stop the horror until tens of thousands or even millions have died.

The American Armenian community has done much to enrich this country. Armenia itself has now emerged as an independent state in which Armenians can control their own destiny. This is, tragically, a state forced to devote its resources to war rather than to building a peaceful, prosperous life for its people. Nevertheless, these reasons alone justify the statements I my colleagues are making today. But, Mr. President, the real reason I stand here this morning, and the real reason I am moved to remember the criminal events of 1915-23, is because remembering is the only way to have any hope of rousing ourselves to give meaning to the pledge of "never again."

Mr. JEFFORDS. Mr. President, April 24 marks the 79th anniversary of one of history's greatest atrocities: The slaughter of more than 1 million Armenians. It is a day on which we mourn the victims and honor their memory. But it is also a day on which we commemorate the triumph of human courage and spirit over adversity. For this attempt to annihilate a people did not succeed, nor did it quell the Armenian desire for freedom and justice.

The Armenian people, with perseverance and pride, have maintained their

cultural and historical identity despite the oppression they endured. Survivors of the massacre have not let the flame of freedom be extinguished. Their children and grandchildren, many of whom live in America, have continued to make positive contributions to the world community. And many now are building the foundations of the free and independent Armenian nation which has emerged from the ashes of the Soviet Union.

Today we call attention to the tragic events of the past in order to draw lessons for the future.

Mr. GLENN. Mr. President, I rise today to join my colleagues in commemorating the 79th anniversary of the Armenian genocide. Annual remembrance of the tragedy of 1915-23 does not dim the horror. On April 24, 1915, some 200 Armenian religious, political and intellectual leaders were arrested in Constantinople, exiled or taken to the interior and executed. Similar atrocities followed in Armenian centers across the Ottoman Empire. In a July 16 cable to the Secretary of State, Henry Morgenthau, U.S. Ambassador to the Ottoman Empire, reported—

Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in process under a pretext of reprisal against rebellion.

When the horror ended in 1923, 1.5 million Armenians have been killed and another 0.5 million had been forced to flee their homeland.

Sadly, this was the first but by no means the last genocide of this century. The Armenian tragedy was followed by the horrors of the Holocaust, when Adolph Hitler is said to have asked, when contemplating the "final solution", "Who remembers the Armenians?" The later part of this century saw the massacre of Cambodians during the brutal reign of the Khmer Rouge, Saddam Hussein's extermination campaigns against Iraqi Kurdish and Shia populations, and even today the scourge of ethnic cleaning in former Yugoslavia. It is distressing to look around the post-cold war world and see more and more examples of religious, ethnic, or tribal based conflict. A common denominator of all these conflicts is that civilian populations are the innocent victims.

Today we pause to remember the 1½ million men, women, and children who died or were forced to flee simply because they were Armenians. It is not comfortable to regularly remind ourselves of this past example of man's inhumanity to man or to see the daily reminders on our television screens of other ongoing atrocities. But we cannot erase history's ugly chapters or ignore present day horrors.

In the words of Edmund Burke, "the only thing necessary for the triumph of

evil is for good men to do nothing." In solidarity with the people of free Armenia and Armenian-Americans across the country, and in memory of all victims of genocide, let us vow to strive never by our indifference or inaction, to allow the scourge of genocide to be visited upon any people anywhere on this Earth.

Mr. SARBANES. Mr. President, today marks the 79th anniversary of the Armenian genocide. Every year at this time we pay tribute to the memory of 1½ million Armenian men, women and children who perished as a result of the brutal and systematic policy of extermination orchestrated by Ottoman rulers.

Countless victims and survivors have attested to what can be characterized as one of the darkest periods and most tragic human episodes in this century. Incredibly, the Armenian genocide, which followed years of recorded massacres under Ottoman rule during the latter part of the 19th century, continues to be denied as a matter of course by modern day Turkish governments, despite a wealth of historical and contemporaneous documentation and accounts by scholars and historians.

In 1918, Henry Morgenthau, the distinguished U.S. Ambassador to the Ottoman Empire, gave us valuable testimony in this regard. He wrote:

Whatever crimes the most perverted instincts of the human mind can devise, and whatever refinements of persecutions and injustice the most debased imagination can conceive, became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915. The killing of the Armenian people was accompanied by the systematic destruction of churches, schools, libraries, treasures of art and history, in an attempt to eliminate all traces of a noble civilization some three thousand years old.

As David Fromkin recounts in his noted book *A Peace to End All Peace*, regarding the fall of the Ottoman Empire, the Ottoman Turkish leadership:

Ordered the deportation of the entire Armenian population from the northeastern provinces to locations outside of Anatolia. . . . Rape and beating were commonplace. Those who were not killed at once were driven through mountains and deserts without food, drink or shelter. Hundreds of thousands of Armenians eventually succumbed or were killed.

In fact, Fromkin goes on to state that:

Observers at the time, who were by no means anti-Turk reported that there was no evidence to support the claim that an Armenian uprising had taken place prior to the indiscriminate deportation and wholesale slaughter of the community.

Diplomats and consular officials in the field, including German Ambassador Hans Von Wangenheim, reported details of the atrocities. Both the Ger-

man and Austrian ambassadors, apprehensive about the scale of the barbarity against the Armenians, conveyed their concerns to the Ottoman leadership. In July 1915, Wangenheim related to the German Chancellor that it was positively Ottoman policy to "exterminate the Armenian race in the Turkish empire" and proceeded to advise Germany to distance itself from the savage campaign.

In recent years, the Armenian community in the Caucasus has continued to face adversity by enduring years of struggle under Soviet rule, a catastrophic earthquake in 1988, an unrelenting and devastating economic embargo, and hostile forces arrayed against the enclave of Nargorno-Karabagh.

I remind my colleagues of the chilling words of Adolf Hitler when he stated, scarcely two decades after the Armenian genocide as he referred to the liquidation of the Polish intelligentsia and deportation of millions of Poles in the fall of 1939:

It is only in this manner that we can acquire the vital territory which we need. After all, who today remembers the extermination of the Armenians?

Mr. President, we have not forgotten the Armenian genocide and remember it for more than just the work of human cruelty and savagery. It is fulfilling for us to acknowledge and come to terms with the past. As we seek to do this, the past becomes part of our building for a better future and inspires hope for the triumph of human spirit over tragedy.

Perhaps the Armenian genocide's most vivid and enduring legacy, one which is tangible and cannot be denied, has been its resulting worldwide diaspora of Armenians—few families have been unaffected by this experience, including Americans of Armenian origin. These Americans share a deeply held adherence to the values of hard work, education, religious faith, and importance of tradition and heritage. The Nation and my State of Maryland are fortunate to have a thriving and vibrant Armenian American community which has flourished and contributed so generously to the well being and fabric of our society.

Mr. LIEBERMAN. Mr. President, today we commemorate the 79th anniversary of the Armenian genocide—one of the great tragedies of this century: the death of over 1.5 million Armenians and their exile from their homeland.

Like the Nazi Holocaust, the liquidation of the kulaks in Ukraine and Russia by Stalin, the killing fields of Cambodia, and the repulsive ethnic cleansing underway in the Balkans, the Armenian tragedy is an example of the horrors that have befallen ethnic groups during this century. What can we learn from these tragedies? The first, and in some ways, the most important lesson is to recognize the hor-

ror and to admit that a tragedy occurred. That is what we are doing here today on the floor of the U.S. Senate.

The horror that befell the Armenian people came about during the collapse of the Ottoman Empire. The rule of law, such as it was, ceased to exist as the empire crumbled. The victims of this chaos were the Armenian people. And now, a similar situation has taken place in the former Soviet Union, where the implosion of the Soviet Union has created a crisis in Armenia and Nagorno-Karabakh. Although history seems to be repeating itself before our very eyes, I have hope for the future.

In early March, negotiators from Armenia and Azerbaijan reached a preliminary accord on how to end the tragic 6-year conflict over the disputed enclave of Nagorno-Karabakh—a conflict that has claimed the lives of more than 15,000 people, and displaced over 1 million refugees. Although there is much to be done, I am greatly encouraged by this dialogue. I have joined a number of my colleagues in urging President Clinton to seize the opportunity presented by these recent events and help bring about a peaceful resolution of this tragic conflict.

We have recommended to President Clinton that he invite the President of Armenia, Levon Ter-Petrosian, to visit Washington in the coming weeks to discuss opportunities for a negotiated settlement. Although the Armenian people have suffered grievous losses during this brutal war, President Ter-Petrosian's government is standing firm for the ideals and principles of democracy. A meeting between these two leaders would demonstrate America's support for democracy in the New Independent States and our strong interest in resolving the conflict in the Transcaucasus. We have also recommended that a Transcaucasus Enterprise Fund, along the lines of the funds established for other regions of the former Soviet Union, be created as an incentive for regional integration and stability.

I am very much encouraged by the positive role the Conference on Security and Cooperation in Europe has played in bringing together representatives of the world community to deal with the Nagorno-Karabakh conflict. The recent appointment of a new U.S. negotiator at the CSCE is a hopeful sign. I urge him to facilitate and expedite discussions on the CSCE and Russian peace proposals with respect to this conflict and the future status of Karabakh. It is critical that he make clear to the Governments of Russia, Armenia, Azerbaijan, and Turkey that Washington is aware of the sensitive issues in the Transcaucasus, concerned about the future of the peoples living there, and eager to see a lifting of the blockage of Armenia and the free flow of humanitarian supplies across all borders.

We must do whatever we can to stop the killing in Karabakh. We must use all available resources to see that the tragedy which befell Armenians in the first part of this century is not repeated as the century comes to a close. Helping to end the violence in the region would be a fitting tribute to the memory of all Armenians who have given their lives for their nation and their heritage. Let us learn from the lessons of the past and stop the bloodshed.

Mr. DECONCINI. Mr. President, today we commemorate the massacre of Armenians in Turkey during and after the First World War. We mourn the dead, and express our condolences to their living descendants. During that terrible tragedy, an estimated 1.5 million people were killed in what historians call the first of this century's state-ordered genocides against a minority group.

These victimized minorities have included ethnic-religious groups, like the Armenians and the Jews, and those seen as class enemies, as in Cambodia under Pol Pot. The range of the victims—geographical, ethnic, religious and political—testifies to the universality of human cruelty and fanaticism. The response of the survivors, however, testifies to the indestructibility of the human spirit, even in the face of the most dreadful catastrophes.

Many of the Armenians who survived the slaughter fled their native lands and came to the United States. Here they found sanctuary and have become an integral part of American life and the democratic political process. But they never forgot their origins, their sorrow, and their relatives across the ocean. In the small territory that became Soviet Armenia, their fellow Armenians strove to develop their cultural heritage. They defended their language and traditions and kept alive their national consciousness in the face of Moscow's denationalizing policies. At the same time, they maintained a sense of solidarity with their conationals in the West. As the U.S.S.R. opened up in the late 1980s, this transoceanic unity became stronger, as Armenians in the West returned to their roots to help in the struggle for national liberation. In 1991, their common efforts culminated in the attainment of independence, as Armenia joined the international community as a member of the United Nations.

Independent Armenia, the realized promise and the living memorial to the victims of 1915 and later years, has endured a difficult 3 years. The Nagorno-Karabakh conflict has cost thousands of lives, created hundreds of refugees, and kept the entire region from enjoying the blessings of independence. Blockaded by its neighbors, Armenia's people have suffered through cold, hunger and deprivation. But their spirit remains sturdy, and their sacrifices link

them in an unbreakable bond with past generations of Armenians.

I hope, as do we all, that future generations will not have to sacrifice as their ancestors have. Nothing could honor the memory of the victims of 1915 as much as a free, prosperous Armenia living in peace with all its neighbors, and moving and impressing the world with the spiritual and material products of the unbreakable Armenian spirit.

Mr. SIMON. Today we reflect on one of the worst crimes against humanity committed in our century: the Turkish massacre of 1½ million Armenians beginning in 1915.

Nationalism based on notions of ethnic purity is not something most Americans identify with or accept. So it is fitting that many of the descendants of survivors of the Armenian genocide found homes in the United States. Armenians are a great and talented people. Their achievements are disproportionate to their numbers. I have myself seen, during a visit to Armenia last year, the fortitude of Armenians in coping with post-Soviet economic dislocations, blockades by Turkey and Azerbaijan, and the war over Nagorno-Karabakh. History and geography have been unkind to the Armenians and I understand and join in the sentiments of Armenians, like all victims of ethnic cleansing: "never again."

That feeling is, I am sure, in the hearts of the refugees and inhabitants trapped in Gorazde, subjected to bombardment from Serbian tanks, artillery, mortars, and machineguns in a town which the world community has declared to be a "safe area." The hysteria and cruelty which led to the Armenian massacres is still with us and, wherever it occurs, Americans and their Government should decisively reject it—not wring their hands and try to look the other way.

Armenians deserve a homeland which is as prosperous as the people are industrious and talented, and which is as secure as the Armenian past was difficult. In order to accomplish this, the war between Armenia and Azerbaijan must end. The war has caused untold suffering in both countries.

Today, as we memorialize 1½ million dead Armenians of a past generation, I would urge the administration to redouble its efforts, and its commitment, to work with the parties directly and with the international community to stop the war.

Mr. D'AMATO. Mr. President, I rise today to commemorate the 79th anniversary of the Armenian genocide.

The Armenian genocide, which began on April 24, 1915, subjected an entire population to a campaign of genocide by the Turks, resulting in the deaths of 1.5 million people, one-third of the population.

The genocide began with adult males being rounded up and taken from their

homes only to be slaughtered by the masses. This left the women, children, and elderly defenseless when they were forced to walk in a death march through the southern Anatolian Deserts. Faced with the blistering heat of the day and the bitter cold of the night, they went without food, water, or shelter. The hardship of the journey resulted in the deaths of thousands more.

Despite the overwhelming evidence, Turkey continues to deny the Armenian genocide. In an attempt to rewrite history by burying the truth, the Turkish Government is refusing to acknowledge its past guilt. This continued denial is an insult to the memory of the 1.5 million who perished at the hands of the Turks. Turkey must acknowledge its guilt in the Armenian genocide and come to terms with its past.

I fear that we have not learned anything from this experience. Hitler said "Who will remember the Armenians?" No one did and 6 million Jews and 5 million others were exterminated. Then came Pol Pot, who killed 1 million Cambodians. Now, to date, the Bosnian Serbs have killed perhaps 200,000 people in Bosnia. When will the killing stop? George Santayana said that those who fail to heed the lessons of history, are doomed to repeat them. Never has this been more true.

Mr. President, on this 79th anniversary of the massacres, let us pause to remember the 1.5 million victims of Armenia and to all those who have suffered similar crimes against humanity.

Mr. FEINGOLD. Mr. President, I rise today to join my colleagues in commemorating the 79th anniversary of the horrific period of Armenian slaughter during the years of 1915 to 1923.

From 1915 to 1923, the Ottoman Government systematically murdered 1.5 million Armenians, and drove 500,000 into exile. On April 24, 1915, Armenian leaders were accosted and later executed. Soldiers serving in the Ottoman army were disarmed and placed in labor camps where they were executed or left to die of starvation. Armenians living in Asia Minor and Turkish Armenia were deported, the men and older male youths quickly removed from their families and executed. The remaining women and children were led on death marches into the desert where they were raped, tortured, and mutilated. Disease, starvation, and massacre claimed the lives of most, and survivors were forced into foreign homes and harems. On the eve of the First World War, 2.5 million Armenians were living in the Ottoman empire. Following the Ottoman campaign of terror, less than 100,000 remained.

The U.S. Government has rightfully denounced these atrocities and has been generous in its efforts to assist survivors of these horrors. From 1915 to 1930, American relief efforts contributed over \$100 million to aid the survi-

vors, and over 130,000 Armenian orphans became foster children of the American people.

We must never desist in our reminders of the terrible events of this war. For despite our reminders, Mr. President, today, tragically, we see similar campaigns perpetrated on innocent peoples. Today we see the equally ugly brutality characterized by the sanitized term of "ethnic cleansing." Most notably, we see it in the former Yugoslavia.

Mr. President, as we commemorate the brutal massacre of the Armenian people by the Ottoman Government, let us also remind ourselves to keep a vigilant watch on our world so that these horrors might not be repeated again, and again, and again. And when they do occur, we must, armed with the memory of past massacres, take stronger action. History means nothing if we do not learn from it. These deaths should not be in vain.

I yield the floor, Mr. President.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDENT pro tempore. The Senator from California [Mrs. FEINSTEIN].

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

#### A SECOND UPDATE ON MILITARY-STYLE ASSAULT WEAPONS

Mrs. FEINSTEIN. Mr. President, I rise to give an update on military-style assault weapons and their use in the United States.

Last November, the U.S. Senate considered and passed by a vote of 56 to 43 legislation to ban the sale, possession, and future manufacture of 19 semiautomatic assault weapons and their copy-cat versions.

On February 24, I provided the Senate with the first of a series of updates on shootings and other incidents across America since the Senate began consideration of this legislation. I rise today to provide the second update.

Despite the NRA's contention that assault weapons constitute but a fraction of the 15,377 gun murders in 1992—per FBI Uniform Crime Reports—the fact is that a steady stream of assault weapons are available to the drug dealers, grievance killers, cop killers, and drive-by shooters—many of them youngsters—who terrorize our communities.

The fact is that, today, virtually anyone can obtain a weapon that was designed for military purposes—to kill large numbers of people in close combat. A weapon which often can be easily concealed, and which can pump out 30 bullets in just a few seconds.

Every week brings with it incidents in which innocent people are mowed down—in offices, restaurants, bars, trains, tax offices, shopping malls, schools, parks, markets, and even in their own homes.

No place is safe from these weapons of war and those who use them.

Officer Christy Lynn Hamilton, a rookie on the Los Angeles police force just 4 days out of the academy, was not safe from an assault rifle in February as she crouched, fully armed with pistol drawn and bullet proof vest in place: behind the door of her squad car, after responding to a domestic disturbance report in a residential neighborhood.

A bullet from an AR-15, a high velocity slug more than one-half inch in length, pierced the car door, slipped past her vest—which would not, in any event, have stopped it—and lodged in her chest. She died an hour later.

Officer Hamilton thus joined the ranks of the 490 police men and women slain since 1986, 50 of whom are estimated to have been killed by assault weapons—50 police officers across this Nation.

The unrestricted availability and indiscriminate circulation of these weapons are causing police across America to be routinely outgunned. That is one of the reasons that virtually every major police organization in the Nation strongly supported the assault weapons title of the Senate crime bill, which is presently before the House of Representatives.

Since late October, as far as we can tell, at least 35 people have been killed, and 41 wounded by assault weapons in the United States of America. On this map, in red and black, are assault weapon shootings that have taken place since the Senate prepared to take up its crime bill in late October.

There are 10 AK-47 symbols in red, each representing an assault weapon shooting or assault that has occurred since my first report to the Senate just 7 weeks ago.

Let me review some of these, and a number of other, episodes—culled from newspapers in computer databases that do not cover the Nation—all of which have occurred since February 24, the date of my last update. They make one thing alarmingly clear. No place is safe from assault weapons, Mr. President. No longer are these incidents isolated to only the "rough parts of town."

Gunfire from semiautomatic assault weapons is becoming more and more common everywhere—outside shopping centers and movie theaters, in front of schools in suburban communities, on subway platforms in broad daylight.

From Indiana to Connecticut, from Texas to Louisiana, from Oklahoma to Ohio, from Arizona to Virginia, assault weapons attacks are occurring without warning and with increasing frequency.

Consider these examples from just the last 7 weeks:

Outside a music store in Venice, CA, on April 11, gunfire from an AK-47 critically wounded one man and hit another in a drive-by shooting. The same vehicle and assailants moments before

riddled another car with 10 rounds, wounding four people.

At a nightclub in Anaheim, on April 6, six young people were wounded when an unknown assailant, hidden behind a phone booth across the street, sprayed the club with gunfire from an AK-47. A 21-year-old victim was in critical condition after being shot in the stomach;

Worshippers at a Sikh temple were threatened on April 3, in Houston, TX, by a deranged man demanding to know how funds from the temple were being spent. Luckily, as women of the congregation pleaded with him not to fire, several men tackled and subdued the madman;

At a neighborhood market located less than a mile from the White House, four gunmen—one reportedly with a TEC-9 assault pistol—opened fire on March 31, killing a 15-year-old boy and wounding nine others, including an elderly woman and a 1-year-old girl. Police on the scene said it was a miracle more people in the crowded market complex were not shot or killed in this gang-related "hit;"

On a street in Centerville, TX, a 33-year veteran of the Houston Police Department was shot and seriously wounded on March 30 when the driver of a car pulled over for a routine traffic violation opened fire with a MAC-11 assault pistol illegally converted to fully automatic operation.

This is one of the kinds of cases in which our police are really outgunned. They pull someone over for a routine stop; that individual has an assault weapon, and the officer has no chance, no chance at all against this kind of weapon.

In this instance, the sergeant, shot twice, remains in critical condition. His assailant, a Kansas parolee on a crime spree, was shot dead in a gun battle with authorities the next day.

Outside a movie theater in Pittsburg, CA, Becky Martin, 8 months pregnant with her second child, was shot five times as 17 bullets were fired at her "4-by-4" on March 30. Her husband and 11-year-old son stood 100 feet away, buying tickets for a movie. By some miracle, the victim's baby was delivered by Caesarean section and the victim has been upgraded to good condition.

Interestingly enough, in this case, the perpetrator is believed to be the girlfriend of the victim's husband, and their plan was to pretend that this was a gang shooting. The girlfriend was to shoot the pregnant mother, and then spray bullets at passers-by to show

that this was not a personal attack but in fact a random gang shooting. Fortunately, for other mall shoppers, that aspect of the plan was not carried out.

On a crowded subway train station in the middle of the afternoon on March 25 in Berkeley, CA, five rounds from an AP-9 assault pistol were fired as a 19-year-old tried to settle an argument.

Mr. President, in my day, youngsters would have an argument, and they would go out and settle it with their fists.

Today, when youngsters have an argument, one goes home, gets an assault pistol, comes back, shoots the person he was arguing with and—if they are standing in the wrong place at the wrong time—anyone around him. We cannot continue to condone this.

A high school in Seattle provides another example. There, a young girl was mowed down when gunfire from a MAC-12 erupted from a passing automobile. Her killer was a 16-year-old private school honor student. And the irony in this case is that the young woman had just transferred to what her mother believed was a safer school.

Unfortunately, the examples of assault weapons killings, shootings, and chilling near-misses from just the past 7 weeks goes on:

Outside an apartment house last Wednesday, police in New Orleans arrested a 20-year-old man wanted for the February murder in cold blood of the 34-year-old director of the Gospel Soul Choir. The suspect, according to published reports, dropped a fully loaded Uzi when confronted by two officers. He allegedly killed the choirmaster for almost hitting him with his car after the suspect stepped into its path.

Police had another near miss with assault weapons on the same day—April 13—in Atlanta, when they and the FBI surprised a man on New Jersey's "Ten Most Wanted" list in the shower. Agents found a TEC-22 Scorpion assault pistol, fully loaded with a 30-round magazine, in the pocket of shorts that they retrieved for him to wear. The suspect, age 32, was wanted for beating another man to death in a drug dispute.

Four juveniles, three 16-year-olds and a 14-year-old, were arrested on April 2 in Baton Rouge, LA, for a string of seven armed robberies of convenience stores near Louisiana State University. Police believe that a TEC-9 assault pistol—the same gun suspected in Washington's "O Street Market" shooting and many other incidents that I have

discussed on the floor—was used in at least one of the robberies.

After a high-speed chase on March 21, police recovered a fully loaded MAC-10 from the front seat of a car in Encino, CA.

Two men riding in a taxi near the busy North Blount Street Market in Raleigh, NC, on March 20 were hit by gunfire from three assailants, one of whom was believed to have been using a TEC-9 assault pistol. Both passengers were wounded.

As police officers in Inglewood, CA, were enforcing a new curfew to keep kids under 18 off the streets late at night, they approached a beer-drinking 17-year-old on March 19. He had with him an AK-47 assault rifle and, in his pocket, a full loaded 30-round ammunition clip.

In a residential neighborhood in West Palm Beach, FL, on March 11, an ambush occurred in which more than a dozen rounds are believed to have been fired from an AK-47 and an AR-15. Meant to settle a dispute over the ownership of car tires, the attack left the intended victim dead and one by-stander wounded.

Mr. President, I ask unanimous consent that a full list of these events, and others be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, the point I want to make today is illustrated on this chart, which shows the attacks with assault weapons that have taken place in this Nation since the Senate prepared to consider the crime bill. This bill is now in the House of Representatives, where reasonable assault weapons restrictions are being heavily lobbied against by the National Rifle Association. The NRA will say: "Guns do not kill, people kill." And, yes, there is an element of truth in that. But when the guns so powerful can kill so many so fast, when weapons meant for military purposes are routinely used to settle grievances, to shoot innocent civilians, and to kill police officers, the time has come, I believe, to do something about those weapons and to outlaw their future production in the United States.

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

EXHIBIT 1

ASSAULT WEAPON INCIDENTS

(Partial listing)

Date	Location	Gun(s) <sup>1</sup>	Incident
Oct. 25, 1993	Indianapolis, IN	AK-47	Retaliatory gang shooting kills teen 50-shot fusillade and wounds 7 year-old watching TV at home.
Oct. 26, 1993	Waterbury, CT	TEC-9	Botched drive-by shooting leads to 10 mile high-speed police chase.
Oct. 27, 1993	Paterson, NJ	TEC-9	TEC-9 assault pistol pointed at school principal's head as gunmen race through elementary school; none injured.
Oct. 28, 1993	Paterson, NJ	TEC-9	17 year-old and 21 year-old killed by 19 year-old rooftop sniper firing into group of men on sidewalk below.
Oct. 30, 1993	El Cajon, CA	AR-15	"Child-hating" sniper kills woman and 9 year-old child in parking lot; wounds 5 others.
Nov. 1, 1993	Newbury, NH	1927A-1	Grievance killer slays 2 and wounds a third in attack on tax collector's office with "Tommy" gun replica.
Nov. 1, 1993	Houston, TX	AK-47	Teenage boy killed at Halloween party by rival gang members.

## ASSAULT WEAPON INCIDENTS—Continued

(Partial listing)

Date	Location	Gun(s) <sup>1</sup>	Incident
Nov. 22, 1993	Baltimore, MD	AK-47	13 year-old boy killed by one of a dozen bullets fired into public housing project by 17 year-old gunman; rifle found by police loaded with 61 shells.
Nov. 23, 1993	New Orleans, LA	AK-47, MAC-11	Jealous husband kills 4 month-old twin girls in crib, 8 year-old sister, and their mother before wounding children's 10 year-old brother in the head and committing suicide.
Dec. 11, 1993	Mechanicsville, MD	MAC-11	16-year-old held in shooting death of younger brother in possible accident; gun, stolen from neighbor's house, found with 30 round clip.
Dec. 13, 1993	Chicago, IL	AK-47	16 year-old basketball player murdered outside supermarket; 17 year-old arrested and charged.
Dec. 17, 1993	Hugo, OK	MAC-90	Two killed and 3 wounded in Wal-Mart parking lot attack with AK-47 rifle variation.
Dec. 30, 1993	De Kalb County, GA	MAC-11	A 13 year-old girl intentionally wounds her step-grandmother with two shots to the abdomen.
Jan. 23, 1994	St. Paul, MN	AK-47	17 year-old kills another teen in dispute over stolen stereo.
Jan. 29, 1994	Buffalo, NY	AK-47	A 16 year-old and his 14 year-old accomplice commit carjacking.
Jan. 31, 1994	Seattle, WA	AR-15	Teacher killed in early morning ambush on middle school grounds.
Feb. 1, 1994	Clifton, NJ		37 weapons seized from residence along with 10,000 rounds of ammunition and 5 explosive devices.
Feb. 3, 1994	Chicago, IL		Three men, all sons of police officers, arrested for conspiracy to commit murder and drug dealing; 29 stolen weapons seized, including AR-15, TEC-9, SKS, and M-11.
Feb. 4-5, 1994	Lincoln, NE		State troopers find TEC-9 assault pistols with 30 round magazines in drug-courier stops on Interstate 80.
Feb. 7, 1994	Minneapolis, MN		Fugitive from Detroit murder investigation apprehended with small arsenal, including AR-15.
Feb. 14, 1994	Torrance, CA		Car and home of masked killer of 2 police officers at motivational seminar yield, respectively, Uzi carbine and AR-15 illegally modified to fire as fully-automatic machine gun.
Feb. 21, 1994	Winston-Salem, NC		Police drug raid nets over \$200,000 in drugs, \$34,000 in cash and more than 10 guns including AK-47.
Feb. 22, 1994	Los Angeles, CA	AR-15	Drug-abusing 17 year-old kills LAPD rookie in 4th day on job, and his father, with gun from father's collection; fatal bullet passed through police car door and part of officer's "bullet-proof" vest; officers from three cars pinned down by hail of bullets.
Feb. 22, 1994	Buffalo, NY	MAC-10	17-year old fatally wounded in housing project hallway argument over stolen stereo speakers.
Feb. 24, 1994	Youngstown, OH	AK-47	Thirty year-old mother of 4, including 1 year-old twins, allegedly killed by her estranged husband.
Feb. 25, 1994	Los Angeles, CA	AK-47	7 year-old enrolled in after school enrichment program accidentally killed by 9 year-old friend with assault rifle found under bed in friend's home.
Feb. 27, 1994	Palm Springs, CA	AK-47 [suggested by casing/witnesses]	Two wounded, including a 3 year-old child, in attack on Black History Month picnic believed to be gang-related.
Feb. 27, 1994	Fort Worth, TX	AR-15 or AK-47 [suggested by casing/witnesses]	3 killed and 1 wounded in suspected drive-by gang shooting by 16 and 17 year-old gunmen; witnesses say more than 2 dozen rounds fired in less than a minute.
Feb. 28, 1994	Phoenix, AZ		Police called to home by boy reporting that 15 year-old friend had threatened to fire AK-47 into nearby school.
Mar. 1, 1994	New York, NY		One man killed and another grievously wounded (neither expected to survive) in drive-by assault on Brooklyn Bridge; attack believed perpetrated with large-capacity pistols, but arsenal including Street Sweeper shotgun, AK-47, and assault pistol seized from suspect's home.
Mar. 1, 1994	Buffalo, NY	AK-47	29 year-old killed by at least four shots to the body in high speed car chase lasting several blocks; over 30 rounds fired; victim's car eventually crashed into utility pole as witnesses dove for cover.
Mar. 4, 1994	Kerrick, MN		Three police officers on task force to find illegal guns fired on while investigating reported gunfire in housing development; 20 year-old gunman wounded in arm by officer returning fire.
Mar. 11, 1994	Wallingford, CT		20 guns, including AK-47, and thousands of rounds, including AK-47, recovered in nightclub; 40 more guns recovered from owner's home.
Mar. 12, 1994	New Orleans, LA	MAC-11, SKS	10 year-old boy critically wounded in neck when .22 caliber pistol dropped while playing went off; police on scene also confiscated 37 other guns, some loaded, including Mitchell AK-47, Norinco SKS, SKS with folding stock and an AR-15.
Mar. 13, 1994	Richmond, VA	Uzi [?]	21 year-old passenger in car wounded while riding on Interstate 95; car fired on 5 times by car that pulled alongside.
Mar. 17, 1994	San Diego, CA	AK-47	31 year-old man distraught over failed relationship held police SWAT team at bay with assault rifle in 11-hour stand-off beginning at 4:30 a.m.; more than 100 rounds fired by gunman and police; one police officer wounded; gunman committed suicide; police evacuated more than 75 residents of gunman's apartment complex.
Mar. 20, 1994	Raleigh, NC	TEC-9 [witnesses and casings]	Two men wounded in 8:30 p.m. attack on taxicab near busy North Blount St. Market.
Mar. 21, 1994	Encino, CA		Loaded MAC-10 assault pistol recovered from front seat of car apprehended by police after high-speed chase.
Mar. 19, 1994	Inglewood, CA		17 year-old stopped by police in curfew enforcement found with AK-47 assault rifle and fully-loaded 30-round ammunition clip.
Mar. 23, 1994	Seattle, WA	MAC-12	16 year-old uninvolved in gangs killed in drive-by shooting at high school to which her mother moved her to avoid violence on city's south side; gun used reportedly circulated among gang for a year.
Mar. 30, 1994	Centerville, TX	MAC-11	33-year veteran of Houston police force wounded twice in traffic stop by Kansas parolee with concealed fully automatic assault pistol.
Mar. 30, 1994	Pittsburg, CA	HK-94	Woman eight months pregnant shot 5 times in 17 bullet fusillade in mall parking lot reportedly orchestrated by husband and his lover for insurance money; plot originally called for spraying other shoppers to conceal targeted nature of crime.
Mar. 31, 1994	Washington, DC	TEC-9	15 year-old boy killed and 9 others wounded in dinner hour retaliatory gang attack on busy neighborhood market.
Apr. 3, 1994	Houston, TX	Uzi	Deranged and irate member of Sikh temple holds crowded worship service at gunpoint demanding information on use of congregation funds.
Apr. 6, 1994	Anaheim, CA	AK-47	6 wounded, one critically, in sniper attack on popular teenage club.
Apr. 11, 1994	Venice, CA	AK-47	Carload of men with assault rifle perpetrate two gang-related drive-by shootings in 10 minutes. 4 wounded in hail of at least 10 bullets in first shooting of another vehicle; 2 others wounded in drive-by strafing of music store, including stage and screen actor Byron Keith Minns (ironically, played a criminal trying to spare his son from gang violence in Oliver Stone's 1992 feature film, "South Central.")
Apr. 2, 1994	Baton Rouge, LA		Four teenagers, including a 14 year-old arrested for a string of seven armed robberies of convenience stores, one with a TEC-9 assault pistol.
Apr. 13, 1994	New Orleans, LA		20 year-old man, arrested for the murder of a choir director, armed with a fully loaded Uzi when confronted by two police officers.
Apr. 13, 1994	Atlanta, GA		Police and FBI agents arrest man on New Jersey's "Ten Most Wanted" list for beating a man to death in a drug dispute. Taken while in the shower, police found a TEC-22 assault pistol with full 30-round magazine in shorts handed to the suspect to wear.

<sup>1</sup> Entry in "Gun(s)" column indicates specified weapon used or brandished.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

#### IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

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

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or

that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at \$4,563,273,358,539.03 as of the close of business yesterday, Monday, April 18. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is \$17,503.19.

#### TRIBUTE TO SENATOR MATTHEW FELDMAN

Mr. LAUTENBERG. Mr. President, I stand before you saddened by the news that Senator Matthew Feldman has passed away. He made a lifelong commitment to serving the citizens of New Jersey. During his 35 years in politics, including 22 years in the New Jersey State Senate, Matty, as his friends and family knew him, worked con-

stantly to improve the lives of all New Jerseyans.

The son of immigrants, Matty Feldman was born in Jersey City, N.J. He attended the University of North Carolina, Chapel Hill, and Panzer College. After serving as an Army Corps captain during World War II, he moved to Teaneck, where he resided with his wife Muriel and their three children. He began his political career in 1958, first as a member of the Teaneck Township Council and later as mayor of Teaneck. After his election to the New Jersey Senate in 1965, he served from 1966-68 and again from 1974 until his retirement in January 1994. As senate majority leader from 1974 to 1975, president of the senate in 1977 and 1978, and chairman of the senate education committee for many years, Matty Feldman was a leader in bringing about the passage of historic legislation in the fields of education, youth issues, taxes, and labor.

As the education senator, Matty was a tireless advocate of the public school

system. Along with the 1966 landmark legislation which created the Department of Higher Education and the State and county system of colleges and universities, he was extremely proud of passing the law which allowed State takeover of local school districts. He also sponsored the Quality Education Act of 1990 and, as chairman of the Joint Committee on the Public Schools, he took personal interest in and responsibility for the implementation of the school aid law, one of the most ambitious in the United States. He was also a member of the nationwide Education Commission on the States for over 5 years.

It is difficult to think of another New Jersey legislator who cared more about how government treats its citizens. Matty Feldman labored for 17 years to pass the Social Workers Licensing Act. He also created the New Jersey Motion Pictures and Television Commission. In his private life, he was extremely active in Jewish affairs, serving as State commander of the Jewish War Veterans and on the New Jersey-Israel Commission. Just last week, despite his ailing health, Matty was present for the signing by Governor Whitman of the Holocaust education bill, an issue about which he cared deeply.

In each of his endeavors, Matty Feldman demonstrated uncompromising commitment, spirit and enthusiasm. His many accomplishments, including more than 30 laws designed to improve educational opportunities, symbolize his outstanding service to the people of New Jersey. Matty Feldman will be sorely missed by his friends, his family, and even those who knew him only through his legislative efforts. His personal example of dedication, integrity, and leadership will serve as a model for generations of public servants to follow. I am proud I knew him and thankful for his advice and friendship through the years.

#### YANKTON AND KANGNUNG: BUILDING A BRIDGE OF UNDERSTANDING

Mr. PRESSLER. Mr. President, I wish to express my support for and confidence in the growing relations between the United States and Republic of Korea. I am particularly proud of the efforts of officials in Yankton, SD, who are encouraging diplomatic ties between my home State of South Dakota and the Republic of Korea.

Yankton leaders are working to make Yankton a sister city with Kangnung City of the Republic of Korea. I believe that Yankton and Kangnung, as growing tourist centers in their respective nations, will become excellent sister cities. I have also extended a personal invitation to the mayor and city council chairman of Kangnung City to visit Yankton in support of the sister city efforts.

I applaud the efforts of Mr. Milo Dailey, a Yankton resident, who traveled to the Republic of Korea as a liaison between the people and city government of Yankton and the people of the Republic of Korea. Milo's hard work, dedication, and sincerity are commendable. His efforts are designed to promote diplomacy and good will.

Joining Milo were a group of citizens from Yankton, including his wife Carla—the managing editor of Taekwondo World magazine, Marian Gunderson—chairman of the South Dakota water development board, Marge Gross, Dr. Duane and Kay Reany, and Karen Pederson.

Another group from Yankton soon will be visiting Korea and Kangnung City, including Carla Dailey, Yankton City commissioner Bill Fejfar and his wife, and chamber of commerce executive vice president Mary Anne Hoxeng.

I support strong ties between cities in the United States and cities in foreign countries. Such grassroots local efforts establish foundations for stronger, more informed, diplomatic relations at higher levels of government. I encourage the work of the Yankton Chamber of Commerce and their liaison, Milo Dailey, in fostering stronger ties with the Republic of Korea.

The city of Yankton is a lovely city with much to offer its residents and visitors. It is a fine example of a small, rural city willing to promote positive relations with a foreign country. I commend Yankton city residents and local government officials for extending their hands in friendship to people in the Republic of Korea. Mr. President, again I applaud the sincere endeavors of Milo Dailey and the people of Yankton, SD, as they continue strengthening our friendly relations with the people of the Republic of Korea.

Mr. President, I ask unanimous consent that a trip report from Milo Dailey concerning his recent visit to the Republic of Korea be inserted in the RECORD.

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

#### TRIP REPORT ON YANKTON, SD, DELEGATION VISIT TO KANGNUNG, KANGWON-DO, REPUBLIC OF KOREA FOR SISTER CITY PROGRAM DEVELOPMENT

DEAR SENATOR PRESSLER: First, let me thank you on behalf of a small delegation of Yankton, South Dakota, people who visited Kangnung City in Korea. Your personal efforts have had a special role in paving the way for the Sister City program between our two cities. As our Senator and member of the Foreign Relations Committee, these efforts have, we believe, been vital in our small effort to improve our international relationships with Korea.

We visited Kangnung City November 9 and 10 of 1993. Included in the delegation were Milo Dailey, chairman of the Yankton Sister City Commission and managing editor of the Yankton Daily Press and Dakotan news-

paper; Carla Dailey, managing editor of Taekwondo World Magazine, one of the nation's largest martial arts magazines and the largest home circulation magazine in martial arts; Marian Gunderson, chairman of the South Dakota Water development board appointed by three state governors to the board; Marge Gross, a well-known Yankton, state and national level volunteer worker; Dr. Duane Reaney and Kay Reaney; and Karen Pederson.

We were accompanied by a well-known leader in the Korean-American community, Taekwondo Grand Master H.U. Lee and his wife, both of Little Rock, Arkansas; his brother and Taekwondo Master Soon Ho Lee of Panama City, Florida.

Grand Master Lee, a longtime U.S. citizen and head of the American Taekwondo Association, has been instrumental in aiding our Sister City program. As a leader in the Korean-American community, he is very interested in helping to improve relations between his native and his adopted countries. Although he had other business to conduct in Korea, he took special time to accompany us to Kangnung as well as several special tours in and around Seoul. Master Soon Ho Lee accompanied us on special tours of the Seoul area; and the specific purpose for his trip was to be a full-time guide and translator for the Yankton group. He traveled at his own and Grand Master Lee's expense.

The purpose of this trip for the Yankton delegation was:

1. To show more Yankton people the Kangnung community.
2. To cement relations with Kangnung City during the Korean government's consideration for approval of the relationship required for Korean cities.
3. To show our continuing interest after Mr. Dailey had visited Kangnung in April of this year with Grand Master Lee, and a visit of a Kangnung delegation to Yankton over the September Labor Day weekend to determine suitability of the relationship for their government to approve the relationship.
4. We discovered on the trip that we also played a role in helping Kangnung civic entities to meet and work together as well as experience we had already found true in Yankton during the September visit of the Kangnung delegation.
5. Indirectly, to help both Americans and Koreans better understand each other as partners in trade, cultural exchange and world security arrangements.

Also, Mr. and Mrs. Dailey gathered material for editorial use in both local and national publications to promote good relations between the two communities and nations.

Grand Master Lee first handled the travel arrangements for the Yankton group, and secured exceptional travel and accommodations rates for us.

We arrived in Seoul, spent a short night there, then flew to Sok Cho airport north of Kangnung City. Sok Cho currently serves Kangnung while an international airport is under construction there. On our arrival, we were met by a delegation of Kangnung city officials and members of their own Sister City Commission. They drove us south to their community along the northwest coast of Korea.

On our arrival at Kangnung City, we were greeted at the Hotel Kangnung with a huge banner on the front of the building proclaiming welcome to the Yankton delegation.

During the next two days came a rapid-fire circuit of talks, tours and meals hosted by various segments of Kangnung public and private society.

At a formal reception in the office of the mayor of Kangnung City, we presented a traditionally-crafted antler-handled Sioux knife and head-beaded sheath to Mayor Dae Keun Lee (Lee, Dae-keun). We received in return the first of many special gifts presented to us as in Korean custom. We chose the knife as a gift because our city is the location of the first major meeting between the expedition of Lewis and Clark and representatives of Sioux Indian tribal groups. Our city's name is derived from the Dakota name for end (of the) village.

Although the rest of the receptions and dinners were a whirl of activity, there are several major points that may be of special interest to you both as our U.S. Senator and as a member of the Senate Foreign Relations Committee:

1. Although all of us have been only too aware that North Korea had been rattling sabers at the time of our visit, no mention of this was made to us during our trip.

2. We have been told that efforts are being made in the R.O.K. government to speed the Sister City approval there. This, again, indicates interest in an improving relationship between peers at a state and national level, as well as at the city level of government.

3. The growth in Kangnung which was obvious to our delegation indicates a vital economy and interest in nationwide development in Korea. The new international airport, highway improvement and major growth at the national university there all attest to this.

4. Among tour and entertainment segments of our visit, we saw local historic sites, a newly-created ethnological museum, and a reception featuring traditional music and some of the most modern arts. We met outstanding young artists as well as senior area officials; and all seemed very supportive of improving relations between our cities and countries.

5. All indications are of a city and nation which reveres the best of its long history, yet is making subtle cultural and obvious material changes to be a full national partner with the U.S., and one with whom we can be very proud to accompany to a common future. It is obvious we share many common economic and cultural interests, as well as a desire for democratic free market economies with individual opportunity encouraged.

6. Grand Master H.U. Lee of Little Rock, Arkansas, Master Soon Ho Lee of Panama City, Florida, Mr. C.S. Kim of Kim Pacific Trading in San Francisco, California, and Dr. Jong-pil Kim, chairman of the Korean Democratic Liberal Party all have made special personal efforts in the promotion of the Yankton-Kangnung Sister City relationship. Their only thanks are those words which we and fellow Americans can offer them for their efforts in improving international understanding. Other personal friends of Grand Master Lee were instrumental in making our visit and tours unique for American tourists and more than enjoyable. This commitment to international understanding is exemplary.

7. Our Yankton group was accompanied by letters from our state's Sen. Pressler of the foreign relations committee, Sen. Tom Daschle and Rep. Tim Johnson. This bipartisan support was reflected at one reception that apparently was more special than we recognized. Representatives of different parties and governmental agencies that seldom meet with each other did indeed meet with us together. The support of South Dakota leaders of both parties toward this civic and cultural exchange is reflected in the response from the Kangnung area.

We also would like to give special mention to other Korean people from Kangnung City whose personal efforts and leadership in international relations are worthy of emulation:

1. Mayor Dae-Keun Lee of Kangnung City deserves special mention. Although new in this position, the common ground of martial arts in making a more peaceful world through mutual respect plays a major role in his support. He is a senior Taekwondo practitioner with a solid background of government service. Grand Master Lee is the head of the largest U.S. martial arts (and Taekwondo) group and the fastest-growing worldwide martial arts association. Yankton's Sister City Commission Chairman Dailey and Mrs. Dailey also are longtime practitioners of the Korean martial art of Taekwondo.

2. Kangnung City officials Young-nam Kim and Yang-jin Kim. Mr. Young-nam Kim has studied in the United States, served as translator during Mr. Dailey's April visit to Kangnung and this trip, and visited Yankton in September. He is a district city manager. Mr. Yang-jin Kim is head of the Kangnung planning department and was very active as a special host to the Yankton group. He also visited Yankton in September.

3. Mr. Soon-ok Lee, of the Kangnung Sister City commission. Mr. Lee helped to host Mr. Dailey last April, visited Yankton in September and currently is wearing one of Mr. Dailey's South Dakota-purchased western hats.

4. Prof. Kyung-dae Min, professor of English literature at Kangnung National University, and his wife. Prof. Min studied literature in the U.S., and he and his wife both polished English skills informally during their stay in our country. He also is a poet published both in English and Korean languages. Prof. Min aided in translating and guiding us during the November trip, as did his wife.

5. President Lee of Kangnung National University whose support of our visit in November was obvious in his luncheon hosting of our group as well as special gifts.

6. Many others, including well-known Kangnung architect and artist Mr. Ahn, Moon Hyo.

Overall, although there was no official meeting, the members of the Yankton delegation felt that the trip to Kangnung, and the subsequent tour of Seoul and the area, were of great value in our understanding of Korean culture past and present. It seems also that our delegation also had a unifying value in Kangnung.

We hope that our visit is only the first of continuing relationship with Kangnung; and that our example will be one for other American cities and individuals to follow.

Although Mr. Dailey has been to Korea a number of times and has great appreciation for the Korean people and their culture and goals, the other members of the delegation on their first trips to Korea very rapidly developed a similar appreciation.

The Korean people obviously share the American traditional work ethic that so often is exemplified in South Dakota people. They are very proud of their accomplishments and much prefer to emphasize these rather than the difficulties they have encountered in building modern national, cultural and industrial power over the past 35 years.

The growing importance of Asia in South Dakota and American trade and other relationships was continuously made obvious to members of our group. We hope sincerely

that our delegation has played a small role in improving relationships between our nations.

As the U.S. was the first nation to have a treaty with Korea over a century ago, we hope that our two nations will continue a strong, friendly and fruitful relationship. As our relationship has weathered misunderstandings and local problems in the past, we sincerely support efforts to continue this natural and friendly relationship over the years, decades and centuries to come.

#### TRIBUTE TO REPRESENTATIVE WILLIAM NATCHER, KENTUCKY GENTLEMAN WAS A TRUE PUBLIC SERVANT

Mr. McCONNELL. Mr. President, Kentucky and the Nation recently suffered a tremendous loss as William Natcher of Kentucky's Second Congressional District passed away. As my colleagues know, Bill Natcher was a giant among men. He brought a unique dignity to his position and this Capitol which elevated him above most who serve in this institution.

Kentucky has been blessed throughout its history with marvelous Representatives in Congress. Although a Representative from Illinois, Abraham Lincoln was born in and spent much of his early life in Kentucky. In addition, Henry Clay, Alben Barkley, and John Sherman Cooper all distinguished themselves as pillars of this legislative body from the great Commonwealth of Kentucky. I believe history will reflect that Bill Natcher deserves to be mentioned with this impressive group of public servants.

Mr. President, by now everyone has heard of Chairman Natcher's 18,401 consecutive votes, a record that will live forever. By itself this mark is indeed an impressive accomplishment, but when looked at in conjunction with his other feats one realizes the void that Kentucky is being asked to fill.

As chairman of the House Appropriations Committee, he earned a reputation as a diligent and fair leader who was willing to go the extra mile in order to enact the complicated and often controversial legislation that was necessary for our Nation to function. Whether one agreed or disagreed with the chairman, all knew that he would above all else be fair in his efforts to move the committee forward.

I am sorry that all of my colleagues were not able to join me and scores of others in Bowling Green, KY for Bill Natcher's funeral. It was truly a moving tribute to a deserving man. President Clinton and Speaker FOLEY each delivered touching eulogies which combined humor and reverence in honoring this wonderful and charming Kentucky gentleman.

But as so often is the case, it was not the most famous of the speakers that shone most brightly this day. Pastor Richard W. Bridges of First Baptist Church in Bowling Green gave a poignant

ant sermon which was among the best I have ever heard.

Mr. President, I know my colleagues join me in remembering Bill Natcher; he will not easily be replaced. As a role model he may have no equal on both personal and professional levels. In addition, I ask that Pastor Bridges' sermon be included in the RECORD at this point and hope that my colleagues will have a chance to read and enjoy it.

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

THE MAN FOR ALL SEASONS

(By Richard W. Bridges)

Alexander Pope said, "An honest man's the noblest work of God." So it is that we have come to mourn the death of William Natcher who was, above everything, simply an honest man who served his country.

He has been called everything from the "Iron Man of Congress" to an "Old Bull" to an "antebellum man." Everyone in the room today knows the essential characteristics of his remarkable career as a public servant. We know that he cast 18,401 consecutive votes on the floor of the House, we know that he never accepted a campaign contribution, we know that he drove himself to work, we know that he waxed his own car, we know that he handled the news media by ignoring them, we know that he did not even know how to spell "lobbyist," we know that he wrote his grandchildren every week, and we know that he kept those famous journals of the days in Congress since 1954. We know that he "tried to do it right."

We know other things, as well. We know that he did his work for the people in the spirit of non-partisanship. He had, as he used to say, "as many friends across the aisle as on this side of the aisle." We know that he was a centrist. When I asked him, more than a decade ago, to explain where he stood in the political climate of this century, he pointed me to the First Inaugural Address of Thomas Jefferson and the brilliant words, "... every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists."

We know that he was a man of the people, considering the prompt delivery of the mail at the end of the furthest dirt road in Warren County as significant as the concerns of the Chambers of Commerce of Bowling Green or Owensboro. The quality of the individual lives of working men and women captured his devotion and commitment. Woodrow Wilson said, "The great voice of America does not come from the seats of learning, but is a murmur from the hills and the woods and the farms and the factories and the mills, rolling on and gaining volume until it came to earth to us. The voice (comes) from the homes of the common men." Mr. Natcher heard that voice.

We know that he made an enormous difference in the life of the country. And we know that he cherished the House of Representatives the way lovers cherish one another.

He was a man of character. He was a man of integrity. He was a man of honor. He was a man of friendship. He was a man of a word to be kept and honored to his own hurt. He was a man who gave his heart and soul and all that he had, tangible and intangible, to the American ideal of government on behalf of, and through, the people.

Many have pondered his remarkable ability to have been elected to public office by the people of this area every year since he was 27 years old. Here is how he did it: he walked the streets, went into the courthouses and the law offices, met in union halls and with civic clubs, visited the churches and sat down in neighborhood gathering places and said, to anyone he encountered, "What do you think?" And then he went back and represented through his votes and diligence to duty what the people of the 2nd Congressional District had said to him.

It was really very simple. He never mixed personal ambition with public duty. He held his office as a sacred trust, worshipped at the shrine of liberty, and held all men and women of his district in high esteem and confidence. And so, being a good judge of character, we elected him again and again.

The truth is, if his name were to appear on the ballot at the next election he would win again though he is no longer living. And he would win because most of us in the 2nd District would rather vote for a dead Bill Natcher than a living somebody else.

Why? Because he was a statesman; "a statesman, yet friend to truth, of soul sincere, in action faithful, and in honor clear. Who broke no promise, served no private end, who gained no title and who lost no friend." (Alexander Pope)

He has been called, in commendation and in appreciation, an antebellum man, a courtly Southerner, genteel and refined, a man without rancor. But these very characteristics qualify him, in the opinion of some, as an anachronism, even an antique, a man out of step with these times and these tempers. An oddity. An accident of circumstance.

But we of this district call him the man for all seasons, for the characteristics of honor, integrity, duty, faithfulness and civility never go out of style. They are appropriate and dependable in any century and at any time of crisis. They are right in any language, in any culture, in any state of the Union. They belong to men or women of persuasion, of every opinion, and of every party. His character never grows outdated, never goes out of style, and is never found to be unworkable. Indeed, there is a great hunger in the land for men and women like him.

So we mourn this small man, this little wisp of a man, yet this giant of a man because we know that he was in private exactly what he was in public—he was an honest and dependable man who loved his country more than his own life.

The local paper ran a headline the other day: "Who Will Replace Natcher?" The story beneath it speculated on the identity of the man or woman who would next represent this district. But when we picked up the paper and read the headline we all said, silently yet as though we spoke with one voice, "No one. No one will replace him." After all, we thought, he was one of a kind. But we were wrong to think it.

One of the reasons we have gathered from across the country in this church house today is that as long as Bill Natcher was in Congress we maintained our faith in the institutions of government. But an honest man can never serve alone. He can only serve when he is in the company of others equally brave, equally devoted, and equally without guile.

The word is abroad in the land that government is bumbling, caught in gridlock, impossibly incompetent, foolishly distracted. That word is false.

The word is abroad in the land that government is populated only by the shrill voices of

rancor, only by people of zero virtue, seeking their own gain, and playing loosely with the truth. That word is false.

The word is abroad in the land that government cannot be trusted, that it serves causes other than those of the people, that it is mired in the culture of only one American city, that it is blind to values that are right and good and noble. And that word is false.

I know it to be false because I knew Bill Natcher. Because he was part of the government, I knew that the American character was intact, that the American dream was alive, and that the American vision was undimmed.

Mr. Natcher would have us remember here at this hour that he was not alone. The truth is, there are thousands of them—strong men and strong women—who are in government service this very day. His replacements are already in office, already employed, already at work, men and women of decency, faith, virtue, and honor who serve the American people.

It is true: the robe of Lady Liberty is frayed at the cuff, perhaps a smudge or two that needs to be cleaned, and it is wrinkled from overwork and great stress, but beneath the frayed robe there may be found the heart and soul of the American government that is as pure and as deep as gold.

Mr. Natcher was not the only good and decent man to ever serve this nation. The American people need to know that there are more—many more great hearted men and women like Mr. Natcher in the government today. And there are more of them than those who seek their own pitiful private aims. Many of them are in this room today.

We are somewhat amused that only now, at his death, has the rest of the country discovered him. The country, as a whole, did not know that for forty years, this great and good man was one of those politicians who made the country work. That fact should stand as a reminder to us whenever anyone, regardless of his or her credentials, levels sweeping condemnation of the government, let them pause to remember that good men and women deserve better, that great men and great women hard at patriotism's honest tasks outnumber the shiny laggards, and that decency and love of country have not evaporated from the chambers of delegated power.

The nation stands secure today on the shoulders of the political brothers and sisters of William Natcher.

On the front of your Order of Service, beneath Mr. Natcher's picture, is the matchless text from 2 Timothy: I have fought a good fight, I have finished [my] course, I have kept the faith:

Someone said to me that he certainly fought the good fight and that he finished the course, but they weren't as sure about his keeping the faith. It is true that his attendance record in Congress was far better than his record of church attendance. But as his friend and pastor, I suggest that when it comes to faith one should measure a man by the words of Scripture. Consider the life and times of Mr. Natcher by these words:

The Bible says, "Whatsoever thy hand findeth to do, do [it] with thy might;" (Ecclesiastes 9:10)

The Bible says, "... by their fruits ye shall know them." (Matthew 7:20)

The Bible says, "the fruit of the Spirit is love, joy, peace, longsuffering, gentleness, goodness, faith, meekness, temperance: against such there is no law." (Galatians 5:22-23)

The Bible says, "Finally, brethren, whatsoever things are true, whatsoever things [are]

honest, whatsoever things [are] just, whatsoever things [are] pure, whatsoever things [are] lovely, whatsoever things [are] of good report; if [there be] any virtue, and if [there be] any praise, think on these things." (Philippians 4:8)

The Bible says, "Verily I say unto you, Inasmuch as ye have done [it] unto one of the least of these my brethren, ye have done [it] unto me." (Matthew 25:40)

The Bible says, "... all [of you] be subject one to another, and be clothed with humility: for God resisteth the proud, and giveth grace to the humble." (1 Peter 5:5)

The Bible says, "... whatsoever ye would that men should do to you, do ye even so to them:" (Matthew 7:12)

The Bible says, "No one who puts his hand to the plow and looks back is fit for the kingdom of God." (Luke 9:62)

Mr. Natcher was a life-long member of the First Baptist Church of Bowling Green, and the only way one becomes a member of our church is to recognize that God is to be found with a certainty in Jesus of Nazareth. Mr. Natcher was a faithful Christian believer, a disciple of Jesus and an honorable man. He followed those words of the Bible and matched his life to them.

Unlike so many—preachers . . . politicians . . . and others—Mr. Natcher practiced what he preached.

One of his most cherished circles of friends was his breakfast club. In a memorable conversation one day he said to me, referring to his breakfast friends, fellow servants of the public good, "Do you know what they call us behind our backs?" Of course, I didn't.

"The old wolves," he confessed. He shook his head, eyes twinkling. "Do you think that I am a wolf?" he asked.

"No, Mr. Natcher, I don't," I answered. "The Bible," he said, "says that the wolf will lie down with the lamb." I nodded, affirming his Bible knowledge (Isaiah 11:6). Then he added, "But Richard," he said, "some of the lambs have their own ideas. And they don't always listen."

John Dewey, in speaking of the character of Thomas Jefferson, once said, "There are few men in public life whose course has been so straight, so uninterruptedly in one direction." That judgment applies to Mr. Natcher. Now his voice is stilled, his last vote is cast, his last letter written, and it is time for the other great and honest and quiet men and women of American government to now come forth, where the nation can see them and hear them, and follow in his track.

### THREE DISTINGUISHED CALIFORNIANS

Mrs. BOXER. Mr. President, I rise today to honor three distinguished Californians—Army WO Michael Hall, Army WO Erik Mounsey, and Col. Jerald Thompson—who lost their lives last Thursday in the helicopter accident over Iraq.

My heart goes out to the families of these fine officers, and to the families of all of those killed in this tragic event.

Erik Mounsey joined the Air Force to fulfill his dream of becoming a pilot. A man who loved children and helping others, Erik couldn't see himself behind a trigger. He requested a transfer to the Army, so that he could fly humanitarian aid missions. Erik also

demonstrated his commitment to helping others in his personal life—he was known for dressing up as Santa Claus and passing out presents to children at the base in Germany where he was stationed. While in the Middle East, Erik flew aid missions to help feed Turkish children.

Michael Hall's first love was also flying. With the help of his father, a recreational pilot, Michael took flying lessons at the Sonoma County airport and received his pilot's license when he was only 16—a week before he got his driver's license.

Michael was eager to help others. He flew combat missions in the Persian Gulf war, but was much happier in his most recent assignment, flying goodwill missions for the United Nations. He delivered supplies to the Kurds in the remote mountain villages of northern Iraq. Michael recently sent his father a video of himself and fellow army pilots offering clothes, shoes, and candy to Kurdish children.

Jerald Thompson was stationed in northern Iraq as commander of the military coordination center in Zakho. He supervised efforts to rebuild Kurdish villages, deliver food to those in need, and provide a safe haven for Kurds escaping Iraqi persecution. Jerald, who obtained a master's degree in Middle East history, was chosen for this assignment because of his expertise and previous work in the Middle East. He served as a United Nations military observer in Jerusalem, and in the Pentagon, he was considered an expert in the history and culture of North Africa.

Erik Mounsey, Michael Hall, and Jerald Thompson died not just in service to their country but in service to humanity. I deeply respect their willingness to lay their lives on the line to relieve the suffering of others. They helped to ensure the survival of hundreds of children and adults who received aid and shelter through their humanitarian missions.

I know that all Senators join me in expressing their deepest respect and condolences to the family of WO Michael Hall, WO Erik Mounsey, and Col. Jerald Thompson. Their sacrifice will not be forgotten.

### AIRPORT IMPROVEMENT PROGRAM TEMPORARY EXTENSION ACT

Mr. FORD. Madam President, I ask unanimous consent that the Senate now proceed to consideration of the bill introduced earlier by myself to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A bill (S. 2024) to provide temporary obligational authority for the airport improvement program and to provide certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

Mr. FORD. Madam President, this bill, the Airport Improvement Program Temporary Extension Act of 1994, is a piece of authorizing legislation, which would be S. 1491, and that will be postponed to a time within the next 60 days, hopefully, that we will bring that legislation up. The National Transportation Safety Board is available and we will be going to that one shortly.

But, Madam President, I want to use this period of time for a little background. I do not want to use the word "history," but I want to use it for a little background.

Madam President, at the request of Senator FEINSTEIN last Thursday, in order to avoid a floor fight on the airport fee issue I am introducing a bill that the Senate will consider today to allow a portion of airport grants to be awarded by the Federal Aviation Administration for a 60-day period. A number of Senators have indicated to me that they do not want to jeopardize an entire construction season and would like to see the airport grant money start flowing to airports, especially to small airports. I am in complete agreement and this legislation will authorize the FAA to issue grants for 60 days.

Also, in this temporary bill the Secretary of Transportation will have temporary authority for 60 days on airport fee increases. If the Secretary receives a complaint from an airline he would issue an order freezing the increase in the fee or make a determination that the fee is reasonable. This provision will not affect existing airport contracts—only those in dispute. A vast majority of airports have existing contracts with the airlines and nothing that the Senate is doing today will change that situation.

During the 60-day period there will be an effort to resolve the airport fee issue. At the end of the 60-day period, or earlier if a compromise is reached, the Senate will take up and consider S. 1491, the Federal Aviation Administration Authorization Act of 1993.

This is 1994, I understand, but we are now several months into the fiscal year of 1993-94. The House has already passed their bill before the budget period ran out.

I must add that my colleagues in the House of Representatives have been very patient. Representative OBERSTAR passed his legislation before the authorization lapsed at the end of the fiscal year. I have attempted since last November to move an airport bill but the issues of general aviation product liability became linked to the FAA authorization.

On March 16, 1994 the Senate passed S. 1458, the general aviation product li-

ability legislation. For the past month I have been struggling with the airport fee issue and have tried to craft a compromise between the airports and the airlines. My State's most famous legislator, Henry Clay, would be very disappointed in my efforts.

Since the dawn of aviation, airport revenues have been used on the airport. Prior to 1970, the Federal Government, through the FAA, operated the National Airways System, but took only a small role in the development of airport facilities. With the passage of the Federal Airports Act of 1946—Public Law 79-377—the FAA did provide financial assistance to those airports having financial difficulties. In 1970, Congress decided that limited assistance was not adequate and enacted the Airport and Airways Development Act of 1970, Public Law 91-258. The effort in 1970 was to expand and improve the airport and airway system. Planning grants were established and the capital funding program was targeted for the development and improvement of airports in conformity with national objectives. The Federal funds were made available through formula mechanisms, which are referred to as entitlement, and discretionary mechanisms. In accepting a Federal grant, the airport agrees to comply with certain grant conditions called assurances, including those aimed at restricting the use of airport revenue for aviation purposes.

Entitlement grants are awarded by the FAA to airports by a formula based on the number of enplaning passengers. Discretionary grants are awarded for capital projects for capacity enhancement, safety and noise-abatement. A large portion of the discretionary grants are set aside to achieve funding for various types of airports.

Madam President, I am trying to go back in history here to make the point that we are beginning to get away from the intent that Congress started out with, as part of our airports and airway system.

The Congress has authorized the Airport Improvement Program five times since 1970. Each authorization has expanded the use of Federal funds for other airport programs besides airfield or terminal improvements. The most recent authorization allowed airports to use AIP funds for parking lots and interactive computer equipment.

The Congress imposes specific conditions on airports that accept Federal AIP funds, including a requirement that such airports certify to the Secretary of Transportation that all funds generated by the airport are dedicated to airport use. Now we are trying to get outside of that dedication. In agreeing to a statutory arrangement for supporting the National Transportation System, Congress intended for airports to be self-supporting. Neither Congress nor the airports have ever expected a profit from running an airport. Airports are monopoly landlords.

In 1990, Congress authorized the use of passenger facility charges—we refer to that as PFC's—to allow airports to prepare for the vast number of capital projects needed throughout the country. The original intent of the PFC was to apply the tax to airport projects which are intended to preserve or enhance safety, security, capacity, and reduce noise or enhance competition among air carriers. That is all it was authorized for. Unfortunately, a number of airports have interpreted this law to mean that PFC funds could be used for mass transit and other modes of transportation. It has been an ongoing struggle since the authorization of the PFC to keep the funds for airport development and improvement.

Now local governments are looking to the airports to solve the problems of diminishing resources. Communities want the airports to shift their profile away from the improvement of the airports to downtown. The Office of Inspector General at the Department of Transportation, which is the only Federal office of which I am aware that is reviewing the use of airport revenues has issued 15 reports over the last few years documenting revenue diversion by airport sponsors. In December, 1993 Representative BOB CARR, chairman of the Subcommittee on Transportation in the Committee on Appropriations in the House of Representatives released a report which detailed numerous revenue diversion activities at airports. The revenue diversion found in the report included fund transfers, improper charges for indirect services, charitable contributions, commingling of airport revenue with other city funds and payments in lieu of taxes, which was never the intent of the PFC. When the report was released Representative CARR stated that the FAA was not in any meaningful way enforcing the prohibitions against using airport generated revenues for non-airport purposes. Representative CARR believes that the U.S. taxpayers have extended a privileged revenue sharing to communities diverting revenue.

Last November, when the Committee on Commerce, Science, and Transportation reported S. 1491, the Federal Aviation Administration Authorization Act of 1993, the subject of revenue diversion was addressed. The committee was aware that the city of Los Angeles had announced its desire to divert revenue derived from the airport for use "downtown." The committee restated that under applicable Federal law airport fees must be reasonable and any revenue derived from the fees must be utilized only for airport purposes and may not be diverted off the airport. The issue of lockouts was also covered. The committee stated that if Los Angeles intended to lock out air carriers such an action would constitute a major interference with the free flow of commerce and violate the prohibition

contained in section 105 of the Federal Aviation Act—49 U.S.C. section 1305—which states:

(No state or political subdivision thereof \* \* \* shall enact or enforce any law, rule regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier have authority under title IV of this Act to provide air transportation.

The Los Angeles International Airport's efforts to divert revenues downtown has received a great deal of press attention. The airport, owned and operated by the city of Los Angeles, has received over \$180 million in Federal AIP grants since 1982. This plan to get money out of the airport to pay for unrelated municipal services is the problem the Senate faces today. Airport funding is a very complicated matter, and I would like to take a little time to explain the issue for the benefit of my colleagues.

Presently, most commercial airports are financially self-sufficient, and receive no revenue from the local taxpayers. It is interesting to note that as the financial condition of the airlines are reduced airports have retained their healthy profit margins. Let us look at that a minute. It is interesting to note that as the financial condition of airlines are reduced, airports have retained their healthy profit margins, and their revenues have increased faster than their airport traffic.

According to Airline Business magazine in 1992 airport profits and revenues rose by 14 percent. This summary was based on the financial performance of 40 airport authorities throughout the world. U.S. airports did not generate as much revenue as airports throughout the rest of the world in that most terminals are operated by airlines and not by local governments. For 1992, U.S. airports report profit margins in the 30 to 50 percent range. Across the country, airports seem to be on a building binge while the airlines industry is just beginning to recover from record losses. Airline travel has declined, a number of airlines have been in bankruptcy, airlines have been forced to seek foreign investment, and everyone agrees there is too much capacity.

Airports in the United States are built and operated almost exclusively at the expense of airport users. That is the consumer; that is the passenger, that is the individual trying to get from one community to another on the airlines. They are the ones who pay for the operation. The operations at these airports are funded from airline landing fees, terminal charges and rents from nonairline tenants such as concession shops, car rental agencies, and parking lots. In addition to airport development that is funded by bonds underwritten by specific airlines, airports can also levy passenger facility charges [PFC's] on airline passengers and apply for Federal funding from the Airport Improvement Program.

Fees charged to the airlines and in turn passed on to the airline passenger are calculated on two general ratemaking systems—residual and compensatory.

Under a residual fee, the airport collects fees for parking, rental cars, and other concessions and then turns to the airlines for the balance necessary to run the airport. In other words, the airlines guarantee the full cost of the airport. The risk to the airlines in extending this guarantee is that concession revenues will be inadequate and the airlines will be forced to subsidize the concessions. The possible benefit to the airlines of a residual agreement is that if the concessions are highly successful, the balance to be paid by the airlines will be reduced.

From the standpoint of the airport, the benefit of a residual agreement is that the airport's costs are guaranteed. This also makes it easier to finance large capital projects. Frequently, these agreements extend the full term of any bonds issued, since the agreement itself provides financial support for the bonds. The drawback to the residual agreement to the airport is that if the airport's concessions are highly successful, some or all of these profits are used to reduce airline rates instead of surpluses accumulating at the airport.

The large majority of airport agreements are based on residual methods. For example—the airline hubs at Cincinnati, in my State, Detroit, Nashville, and Pittsburgh have residual agreements. Non-hub airports in Cleveland, Orlando, and Tampa have residual agreements.

Under the compensatory system, the airlines pay only for the debt service and maintenance and operating costs of the space they use. They receive no credit for parking, rental car, or other income.

Without the airlines' guarantee of all airports costs which is at the heart of the residual agreement, a compensatory agreement puts the airport at risk that it will not break even. However, some airports have learned that their concessions readily turn a profit. These airports benefit from compensatory methods because they can retain the full amount of that profit without passing it on to the airlines or the airline passenger. Examples of airports which use compensatory ratemaking include Boston, Los Angeles, and Grand Rapids.

A much more common approach to airport ratemaking is to use a modified compensatory approach to apply a compensatory system but to share the profits generated so that a portion of the profit is used to reduce airline fees and the remainder is retained by the airport to be spent for airport purposes. Examples of airports which use the modified compensatory approach are Allentown, Manchester, and Savannah.

While different ratemaking approaches make sense in different situations, recent events in Grand Rapids and Los Angeles are setting the trend for airports to adopt compensatory methods without attempting to share the profits generated with the airlines or the traveling consumer. This is one factor contributing to the rapid increase in airport rates and charges.

For the past 2 months I have been attempting to get the airports and the airlines to agree to compromise on the airport fee issue. The Air Transport Association, which represents most of the airlines, the Airports Council International, and the American Association of Airport Executives have met on three occasions to try to come to some agreement on revenue diversion, lockouts, surpluses, and a standard and process for decisions at the Department of Transportation to determine reasonable fees. I wish I could report to my colleagues that progress has been made. Unfortunately, the parties now seem further apart and there are many bogus issues which keep appearing.

For the benefit of my colleagues I would like to explain my views on the airport fee issue. Every airport in the country is attached some way to a unit of local government—a city, county, State, or regional compact. Even through airports are a part of local government and receive Federal entitlement and discretionary funds there are a number of airports where no one can ascertain the revenues. In the 1992 authorization I included a provision which requires airports to make public their budgets. Unfortunately, neither the annual report or the budget of some airports give a breakdown of information on airport revenues. Airlines are often negotiating airport fee agreements without any knowledge of the concession revenues.

Airports are public bodies with public responsibilities and should be responsible to the public to open their books. Let me read that again. Airports are public bodies with public responsibilities and should be responsible to the public to open their books. I am not just talking about the airlines having access to the various fees. As local government units, airport revenues should be part of the public record.

Besides the public accountability issue a fundamental problem is that the airport trade associations do not believe that the Congress should act on the airport fee issue. The airlines are of the opposite opinion. I understand the Department of Transportation is currently considering definitions, policy, and a process for settling airport fee disputes. Since this exercise is based on current law I see no reason why the Congress should not be able to address these issues. The meetings during the past 2 months have been an effort to come to agreement on definitions when allow the DOT to develop a process by

when complaints are filed and acted upon.

DOT presently administers airport fee complaints by a regulation referred to as a part 13 complaints process. Seven cases have been filed and the average length of time that the fee level case has been pending is 33 months. One airport advised me of a part 13 complaint in which they were involved which had been under consideration for 48 months.

Madam President, it is obvious there is not a process that can settle disputes over airport fees. Most airport fee agreements are not disputed nor would anything that is being considered to address this issue attempt to change any current agreement. If the airlines have signed a contract, the fee they are paying is not an issue. Nor is inflationary indexing which is a provision in a number of airport contracts. The only issue that we are considering is when the airport fee is in dispute. Less than 10 lawsuits have been filed in over 25 years on airport fees. Contrary to what you have probably heard on this issue it involves a very small number of airports. Unfortunately, it seems to be a trend.

No one seems to be representing the airline passenger. It is the airline passenger who pays the landing fee, the PFC and a portion of the passenger's ticket goes into the Aviation Trust fund. I believe there is a compromise on the airport fee issue and I strongly believe that it is in the interest of the airline passenger to resolve this impasse.

In the 60 days that this bill allows before S. 1491 is considered I will bring back to the table the airports, the airlines, Senator FEINSTEIN and other interested Members to develop an amendment to be added to S. 1491. I will continue to address the many aviation issues raised by my colleagues and it is hoped that before the end of the sixty day delay the Senate will be considering S. 1491.

Madam President, I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I ask unanimous consent to speak for 5 minutes.

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

Mr. PRESSLER. Madam President, I want to commend Senator FORD, Chairman of the Aviation Subcommittee, for his leadership on this bill to temporarily extend the Airport Improvement Program. I think it is very important we work out an agreement to get this bill passed before our airports lose an entire construction season. I commend both Senator FORD and Senator DANFORTH for their leadership on this issue.

As ranking member on the Aviation Subcommittee, I, too, am very concerned about moving this legislation

expeditiously. I would like to see an agreement worked out to move this bill forward as quickly as possible. While I originally intended to offer an amendment to this bill, I understand the subcommittee chairman's desire to move this legislation without amendments. Therefore, I will work with Senator FORD to include my amendment on another piece of legislation.

Again, Madam President, I thank both Senator FORD and Senator DANFORTH for their leadership.

I suggest the absence of a quorum.

Mrs. FEINSTEIN. Will the Senator withhold that?

Mr. PRESSLER. I withdraw that.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent to speak for 5 minutes as in morning business.

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

Mrs. FEINSTEIN. Madam President, I would like to commend the subcommittee chairman, Senator FORD, for working to forge this temporary compromise. I believe it achieves two important goals. First, it turns on the tap for the Federal Airport Improvement Program funds to begin flowing and, secondly, it allows the airports and the airlines an additional 60 days to come to the table and establish a methodology for a fair system of setting rates and charges that would be agreeable to both sides.

Madam President, I must say, I speak with some experience in knowing that this can be done because while mayor of San Francisco, I forged such an agreement involving San Francisco International Airport and the air carriers. And today that agreement, in effect, is a win-win for the airlines and the airport operators. So I know firsthand that it can be done.

We are approaching a very critical construction season, and it is more important than ever that we make these moneys available promptly. Grants from this program are vital, particularly for small airports. They are used to do such things as improve runways, install navigational equipment, conduct master plans, soundproof residents that are near airports, acquire firefighting vehicles, among others.

In 1992, the last year for which a report is available, this program provided \$100 million to the State of Florida, \$100 million to my State of California, \$84 million to Colorado, \$47 million to Michigan, \$12 million to New Hampshire, and on and on. This bill affects airports, large and small, in every State. And the way the chairman has worked this interim measure out, it would not delay funding any longer.

Let me for a moment speak to the issue which is at hand. The issue basically revolves around two different methodologies of setting rates and charges. One is called a residual meth-

odology, which airports and airlines have historically used to set the rates and charges, and a newer methodology called compensatory ratemaking.

The airlines challenged compensatory ratemaking in a case before the U.S. Supreme Court called Northwest Airlines, Inc., et al versus County of Kent, MI, et al. The air carriers effectively lost the Supreme Court case, when the Court upheld the right of an airport operator to establish rates according to a compensatory methodology.

Put plainly, under a compensatory methodology, airports can base their landing fees on the airport's cost to operate those facilities that the airlines actually use—runways and navigational facilities—and utilize other revenues such as concession revenues for airport improvements. The airlines do not like this.

Those landing-fee agreements that are at issue today really revolve around some of these issues, and it is fair to say that significant differences of opinion remain between the principal parties.

Compounding the situation, there is currently no clear guidance from the Department of Transportation to aid the resolution of disputes between airlines and airports about what is and what is not a reasonable fee. For the last couple of months, the Department of Transportation has been in the process of developing these guidelines, and I strongly urge Secretary Peña, the Department, and the FAA to do everything within their power to expedite the issuance of these guidelines so that they may be subject to public comment and we may put in place rules to resolve future disputes.

It is important to recognize that the legislation before us is simply an interim measure. It provides time, 60 days, to allow airports and airlines to reach an agreement that is fair. The measure is not perfect. In a sense, it is a cooling-off period. I recognize that there are significant concerns, concerns that I share, about Congress directing the Secretary of Transportation to freeze disputed rate increases should they arise in the next 60 days. I do not support congressional authority over setting rates and charges in the long term and do not see this as a preview of things to come.

But I strongly support the need to develop a workable relationship between airport operators and air carriers. I know firsthand that this can be achieved, and when it is, it will be a win-win for the airport operators as well as for the air carriers. I hope that continued discussions between the principals over the next 60 days will achieve this goal.

I offer my assistance, as I have previously, to the subcommittee chairman to work with him and all the principals in this discussion to develop a real

compromise that is a win-win for airports, for airlines and, most importantly, for the traveling public.

Again, I thank the subcommittee chairman for working to put together a bill which allows airports to begin receiving funds that are critical to them and allows an opportunity to develop fair policy regarding rates and charges upon which all parties can agree.

I thank the Chair. I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Madam President, I wish to join with other Senators in expressing my admiration for the work that Senator FORD has done in bringing this legislation to the floor.

This bill is a short-term fix for a very real problem, and the problem is the imminent needs of airports to proceed with construction, to have available to them construction funds that would be made available by the airport improvement program, and to get to work during the current construction season. If we waited for a longer-term authorization bill, we could be waiting through the year, and this was recognized by the chairman of the subcommittee, Senator FORD, and therefore we are bringing to the floor today a bill which lasts just 60 days, a 60-day authorization.

It is my understanding that a permanent authorization bill will be brought to the floor of the Senate before the expiration of 60 days. This really is the concern of a lot of us I think, that the short-term authorization will be the end of it. It cannot be the end of it. We need a long-term authorization lasting at least 3 years so that airports can have a sense of what the future holds and so that they can make their plans and get on with the long-term work that they will have to be doing.

I listened very carefully to the comments of the Senator from Kentucky. I have spoken to him in person on this. I know it is his intention that within the 60-day period of time a bill must be brought to the floor of the Senate which is a long-term authorization.

It is on that understanding, the understanding that it is essential and that this is something that will happen, I am willing and in fact delighted to be going forward with this short-term authorization.

I would like to say just a word about the needs of the airports. I say this from the standpoint of a Senator who has located in his State an airline which has had considerable perils in the past. TWA is an airline which is locating its headquarters in St. Louis. It is an airline which has approximately half of its employees worldwide who reside in the State of Missouri, and it controls about 80 percent of the traffic at Lambert in St. Louis, so it is a major, major economic factor in our State as well as the employer of thou-

sands of people—12,000 to 13,000 people I believe. So its health is exceptionally important to my State, and it is something that has consumed a great deal of my attention for a long number of years.

On the other hand, having said that, I am intensely interested in the problems of the airlines—very concerned, for example, about the fare war that is now going on among the airlines and what that will do to the health of the airlines. As a believer that Congress should address the various problems which exist with respect to the health of the airlines, I am also cognizant of the needs of the airports.

Anybody who travels through my State and who has gotten off a plane at Lambert in St. Louis, anybody who has changed planes at Lambert, recognizes the degree of the problem. This is one airport—and there are others in this country—that has obvious capital needs and these are going to be very expensive capital needs.

On the ability of the airports to meet those capital needs hangs not only the future of the airport in question but also hangs the economic future and the long-term future of the community as a whole.

So there is no doubt in my mind that the airports are going to have to come up with capital. In order to do that, the airports are going to have to have sources that are consistent, that are reliable, and that are predictable for the financing of the issuance of bonds in order to finance airport construction. In order to have that kind of revenue source to finance the bonds, the airports are going to have to charge fees.

Therefore, Madam President, it is very important that, whatever we do in order to address the problems of the airlines, it not create the kind of situation where there is such unpredictability in the minds of the purchaser of bonds and in the minds of the airports and those who operate the airports that they cannot go forward with the construction needs.

This bill provides a mechanism for addressing the fee question that exists between the airports and the airlines. It is important to note that it is a short-term mechanism. It is not a mechanism that provides a precedent for anything. It is a short-term mechanism which lasts for the 60-day period of this bill and does not extend beyond the 60-day period of this bill.

The issue of fees and the issue of charges by airports to the concessionaires at the airports are matters that are going to be before the country in the future, and they are not all going to be resolved in a 60-day authorization bill.

I note that the Secretary of Transportation is planning to complete a rulemaking to resolve disputes between airlines and airports on airport rate-

making issues. That is good news. And I encourage the Secretary of Transportation to go forward with this program, and hopefully to do so before this legislation reaches the floor of the Senate again, because the Secretary of Transportation and the Department of Transportation have the expertise to weigh the various competing airlines with respect to this question.

Again, Madam President, I would like to reiterate the essential requirement that the long-term legislation come to the floor of the Senate within the next 60 days. Indeed, I think that the knowledge that it will be, in the mind of this Senator and, I am sure, in the minds of other Senators as well, really the necessary component in our thinking in going forward with the 60-day extension.

Mr. FORD. Madam President, let me just say to my good friend from Missouri, Senator DANFORTH, that I intend to bring up the major piece of legislation, S. 1491, in 60 days or less. I underscore "less." That is my intention. I understand where he is coming from, I hope, and I believe he understands where I am coming from.

The main thing that he has said here is that we are freezing the fees unless there is an agreement. That is No. 1. No. 2, we are releasing moneys so that we may take advantage of this construction season and there are many airports out there, small and large, that need the funding. We should not restrict them because of a disagreement here as it relates to the local communities making their effort and then being stymied because we have gone now 6 months without reauthorization.

So I agree with him. I want to make that public so he will understand my intention as it relates to S. 1491.

Madam President, we have one question left going forward with this legislation. At some point, I will ask unanimous consent that all the statements made by myself, Senator FEINSTEIN, Senator DANFORTH, and Senator PRESSLER be included in the RECORD along with the passage, hopefully, of the small 60-day or short 60-day piece of legislation.

#### PASSENGER FACILITY CHARGES AT THE CHATTANOOGA METROPOLITAN AIRPORT

Mr. MATHEWS. Madam President, I would like to take a moment during discussion of the Airport and Airway Improvement Act to discuss with the Senator from Kentucky a problem facing the Chattanooga Metropolitan Airport Authority.

Mr. FORD. I would be happy to discuss this matter with my friend, the Senator from Tennessee.

Mr. MATHEWS. The Chattanooga Metropolitan Airport Authority has submitted an application to the Federal Aviation Administration for authority to impose a passenger facility charge [PFC] of \$3 on each passenger

enplaned at the Chattanooga Metropolitan Airport. The FAA is to make a decision on approval of this application by the end of this month.

Approval of this request is very important to the airport authority. It plans to use a portion of the PFC revenues to fund current and future property acquisitions and construction at the airport. In addition, the PFC's would be used to recover that portion of the cost of reconstructing and expanding the passenger terminal that was incurred after November 5, 1990. The airport authority has been advised by the FAA that costs incurred after November 5, 1990 may not be recovered unless the contract under which the work was done was entered after November 5, 1990. This is the issue that I wish to discuss with my friend from Kentucky. I believe that the FAA is misinterpreting its mandate from Congress. Congress cannot have intended for airports watching the progress of the PFC law and counting on the imminent availability of PFC revenues to somehow cancel existing construction contracts on November 5, 1990 and then negotiate replacement contracts in order to make costs incurred after November 5, 1990 allowable for PFC funding. Would the Senator from Kentucky care to comment on this point?

Mr. FORD. Neither the PFC enabling legislation nor the implementing Federal Air Regulations—FAR 158—contain any requirements concerning the contract or the notice to proceed. They mention only costs incurred after November 5, 1990. This would also be consistent with the way the FAA has understood and uniformly treated AIP allowability in thousands of cases since 1982. When the work is actually done—when the cost is actually incurred—is the determining factor. As an example, if an airport let a contract to pour 1,000 yards of concrete and 10 years were poured before the AIP grant was confirmed, then the cost of the first 10 yards of concrete would be disallowed, but the cost of the remaining 990 yards would be allowed. Congress enacted the PFC program to supplement AIP and to provide additional funding for airport operators in order to achieve, as quickly as reasonably possible, significant expansion and improvement of the National Airspace System. Congress expected the FAA to follow AIP principles and practices in administering the PFC program so that the PFC program would supplement and complement AIP.

Mr. MATHEWS. I thank the Senator from Kentucky for clarifying that issue. That is also my understanding of the PFC enabling legislation. If the FAA position prevails, the Chattanooga Airport Authority will be unable to use PFC revenues to recover approximately \$2.5 million of the costs of construction on the passenger terminal occurring after November 5, 1990. This

would have serious economic implications for the airport authority.

Again, I thank the Senator from Kentucky for his assistance and his clarification of the intentions of Congress regarding airport authorities' use of passenger facility charges.

ESSENTIAL AIR SERVICE—INTERNATIONAL  
TRANSIT ENPLANEMENTS COLLOQUY

Mr. MITCHELL. Madam President, along with Senator COHEN, I would like to ask the chairman of the aviation subcommittee if he could help clarify the intent of an aviation program of particular importance to Maine.

Mr. FORD. I will be glad to offer my assistance.

Mr. MITCHELL. I thank the chairman. As the chairman knows, the essential air service program is an important safety net which ensures that many small communities will not lose the scheduled air service that is so important to their economic development. In so doing, EAS ensures that our Nation's aviation system is truly national by connecting even the remotest points to our larger economy.

Mr. FORD. That is true. EAS indeed provides an important service to many small communities across the Nation.

Mr. MITCHELL. Of course, there are limits to the EAS program. Present law disqualifies any point that is within 70 miles of a large or medium hub airport from receiving subsidized air service through EAS. Section 419 of the Federal Aviation Act defines such a hub airport as an airport that annually has 0.25 percent or more of the total annual enplanements in the United States. Because EAS is meant to provide communities with an essential link to the national aviation system, I take it that the enplanements criterion for defining hub airports is meant to identify airports within a reasonable driving distance of a proposed EAS point which offer a sufficient volume of domestic air service as to undermine the need for EAS subsidies.

Mr. FORD. Yes; I believe the majority leader is correct.

Mr. MITCHELL. I thank the chairman.

Mr. COHEN. I also thank the chairman. However, I understand that the term "enplanement" as used in section 419 is not specifically defined. Instead, the Department of Transportation uses data compiled by the FAA and published in "Airport Activity Statistics of Certified Route Air Carriers" for this purpose.

I understand that because the purpose of EAS is to provide small communities with an essential link to the domestic aviation system, the FAA data used to define hub airports for EAS purposes traditionally has included only the traffic of certificated U.S.-flag carriers, and has excluded commuter carrier and foreign air carrier operations, as well as international transit passengers.

Mr. FORD. Yes; I believe that is correct.

Mr. COHEN. I thank the chairman.

Mr. MITCHELL. I believe it makes good sense to exclude these other types of enplanements for EAS purposes because they do not provide data relevant to the underlying purpose of the EAS; namely, to connect small communities to the national aviation system.

Mr. COHEN. I agree with my colleague. As an example, Bangor International Airport in Maine provides transit services to many foreign air carriers that need to refuel in the United States before completing flights to other points in the United States and foreign countries. These flights which carry international transit passengers through Bangor are almost never available for sale to local passengers; they have no bearing on whether Bangor should be considered a hub airport that would disqualify other communities in the region from receiving the EAS subsidies that are critical to their economic development and their continued role in the national aviation system.

Mr. FORD. I understand my colleagues' concern. Any change in the enplanement criterion for EAS purposes to include foreign and commuter carrier operations and international transit flights would be inappropriate. This is especially true since transit flights operated by foreign air carriers are disqualified under cabotage rules from carrying local traffic between U.S. points. These international transit flights are prohibited from providing a domestic service to U.S. customers that would affect the need for EAS subsidies to help connect small communities to the domestic aviation system.

Mr. MITCHELL. I thank the chairman for his insight on this matter.

Mr. COHEN. I also thank the chairman.

Mr. MITCHELL. We hope very much that the Secretary will continue to use enplanement data that is relevant to the domestic aviation system when determining hub airports for EAS purposes. Such data includes passengers who actually board a flight operated by a U.S. certificated air carrier at an airport in question. On the other hand, passengers on international flights which transit an airport for nontraffic purposes, passengers boarding commuter carrier flights, and passengers boarding foreign air carrier flights are not relevant indicators of an airport's ability to connect a community to the larger domestic system. Consistent with this approach, I hope the Secretary will continue to use the traditional data reported in "Airport Activity Statistics of Certificated Route Air Carriers" for EAS purposes.

Mr. DANFORTH. Madam President, I would like to engage the Senator from Kentucky in a colloquy concerning the

pending legislation. My strong preference would be for a full multiyear reauthorization of the Airport Improvement Program. I understand that there are a few issues still being worked out, and that it may take a little longer to bring a multiyear bill to the floor. In the meantime, however, this measure will free up some of the funding needed by airports this year. I do understand, however, that it is not intended to be anything more than a temporary measure. Is that the understanding of the Senator from Kentucky?

Mr. FORD. I agree with Senator DANFORTH that this is only intended to be a temporary measure. I hope he will work with me to ensure that we pass a multiyear bill in the next 2 months.

Mr. DANFORTH. This legislation gives the Transportation Secretary emergency authority to find an airport rate increase on airlines to be unreasonable. The Secretary, in reviewing whether a fee is reasonable, as I understand it, would have the ability to review not only the fees being proposed, but other instruments, such as bond indentures, letters of credit, or their financing obligations.

Mr. FORD. There is nothing in this legislation that would preclude the Secretary from taking into account those types of documents or situations.

Mr. DANFORTH. My concern is that in imposing a freeze, the Secretary be extremely cognizant of the consequences to the bond market. I would not want to see an airport's bond ratings impaired as a result of a freeze.

Mr. FORD. Nor would I. I suspect that in those cases where a bond, for example, might require that the airport maintain certain coverage, the Secretary would be able to review the fee proposed and any other relevant information to determine if the fee is reasonable. In addition, nothing in this bill prohibits an airline and airport from reaching an agreement on a fee.

Mr. DANFORTH. I have another concern which I consider significant. Ordinarily, the law gives actions of State or local governments a presumption of validity. This legislation does not. In fact, it says that the Secretary must issue an order preventing an airport rate from going into effect unless the Secretary finds that the rate is reasonable. While this result may be unobjectionable if embodied in a short-term bill, I cannot support the inclusion of this concept in permanent legislation.

Mr. FORD. I understand your concerns about a long-term solution. Let me assure my colleague that this emergency legislation expires on June 30 and is not intended as a model for a long-term solution—it is only, and solely, a short-term mechanism.

Mr. DANFORTH. I thank the Senator from Kentucky.

Mr. FORD. Madam President, I know of no other Senators who wish to

speak. Again I thank all my colleagues for their help and support in securing the passage of this legislation.

Mr. BURNS. Madam President, I would like to speak on behalf of a particularly important issue to my State of Montana.

Rural aviation is at a crossroads in our country. Reliable, affordable airline transportation, and modern aviation facilities are absolutely critical to the survival of our towns, our schools, and our businesses. Bruce Putnam, director of aviation and transit for the city of Billings, MT, put it best in a letter to me requesting funds for airport improvements: "Conrad" he wrote, "these aren't frills. We simply must find the resources to meet our important needs."

The primary source of Federal funds for airport improvements comes from the FAA's Airport Improvement Program [AIP] and I am pleased to offer my support of the short-term reauthorization of this program to pen the taps on the AIP Program get this money out to the airports as soon as possible.

Following the September 30, 1993, lapse in the AIP Program, airports across the Nation have been cut off from these Federal funds. For the last 7 months, the Federal Aviation Administration has been held back from issuing grants, which have already been appropriated for new AIP projects, because Congress failed to enact reauthorizing legislation before adjourning for the year.

While this is a troublesome situation for all U.S. airports, States in the Northwest region are hardest hit by this delay. In my State of Montana, for example, rural airports are struggling to keep the few contractors available to complete these projects, and they are faced with losing the entire construction period to winter weather if these funds are not reauthorized soon enough.

If these funds are not available the important and necessary infrastructure improvements for airports across the Nation will be delayed for at least another year. At the Missoula International Airport in Missoula, MT, for example, the airport authority will not have the resources to acquire the new handicap passenger lift device, to service regional air carrier aircraft, to bring the airport into compliance with American's With Disabilities Act. At the Bert Mooney Airport in Butte, MT, the airport authority will not be able to replace the outdated and unreliable 1974 fire equipment with the new aircraft rescue and firefighting [ARFF] equipment, and for another season, these Montana firefighter's safety will be put at risk.

As we continue our consideration of this legislation, I would like to offer my support to my colleagues on the Aviation Subcommittee for their work on a multiyear reauthorization of the

Airport Improvement Program. A multiyear reauthorization will allow the airports to plan long-term safety improvements and reconstruction projects in advance, and these important projects will not be held back by a lack of congressional action again.

#### AIRPORT IMPROVEMENT PROGRAM

Mr. KOHL. Madam President, I am here to commend the leadership of my esteemed colleague from Kentucky, Senator FORD, chairman of the Senate Subcommittee on Aviation. As you know, Madam President, the Airport Improvement Program [AIP] is a valuable source of much-needed funds for airport construction and maintenance. Similarly, airport-air carrier fees are an important source of funding for airports. Given the demand for airport improvements and the need to ensure high quality and safety standards, it is imperative that AIP funds be distributed and that any disputes about fees be resolved. However, it would be a disservice to Northern States like Wisconsin to delay the AIP funds simply to resolve the fee dispute; we would be cutting off all sources of airport revenue for an indefinite period of time, and Wisconsin just doesn't have this time to spare.

Due to short summers, Wisconsin has a limited construction season. The longer AIP funds are delayed, the more narrow that window of opportunity becomes.

Madam President, I twice contacted my good friend from Kentucky to express these concerns and to ask that these funds be released while we resolve the fees dispute. I know that my friend from Kentucky is sympathetic to Wisconsin's position and the need for AIP funds, and that he has worked diligently to get us to this point. This has been a difficult task, and the dispute has yet to be resolved. Recognizing the gravity of the situation, however, Senator FORD has done the right thing by separating this dispute from at least a portion of AIP funds. Many airports will now be able to get the funds that they desperately need, and, separately, there will be an opportunity to resolve the dispute over airport-air carrier fees. For this work, Wisconsin and the Nation must thank him.

Mr. MURKOWSKI. Madam President, while the Senate considers a temporary extension of the Airport Improvement Act, which I will support, I would like to take this opportunity to bring the Senate up to date on a report due to Congress on the safety of the flight service station modernization in Alaska.

On October 5, 1993, I offered an amendment to the DOT appropriations bill that was accepted and required the Secretary of Transportation to do a report on the safety of closing and consolidating the flight service stations in Alaska. This report was due no later

than 90 days after enactment of the legislation, October 27, 1993. The amendment halted the progress of the modernization program until 90 days after the report was received by Congress.

The report was due on January 25, 1994. Today, 84 days later, it is still missing.

On March 9, 1994, I wrote to Secretary of Transportation Penā asking when we will receive the report. Now I have something else to wait for: An answer to my letter.

Mr. DOLE. Mr. President, I am hopeful we have taken a major step toward resolving several major issues that have been pending during the AIP debate. I am particularly encouraged that two important items will be resolved in the final extension of the program later this summer.

First, with regard to the dispute over diversion of airport fees, I know Senator FORD and Senator DANFORTH have expended an enormous effort to find resolution of this issue. In fact, I have heard from a great many airlines and airports—particularly the Wichita and Salina Airports in my State of Kansas, and Kansas City International Airport which serves the Greater Kansas City Area—regarding their concerns this problem be worked out appropriately.

I have also spoken to Mayor Dick Riordan of Los Angeles on at least two occasions. I know he has been seeking to find a constructive solution to this dispute and has contributed a lot of time and effort to this process.

Let me say as we move into this 60-day period where extended negotiations between the airports and the airlines will be taking place, I encourage all the parties to bargain in good faith and move expeditiously toward resolution of this problem because I agree with Senators FORD and DANFORTH that we need to release the rest of these AIP funds to the States as soon as possible.

On another subject I have been following closely, I understand that it is the manager's intention when we take up the multiyear AIP extension bill this June to include language modifying the Federal Aviation Act with regard to defining the types of carriers that would be considered intermodal all-cargo air carriers for purposes of the act. I have had a serious concern that during early deliberations over these provisions that one significant Kansas carrier, Yellow Corp., the parent company of Yellow Freight System of Overland Park, may find itself in a competitive disadvantage if this language does not include additional provisions for their utilization of air carrier service. Mr. President, Yellow Corp. employs 3,000 people in my State of Kansas with a payroll of \$79 million.

My understanding is that the managers agree, and I have been assured, that Yellow's operations will be included and their concerns will be ac-

commodated in any final agreement reached on this air freight carrier provision. It is my view that an important goal under this legislation is to create a level playing field for intrastate trucking operations of intermodal all-cargo air carriers. This legislation, when adopted, will open up greater competition in these markets and greater innovation in the service provided to consumers by these carriers all helping to create jobs in Kansas and the Nation and a truly integrated system of cargo delivery.

Mr. President, I note with sadness that today is the 1-year anniversary of the tragic death of South Dakota Governor George Mickelson and seven other South Dakotans. My friend and colleague Senator PRESSLER will at some point, perhaps later today, offer an amendment that would advance the safety of public aircraft—that is, those aircraft that are used exclusively to serve Federal, State, and local governments. Under current law, these types of aircraft are not subject to Federal Aviation Act safety requirements. I commend Senator PRESSLER in his efforts in this regard. It is unfortunate that a tragedy oftentimes highlights problems we must address. We will miss this most popular and capable South Dakota Governor and his accomplishments for his State. I urge my colleagues to consider and support this important legislation proposed by Senator PRESSLER.

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

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

Mr. FORD. Madam President, I have two unanimous-consent agreements that have been cleared on both sides.

Madam President, I ask unanimous consent that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

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

The bill (S. 2024), as amended, was deemed read the third time and passed; as follows:

S. 2024

*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 "Airport Improvement Program Temporary Extension Act of 1994".

### TITLE I—AIRPORT IMPROVEMENT PROGRAM

#### SEC. 101. AIRPORT IMPROVEMENT PROGRAM AUTHORIZATION.

(a) AUTHORIZATION.—The second sentence of section 505(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2204(a)) is amended—

(1) by striking "and" immediately after "1992,"; and

(2) by inserting ", and \$17,528,700,000 for fiscal years ending before October 1, 1994" immediately before the period at the end.

(b) DISCRETIONARY FUND.—Section 507(c) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(c)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE.—(A) In any fiscal year in which the amount made available under section 505(a) is less than \$1,800,000,000 and not less than \$1,700,000,000, the total amount calculated under subparagraph (C) of this paragraph shall be reduced by \$50,000,000 and such \$50,000,000 shall be credited to the discretionary fund established by paragraph (1) for distribution without regard to section 508(d).

"(B) In any fiscal year in which the amount made available under section 505(a) is less than \$1,700,000,000, the total amount calculated under subparagraph (C) of this paragraph shall be reduced by \$100,000,000 and such \$100,000,000 shall be credited to the discretionary fund established by paragraph (1) for distribution without regard to section 508(d).

"(C) The total amount, for any fiscal year, that is subject to reduction pursuant to subparagraph (A) or (B) shall be the sum of—

"(i) the amount determined under section 508(d)(2);

"(ii) the amount determined under section 508(d)(4);

"(iii) the amount determined under section 508(d)(5); and

"(iv) the amount to be credited to the fund established under subsection (d) of this section.

"(D) To accomplish a reduction pursuant to subparagraph (A) or (B), each of the amounts that otherwise would have been available for distribution under subsection (d) of this section and sections 508(d)(2), 508(d)(4), and 508(d)(5), respectively, shall be reduced by an equal percentage."

(c) OBLIGATIONAL AUTHORITY.—Section 505(b)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(b)(1)) is amended—

(1) by striking "September 30, 1993" and inserting in lieu thereof "June 30, 1994"; and

(2) by adding at the end the following new sentence: "Notwithstanding any other provision of this title, the Secretary shall not, during fiscal year 1994, incur obligations in excess of \$800,000,000 to make grants from funds made available under subsection (a)."

#### SEC. 102. APPORTIONMENT OF FUNDS.

Section 507(b)(3)(A) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(b)(3)(A)) is amended—

(1) by striking "or reducing the amount authorized or" and inserting in lieu thereof "the amount";

(2) by inserting "to less than \$1,900,000,000" immediately after "to be obligated"; and

(3) by striking "limited or reduced".

#### SEC. 103. USE OF APPORTIONED AND DISCRETIONARY FUNDS.

Section 508(d) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2207(d)) is amended—

(1) in paragraph (1), by striking "10" and inserting in lieu thereof "5"; and

(2) in paragraph (3), by striking "2.5" wherever it appears and inserting in lieu thereof "1.5".

#### SEC. 104. EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.

Section 9502(d)(1)(A) of the Internal Revenue Code of 1986 (relating to expenditure

from Airport and Airway Trust Fund) is amended by striking "(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)" and inserting in lieu thereof "or the Airport Improvement Program Temporary Extension Act of 1994 (as such Acts were in effect on the date of the enactment of the Airport Improvement Program Temporary Extension Act of 1994)".

### TITLE II—AIRPORT-AIR CARRIER DISPUTES REGARDING AIRPORT FEES

#### SEC. 201. EMERGENCY AUTHORITY TO FREEZE CERTAIN AIRPORT FEES.

(a) COMPLAINT BY AIR CARRIER.—(1) An air carrier may, prior to June 30, 1994, file with the Secretary a written complaint alleging that any increased fee imposed upon such air carrier by the owner or operator of an airport is not reasonable. The air carrier shall simultaneously file with the Secretary proof that a copy of the complaint has been served on the owner or operator of the airport.

(2) Before issuing an order under subsection (b), the Secretary shall provide the owner or operator of the airport an opportunity to respond to the filed complaint.

(3) If the Secretary determines that a complaint is frivolous, the Secretary may refuse to accept the complaint for filing.

(b) ORDER BY THE SECRETARY.—(1) Except as provided by paragraph (2), the Secretary shall, within 7 days after the filing of a complaint in accordance with subsection (a), issue an order prohibiting the owner or operator of the airport from collecting the increased portion of the fee that is the subject of the complaint, unless the Secretary makes a preliminary determination that the increased fee is reasonable. The order shall cease to be effective on June 30, 1994.

(2) The Secretary shall not issue an order under this subsection prohibiting the collection of any portion of a fee for which the Secretary's informal mediation assistance was requested on March 21, 1994.

(c) OPPORTUNITY TO COMMENT AND FURNISH RELATED MATERIAL.—Within a period prescribed by the Secretary, the owner or operator of the airport and any affected air carrier may submit comments to the Secretary on a complaint filed under subsection (a) and furnish any related documents or other material.

(d) ACTION ON COMPLAINT.—Based on comments and material provided under subsection (c), the Secretary may take appropriate action on the complaint, including but not limited to termination or other modification of any order issued under subsection (b).

(e) APPLICABILITY.—This section does not apply to a fee imposed pursuant to a written agreement binding on the air carriers using the facilities of an airport.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect any existing written agreement between an air carrier and the owner or operator of an airport.

#### SEC. 202. DEFINITIONS.

For purposes of this title—

(1) the term "fee" means any rate, rental charge, landing fee, or other service charge for the use of airport facilities; and

(2) the term "Secretary" means the Secretary of Transportation.

### UNANIMOUS-CONSENT AGREEMENT—S. 540

Mr. FORD. Madam President, I thank all my colleagues. I have one more unanimous-consent agreement to offer.

I ask unanimous consent that when the Senate considers S. 540, the bankruptcy reform bill, that Senator McCAIN be recognized to offer the first floor amendment, providing that he is on the floor and ready with his amendment at that time.

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

#### MORNING BUSINESS

Mr. FORD. Madam President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

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

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

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

Mr. DOLE. We are in morning business?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Leaders' time was reserved?

The PRESIDING OFFICER. That is correct.

#### PRESIDENT NIXON

Mr. DOLE. Madam President, like all of my Senate colleagues, I was saddened to learn last night that former President Nixon had suffered a stroke.

I do want to report that I was in contact with President Nixon's office this morning, and related the concern of the Senate.

They reported to me that the President is holding his own, and that he and his family are grateful for the thousands of phone calls and telegrams of concern which have come from across the country and the world.

I have been privileged to know Richard Nixon for three decades—I have seen him in moments of victory and defeat—and if there is one thing I know, it is that Richard Nixon is a fighter.

Like countless other Americans, my prayers are with President Nixon and his family in this fight. I look forward to his recovery, and to benefiting from his experience and wisdom for many years to come.

#### ARMENIA GENOCIDE DAY

Mr. DOLE. Madam President, on April 24 each year, we commemorate the anniversary of the first genocide of the 20th century. Beginning on April 24, 1915 with the arrest, exile and/or

murder of 200 Armenian religious, political and intellectual leaders, the Armenian genocide continued on through 1923, claiming 1½ million lives. Sadly, 79 years later, genocide remains a reality. One need look no further than Bosnia to see ethnic extermination in progress.

Madam President, before planning the final solution, Hitler asked, "Who remembers the Armenians?" As we commemorate the deaths of so many innocent people, let us not allow the same question to be asked by Serbian leaders.

I rise today to join my colleagues in an expression of profound sadness at the remembrance of the tragic events of the Armenian genocide. It was the first occurrence of genocide in the 20th century, but it was not the last. We must do all in our power to assure that the evils of history do not repeat themselves. That is the only way to fully pay tribute to past victims of genocide.

Madam President, in an era of increased ethnic unrest, we must remain ever more vigilant. Almost eight decades after the beginning of the genocide in Armenia, ethnic tensions remain in Armenia. It has been said that those who forget the past are doomed to repeat its mistakes. Let us not forget the past.

Last Saturday's New York Times described the continuing agony of Armenia today—dependent but isolated by an immoral economic embargo. The United States is able to provide humanitarian aid, but only with many delays, and at great cost. Current United States law prohibits aid to the Government of Azerbaijan until it lifts the embargo on Armenia. This provision—section 907—must remain the law of the land, despite the administration's efforts to repeal it. Foreign aid reform may happen this year, but I will do all I can to ensure any reform does not include the repeal or weakening of section 907. As long as Azerbaijan strangles Armenia, it does not deserve United States aid.

As we commemorate the victims of the Armenian genocide, we must also remember that some would like to repeat the horrors of the past. The United States must stand with the brave and long-suffering Armenian people, work for lasting peace in the caucasus, and never forget the Armenian genocide. I ask unanimous consent that the article on Armenia's plight be printed in the RECORD.

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

[From the New York Times, Apr. 16, 1994]  
WAR, BLOCKADE AND POVERTY "STRANGLING"  
ARMENIA

(By Raymond Bonner)

YEREVAN, ARMENIA.—Two and a half years after its independence, this tiny Caucasus nation should be enjoying the excitement of new-found freedom. Instead, it is experiencing little but pain.

The capital has electricity two hours a day, shop after shop is closed, and lines form early for bread and kerosene, rationed and doled by international relief agencies.

Little wonder people are fleeing. By unofficial accounts, more than half a million people have abandoned Armenia in the last three years, reducing the population to three million in an area slightly larger than New Jersey.

Although the countryside is still reeling from a catastrophic earthquake in 1988, Armenia's enduring burden is a man-made plague of the post-cold-war era: deadly ethnic warfare and the resulting social, political and economic isolation.

The battlefield is a tiny mountainous area, Nagorno-Karabakh, populated by ethnic Armenians but part of Azerbaijan for 70 years. Since the collapse of the Soviet empire, Nagorno-Karabakh has been waging a war to secede, but this year has been the deadliest. And it has expanded in the last three months, as the Armenian Government, long a not-so-secret patron of the Karabakh cause, has itself sent men to fight at the front.

#### SUFFERING FROM BLOCKAGE

But economic warfare can be equally deadly, and one of Azerbaijan's weapons in the war has been a blockage of Armenia. "It is strangling us," a man in a mountain village said, voicing a lament echoed throughout the country.

This landlocked nation has long been dependent on imports, for more than two-thirds of its food and all of its oil and natural gas. Most of it passed through Azerbaijan. Armenia's neighbor to the west is Turkey. But Turkey backs the Azerbaijanis, and has sealed its border with Armenia. Turkey will not allow even relief aid across its land to Armenia.

Wheat and oil could reach Armenia through Georgia, Armenia's northern neighbor. But Georgia is being sundered by its own ethnic wars. Trains operate infrequently in Georgia for lack of fuel or because the tracks have been blown up, often by Azerbaijani guerrillas.

Armenia is so desperate that it hopes to re-activate a nuclear power plant that was shut after the earthquake in 1988. The United States contended that the Soviet-built plant was unsafe, but Russia agreed in March to provide nuclear fuel and technicians so that the plant could be reopened.

"At this point, Armenia has no option, just no option," said Steve Tashjian, Armenia's Deputy Prime Minister for Energy. "It is unfair to tell the people of Armenia, we will not turn the lights on for you with nuclear power."

#### NEW CLINIC IS UNUSED

In the village of Shirakamut, which is midway on the rail line between Yerevan and Tbilisi, the Georgian capital, there is a sparkling medical clinic. It has a modern forced-air heating system and fluorescent light bulbs. But the clinic is cold and empty—no heat, no light. And it has no medicines, not even bandages.

The clinic, at the base of mountains on the north side of the village, was built by Liechtenstein after the earthquake, which killed more than 300 of the 3,000 villagers and at least 25,000 people in northern Armenia.

"I lost my mother and father, and a brother, and my daughter," 25-year-old Nora Torasian said, standing in the kitchen of her home—a metal container 10 feet wide and 30 feet long where she lives with her husband and two children.

More than half of the 700 families in Shirakamut live in such containers, which were brought in as temporary shelter after the earthquake. There is no running water, no electricity, no heat.

Throughout Armenia, industry operates at 30 percent of capacity. Almost no one in Shirakamut, which was called Nalband before independence, has a job. A textile factory, which specialized in men's handkerchiefs, was destroyed in the earthquake—60 women were killed—but rebuilt. Today, the sheds comprising the factory are unused, for lack of raw materials and power.

One of the fortunate in Skirakamut is Mrs. Torasian's husband. He is one of two men working at the train station, which employed 100 a few years ago. But his salary, 170 drams a month, which is 40 drams more than a schoolteacher earns, buys little. A loaf of bread costs 25 drams, a kilogram (2.2 pounds) of butter 600 drams, and a flat of 30 eggs, the customary way they are sold, 500 drams.

Like just about everyone in Armenia, the Torasian family lives hand to mouth, scrounging a few things here, selling them there.

"We took two sacks of potatoes to the market, but the money we got was not enough to buy three kilos of sugar," Mrs. Torasian said. "I work hard to grow the potatoes, and I don't want to sell them."

The family eats potatoes for breakfast and dinner.

"I forgot what meat is," Mrs. Torasian's 72-year old mother-in-law said. "But I know what potatoes are, and they know me."

As the Torasian family talked, a parakeet chirped from a cage in the corner of the rusting container, which leaks when it rains. The bird was one of two that had belonged to Mrs. Torasian's sister-in-law, who lives in Yerevan. The other one froze to death this winter. But as soon as the weather warms, the family will release this one. They cannot afford to keep it. It eats food the family needs.

To alleviate the hardship, would the people of Armenia allow Nagorno-Karabakh to remain part of Azerbaijan? Based on interviews and conversations, from streets of the capital to villages like Shirakamut, the answer seems to be an unequivocal no.

For Armenians, the war is about memories, and fears and vows of "Never again!" In the early part of the century, word reached the West of mass killings of Armenian civilians at the hands of the Ottoman Turks, through forced resettlement, starvation and shooting.

The Armenians talk of the "genocide," and in fighting for Karabakh, they say they are fighting to prevent another deportation, another genocide. This time, they say, it is at the hands of the Azerbaijanis, a Turkic people, whom the Armenians even call Turks.

#### TIDE TURNED IN DECEMBER

At the end of last year, it seemed that Nagorno-Karabakh had won the war. It controlled virtually all of the enclave, and a wide swath of territory ringing it. Then in December, Azerbaijan started a counter-offensive. As the Azerbaijanis continued to pour men into battle, the Armenian Government began to worry. The call went out for volunteers. Many responded.

Among them was Arsen Gevorkian, who was laid to rest at the Martyrs Cemetery one afternoon in March. A 17-year-old aspiring artist, Mr. Gevorkian had gone to fight in Karabakh "to save his land, to protect his brothers and sisters from the Turks," an aunt said through tears.

The Armenian Government has long contended that the only Armenian citizens

fighting in Karabakh have been volunteers like Mr. Gevorkian and that no Government troops have fought there. But the Martyrs Cemetery tells a different story.

While dirt was being shoveled over Mr. Gevorkian's coffin, soldiers in camouflage fatigues struggled under the weight of the open coffin bearing the body of Gagik Stepanian, 27, his head still bandaged from the wounds that killed him.

He died on March 16 during heavy fighting on a mountain pass in the Kelbajar region of Azerbaijan, said his commanding officer, Alik Yeghoian. Six more of his soldiers were killed in the battle, he said. All of them, Mr. Yeghoian said, were members of the Armenian Government's Internal Forces, a special military branch of the Ministry of Internal Affairs.

#### TROOPS CALLED VOLUNTEERS

In an interview, the Minister of Internal Affairs, Vano Siradeghian, said any Internal Affairs men who had fought in Azerbaijan were "volunteers," having gone to the war "on their vacation."

But there is evidence to the contrary. A few feet from Mr. Stepanian's grave a mound of dirt covers the coffin of Lieut. Karapet Deleyan. He was killed on March 3, in a fire-fight with Azerbaijani forces in Fuzuli, which is just outside Nagorno-Karabakh on the southeast, said his brother, Haroutun, and three friends worked on the gravesite.

The friends said Lieutenant Deleyan had been an officer in the Internal Forces for four years and had been sent to other places in Azerbaijan to fight. "He was sent from here to there when he was needed," one said.

Whether direct Armenian participation will draw in outsiders like Turkey and Russia, as some Armenians and diplomats fear, it is certain that until the war ends, the transition from Communism to capitalism will have to wait.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### NOTIFICATION TO THE HOUSE OF REPRESENTATIVES

Mr. MITCHELL. Madam President, I send a resolution to the desk. I ask that it be stated and immediately considered.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows.

A resolution (S. Res. 202) notifying the House of Representatives of the election of a Sergeant at Arms and Doorkeeper of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 202) was agreed to, as follows:

*Resolved*, That the House of Representatives be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

Mr. MITCHELL. 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.

#### NOTIFICATION TO THE PRESIDENT OF THE UNITED STATES

Mr. MITCHELL. Madam President, I send a resolution to the desk and ask that it be stated and immediately considered.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 203) notifying the President of the United States of the election of a Sergeant at Arms and Doorkeeper of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 203) was agreed to, as follows:

*Resolved*, That the President of the United States be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

Mr. MITCHELL. 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.

#### ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, I ask unanimous consent that when I yield the floor, Senator DODD be recognized to address the Senate for such time as he may wish and, at the conclusion of his remarks, the Senate stand in recess until 2:30 p.m. to accommodate the respective party conferences.

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

Mr. MITCHELL. Madam President, for the information of Senators, we will be proceeding at 2:30 to the matter reported by the Senate Armed Services Committee relating to Admiral Kelso. That will be debated and, it is my intention, disposed of today, and then tomorrow we will proceed to the bankruptcy bill which is on the calendar. We may actually have that presented before we go to Admiral Kelso and then return to it tomorrow morning. But that will be the schedule for the re-

mainder of the day. I expect there will be lengthy debate on the matter to be considered this afternoon, and then I understand there will be several amendments offered to the banking bill when that is brought to the Senate floor for amendments tomorrow.

I thank my colleagues for their cooperation. I thank the Senator from Connecticut for his cooperation. I yield the floor.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Connecticut is recognized.

(The remarks of Mr. DODD and Ms. MOSELEY-BRAUN pertaining to the introduction of S. 2027 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:30 p.m.

Thereupon, at 12:37 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KOHL].

#### ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 p.m. having arrived, the Senate will now proceed to S. 540, which the clerk will report.

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

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

#### BANKRUPTCY AMENDMENTS ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**  
(a) **SHORT TITLE IMPROVEMENT.**—This Act may be cited as the "Bankruptcy Amendments Act of 1993".

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

Sec. 101. Expedited hearing on automatic stay.

Sec. 102. Expedited filing of plans under chapter 11.

Sec. 103. Expedited filing of plans under chapter 12.

Sec. 104. Expedited procedure for reaffirmation of debts.

Sec. 105. Powers of bankruptcy courts.

Sec. 106. Participation by bankruptcy administrator at meetings of creditors and equity security holders.

Sec. 107. Definition relating to eligibility to serve on chapter 11 committees.

Sec. 108. Increased incentive compensation for trustees.

Sec. 109. Dollar adjustments.

Sec. 110. Premerger notification.

Sec. 111. Allowance of creditor committee expenses.

Sec. 112. Judicial conference report.

Sec. 113. Service of process.

Sec. 114. Meetings of creditors and equity security holders.

Sec. 115. Tax assessment.

#### TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

Sec. 201. Small business chapter.

Sec. 202. Single asset real estate.

Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.

Sec. 204. Unexpired leases of personal property in chapter 11 cases.

Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.

Sec. 206. Protection of security interest in post-petition rents.

Sec. 207. Anti-alienation.

Sec. 208. Exemption.

Sec. 209. Indenture trustee compensation.

Sec. 210. Payment of taxes with borrowed funds.

Sec. 211. Return of goods.

Sec. 212. Exception to discharge.

Sec. 213. Proceeds of money order agreements.

Sec. 214. Limitation on liability of non-insider transferee for avoided transfer.

Sec. 215. Perfection of purchase-money security interest.

Sec. 216. Airport gate leases.

Sec. 217. Trustee duties.

Sec. 218. Payments.

Sec. 219. Continued perfection.

Sec. 220. Payment of insurance benefits to retired employees.

Sec. 221. Notices to creditors.

#### TITLE III—CONSUMER BANKRUPTCY ISSUES

Sec. 301. Period for curing default relating to principal residence.

Sec. 302. Nondischargeability of fine under chapter 13.

Sec. 303. Protection of child support and alimony.

Sec. 304. Bankruptcy petition preparers.

Sec. 305. Conversion or dismissal.

Sec. 306. Contents of plan.

Sec. 307. Stay of action against codebtor.

Sec. 308. Exemption for household goods.

Sec. 309. Professional fees.

Sec. 310. Interest on interest.

#### TITLE IV—BANKRUPTCY REVIEW COMMISSION

Sec. 401. Short title.

Sec. 402. Establishment.

Sec. 403. Duties of the commission.

Sec. 404. Membership.

Sec. 405. Compensation of the commission.

Sec. 406. Staff of commission; experts and consultants.

Sec. 407. Powers of the commission.

Sec. 408. Report.

Sec. 409. Termination.

Sec. 410. Authorization of appropriations.

#### TITLE V—TECHNICAL CORRECTIONS

Sec. 501. Title 11, United States Code.

Sec. 502. Title 28, United States Code.

#### TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 601. Severability.

Sec. 602. Effective date; application of amendments.

#### TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

##### SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

The last sentence of section 362(e) of title 11, United States Code, is amended—

(1) by striking "commenced" and inserting "concluded"; and

(2) by inserting ", unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances" before the period at the end.

##### SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following new paragraph:

"(2) Under paragraph (1)—

"(A) the 120-day period referred to in this section may not be increased beyond the 1-year period beginning on the date of the order for relief under this chapter; and

"(B) the 180-day period referred to in this section may not be increased beyond the 425-day period beginning on the date of the order for relief under this chapter,

unless the need for such an increase is attributable to circumstances for which the debtor should not justly be held accountable."

##### SEC. 103. EXPEDITED FILING OF PLANS UNDER CHAPTER 12.

Section 1221 of title 11, United States Code, is amended by striking "an extension is substantially justified" and inserting "the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable".

##### SEC. 104. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.

(a) **REAFFIRMATION.**—Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)";

(B) by adding "and" at the end; and

(C) by inserting after subparagraph (A), as designated by subparagraph (A), the following new subparagraph:

"(B) such agreement contains a clear and conspicuous statement that advises the debtor that the agreement is not required under this title, under nonbankruptcy law, or under any agreement that is not in accordance with the provisions of this subsection;"; and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A) by striking "such agreement" the last place it appears;

(B) in subparagraph (A)—

(i) by inserting "such agreement" after "(A)"; and  
 (ii) by striking "and" at the end; and  
 (C) in subparagraph (B)—  
 (i) by inserting "such agreement" after "(B)"; and  
 (ii) by adding "and" at the end; and  
 (3) by adding at the end the following new subparagraph:

"(C) the attorney fully advised the debtor of the legal effect and consequences of—

"(i) an agreement of the kind described in this subsection; and

"(ii) any default under such an agreement";

(b) EFFECT OF DISCHARGE.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting "and was not represented by an attorney during the course of negotiating the agreement" after "this section".

**SEC. 105. POWERS OF BANKRUPTCY COURTS.**

(a) STATUS CONFERENCES.—Section 105 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The court, on its own motion or on the motion of any party in interest, may—

"(1) hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and

"(2) unless it would be inconsistent with another provision of this title or with applicable Bankruptcy Rules, issue an order at any such conference prescribing such limitations and conditions as the court deems to be appropriate to ensure that the case is handled expeditiously and economically, including an order that—

"(A) sets the date by which the debtor must accept or reject an executory contract or unexpired lease; or

"(B) in a case under chapter 11—

"(i) sets a date by which the debtor, or the trustee if one has been appointed, shall file a disclosure statement and plan;

"(ii) sets a date by which the debtor, or the trustee if one has been appointed, shall solicit acceptances of a plan;

"(iii) sets the date by which a party in interest other than a debtor may file a plan;

"(iv) fixes the notice to be provided regarding the hearing on approval of the disclosure statement;

"(v) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan; and

"(vi) directs the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court."

(b) ESTABLISHMENT, OPERATION, AND TERMINATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by striking paragraph (1) and inserting the following new paragraphs:

"(1)(A) Except as provided in subparagraph (B), the judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all parties to an appeal, appeals under subsection (a).  
 "(B)(i) The judicial council of a circuit need not establish a bankruptcy appellate panel service if the judicial council finds that—

"(I) there are insufficient judicial resources available in the circuit; or

"(II) establishment of such a service would result in undue delay or increased cost to parties in cases under title 11.

"(ii) Not later than 90 days after making a finding under clause (i), the judicial council shall submit to the Judicial Conference a report containing the factual basis of the finding.

"(2)(A) A judicial council may reconsider a finding described in paragraph (1)(B) at any time.

"(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date on which the service is established, the judicial council of the circuit shall determine whether a circumstance described in paragraph (1)(B)(i) (I) or (II) exists.

"(C) On its own motion, after the expiration of the 3-year period beginning on the date on which a bankruptcy appellate panel service is established under paragraph (1), the judicial council of a circuit may determine whether a circumstance described in paragraph (1)(B)(i) (I) or (II) exists.

"(D) If the judicial council of a circuit finds that a circumstance described in paragraph (1)(B)(i) (I) or (II) exists, the judicial council may provide for the completion of the appeals then pending before a bankruptcy appellate panel service and the orderly termination of the service.

"(3) Bankruptcy judges appointed under paragraph (1) shall be appointed for a term of 2 years and may be reappointed under that paragraph."; and

(4) by inserting after paragraph (4), as redesignated by paragraph (2), the following new paragraphs:

"(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of the service may not hear an appeal originating in the district for which the member is appointed or designated under section 152.

"(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized the service to hear and determine appeals originating in that district."

(c) APPEALS TO BE HEARD BY BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "(c) An appeal" and inserting the following:

"(c)(1) Subject to subsection (b), an appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless—

"(A) the appellant elects, at the time of filing the appeal; or

"(B) any other party elects, not later than 30 days after service of notice of the appeal, to have the appeal heard by the district court.

"(2) An appeal".

(d) RULES OF PROCEDURE AND EVIDENCE; METHOD OF PRESCRIBING.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2) by striking "section 2072" and inserting "sections 2072 and 2075"; and

(2) in subsections (d) and (e) by inserting "or 2075" after "2072" each place it appears.

(f) EFFECTIVE DATE OF BANKRUPTCY RULES.—The third undesignated paragraph

of section 2075 of title 28, United States Code, is amended to read as follows:

"The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law."

**SEC. 106. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.**

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat. 3123), or the bankruptcy administrator's designee, may preside at—

(1) a meeting of creditors convened under section 341(a) of title 11, United States Code; and

(2) a meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

**SEC. 107. DEFINITION RELATING TO ELIGIBILITY TO SERVE ON CHAPTER 11 COMMITTEES.**

The definition of "person" in section 101 of title 11, United States Code, as amended by section 501(a), is amended to read as follows:

"'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that—

"(A) acquires an asset from a person—

"(i) as a result of the operation of a loan guarantee agreement; or

"(ii) as receiver or liquidating agent of a person;

"(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

"(C) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986,

shall be considered, for purposes of section 1102, to be a person with respect to such asset or such benefit."

**SEC. 108. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.**

Section 326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) In a case under chapter 7 or 11, the court may allow reasonable compensation of the trustee under section 330 for the trustee's services, payable after the trustee renders such services, in an amount that does not exceed—

"(A) the value of the funds and other property disbursed or turned over by the trustee to parties in interest in the case (excluding the debtor but including holders of secured claims), multiplied by

"(B) the applicable percentage stated in paragraph (2).

"(2) The applicable percentage stated in this paragraph is the following percentage of the value of the funds and other property disbursed or turned over by the trustee:

"(A) 25 percent of any amount up to \$4,999.

"(B) 10 percent of any amount between \$5,000 and \$49,999 inclusive.

"(C) 5 percent of any amount between \$50,000 and \$999,999 inclusive.

"(D) A reasonable percentage, not to exceed 3 percent, of any amount greater than \$999,999."

#### SEC. 109. DOLLAR ADJUSTMENTS.

(a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—Section 109(e) of title 11, United States Code, is amended—

(1) by striking "unsecured debts of less than \$100,000 and noncontingent, liquidated, secured debts of less than \$350,000" and inserting "debts of less than \$1,000,000"; and

(2) by striking "unsecured debts that aggregate less than \$100,000 and noncontingent, liquidated, secured debts of less than \$350,000" and inserting "debts in the aggregate of less than \$1,000,000".

(b) INVOLUNTARY CASES.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "\$5,000" and inserting "\$10,000"; and

(2) in paragraph (2) by striking "\$5,000" and inserting "\$10,000".

(c) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking "\$2,000" and inserting "\$4,000";

(2) in paragraph (4)(B)(i) by striking "\$2,000" and inserting "\$4,000";

(3) in paragraph (5) by striking "\$2,000" and inserting "\$4,000"; and

(4) in paragraph (6)—

(A) by striking ", to the extent of \$900 for each such individual,"; and

(B) by inserting ", to the extent of \$1,800 for each such individual or, in the case of a deposit made jointly by 2 or more individuals with respect to the same purchase, lease, or rental, for each such group of individuals" before the period.

(d) EXEMPTIONS.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "\$7,500" and inserting "\$15,000";

(2) in paragraph (2) by striking "\$1,200" and inserting "\$2,400";

(3) in paragraph (3)—

(A) by striking "\$200" and inserting "\$400"; and

(B) by striking "\$4,000" and inserting "\$8,000";

(4) in paragraph (4) by striking "\$500" and inserting "\$1,000";

(5) in paragraph (5)—

(A) by striking "\$400" and inserting "\$800"; and

(B) by striking "\$3,750" and inserting "\$7,500";

(6) in paragraph (6) by striking "\$750" and inserting "\$1,500";

(7) in paragraph (8) by striking "\$4,000" and inserting "\$8,000"; and

(8) in paragraph (11)(D) by striking "\$7,500" and inserting "\$15,000".

(e) APPOINTMENT OF EXAMINER IN CERTAIN CIRCUMSTANCES.—Section 1104(b)(2) of title 11, United States Code, is amended by striking "\$5,000,000" and inserting "\$10,000,000".

#### SEC. 110. PREMERGER NOTIFICATION.

Sections 363(b)(2) (A) and (B) of title 11, United States Code, are amended to read as follows:

"(A) notwithstanding subsection (a) of that section, the notification required to be given by the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b) of that section, the required waiting period shall end on the 10th day after the date of receipt of the notification, unless the waiting period is extended—

"(i) pursuant to subsection (e)(2) or (g)(2) of that section; or

"(ii) by the court, after notice and a hearing."

#### SEC. 111. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the actual, necessary expenses incurred by a member of a committee appointed under section 1102 in the performance of the duties of the committee (including fees of an attorney or accountant for professional services rendered for the member to the extent allowable under paragraph (4)), other than claims for compensation for services rendered as a member of the committee."

#### SEC. 112. JUDICIAL CONFERENCE REPORT.

Not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

#### SEC. 113. SERVICE OF PROCESS.

Rule 7004(b)(3) of the Bankruptcy Rules is amended—

(1) by inserting ", by certified or registered mail," after "complaint"; and

(2) by inserting ", by certified or registered mail," after "copy".

#### SEC. 114. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title;

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

"(5) the debtor's duties under section 521; and

"(6) the potential penalties and fines for committing fraud or other abuses of this title."

#### SEC. 115. TAX ASSESSMENT.

Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

"(9) under subsection (a), of an audit by a governmental unit to determine tax liability,

of the issuance to the debtor by a governmental unit of a notice of tax deficiency, of a demand for tax returns, or of an assessment of an uncontested or agreed upon tax liability;"

## TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

### SEC. 201. SMALL BUSINESS CHAPTER.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:

"'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed \$2,500,000."

(b) WHO MAY BE A DEBTOR UNDER CHAPTER 10.—Section 109 is amended by adding at the end the following new subsection:

"(h) Only a small business may be a debtor under chapter 10."

(c) TEMPORARY CHAPTER APPLICABLE TO SMALL BUSINESSES.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

### "CHAPTER 10—SMALL BUSINESSES

#### "SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

- "Sec.  
 "1001. Definitions for this chapter.  
 "1002. Commencement of case.  
 "1003. Trustee.  
 "1004. Rights and powers of debtor.  
 "1005. Removal of debtor as debtor-in-possession.  
 "1006. Property of the estate.  
 "1007. Conversion or dismissal.

#### "SUBCHAPTER II—THE PLAN

- "1021. Filing of plan.  
 "1022. Contents of plan.  
 "1023. Postpetition disclosure and solicitation.  
 "1024. Modification of plan before confirmation.  
 "1025. Confirmation hearing.  
 "1026. Confirmation of plan.  
 "1027. Payments.  
 "1028. Effect of confirmation.  
 "1029. Modification of plan after confirmation.  
 "1030. Revocation of order of confirmation.

#### "Subchapter I—Officers, Administration, and the Estate

### "§ 1001. Definitions for this chapter

"In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

### "§ 1002. Commencement of case

"(a) ELECTION BY DEBTOR.—A person that is eligible to be a small business debtor may commence a case under this chapter by filing a voluntary petition electing to be treated as a small business.

"(b) CONVERSION.—

"(1) THIS CHAPTER TO CHAPTER 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11, 12, or 13.

"(2) COMPENSATION OF TRUSTEE.—Prior to the court's conversion of a case under this

section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

#### “§ 1003. Trustee

“(a) PERSON TO SERVE.—If the United States trustee has appointed a person under section 586(b) of title 28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case.

“(b) DUTIES.—The trustee shall—

“(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);

“(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on a request of a party in interest, the trustee, or the United States trustee, so orders;

“(3) appear and be heard at any hearing that concerns—

“(A) the value of property subject to a lien;

“(B) the operation of the business activity of the person by the debtor;

“(C) the filing of a plan and the approval of a disclosure statement;

“(D) confirmation of a plan;

“(E) modification of a plan after confirmation; or

“(F) the sale of property of the estate;

“(4) ensure that the debtor timely files a plan and disclosure statement;

“(5) ensure that the debtor commences making timely payments required by a confirmed plan;

“(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7);

“(7) investigate the financial affairs of the debtor including, but not limited to, the proper use of disposable income;

“(8) file and serve the report required by section 1029(d); and

“(9) file such motions as are appropriate under section 1029.

#### “§ 1004. Rights and powers of debtor

“Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under chapter 11, including operating the debtor's business activities.

#### “§ 1005. Removal of debtor as debtor-in-possession

“(a) ORDER FOR CAUSE.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

“(b) REINSTATEMENT.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

#### “§ 1006. Property of the estate

“(a) PROPERTY INCLUDED.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case

but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

“(b) POSSESSION.—Except as provided in section 1005 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

#### “§ 1007. Conversion or dismissal

“(a) CONVERSION BY DEBTOR.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor or may be a debtor under that chapter. Any waiver of the right to convert under this subsection is unenforceable.

“(b) DISMISSAL BY DEBTOR.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court may dismiss a case under this chapter.

“(c) CONVERSION OR DISMISSAL AT REQUEST OF PARTY IN INTEREST.—

“(1) IN GENERAL.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.

“(2) CAUSE.—For purposes of paragraph (1), cause includes—

“(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;

“(B) nonpayment of any fees and charges required under chapter 123 of title 28;

“(C) failure to file a plan timely under section 1021;

“(D) failure to file a disclosure statement timely under section 1023;

“(E) failure to commence making timely payments required by a confirmed plan;

“(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;

“(G) material default by a debtor with respect to a term of a confirmed plan;

“(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;

“(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

“(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

“(d) COMPENSATION OF TRUSTEE.—Prior to the court's conversion or dismissal of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

#### “Subchapter II—The Plan

##### “§ 1021. Filing of plan

“The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.

##### “§ 1022. Contents of plan

“(a) REQUIRED CONTENTS.—The plan shall—

“(1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; and

“(2) if the plan classifies claims and interests, provide the same treatment for each claim or interest within a particular class unless the holder of a particular claim or interest agrees to less favorable treatment.

“(b) ADDITIONAL CONTENTS.—Subject to subsections (a) and (c), the plan may—

“(1) designate a class or classes of unsecured claims, as provided in section 1122, but may not discriminate unfairly against any class so designated; however, the plan may treat claims for a consumer debt differently from other unsecured claims if another individual is liable on the consumer debt with the debtor;

“(2) modify the rights of holders of secured claims or holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6))) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;

“(3) provide for the curing or waiving of any default;

“(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

“(5) notwithstanding paragraph (2), provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

“(6) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or expired lease of the debtor not previously rejected under that section;

“(7) provide for the payment of all or part of a claim against the debtor from the property of the estate or property of the debtor;

“(8) provide for the sale of all or any part of the property of the estate among those having an interest in such property;

“(9) provide for payment of allowed secured claims, consistent with section 1026(a)(5), over a period exceeding the period permitted under section 1022(c);

“(10) provide for the vesting of property of the estate on confirmation of the plan or at a later time, in the debtor of any other entity; and

“(11) include any other appropriate provision not inconsistent with this title.

“(c) LIMITATION.—Except as provided in subsection (b) (5) and (9), the plan may not provide for payments over a period that is longer than 3 years unless the court for cause approves a longer period, but the court may not approve a period that is longer than 5 years.

##### “§ 1023. Postpetition disclosure and solicitation

“(a) PLAN AND DISCLOSURE STATEMENT.—In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

“(b) FORM.—The court may require that the summary of the plan and the disclosure statement employ a standard form approved by the court.

**§ 1024. Modification of plan before confirmation**

"(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

"(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

"(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless—

"(1) the modification provides for a change in the rights of the holder under the plan before modification; and

"(2) the holder changes the holder's previous acceptance or rejection.

**§ 1025. Confirmation hearing**

"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.

"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.

"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.

"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

**§ 1026. Confirmation of plan**

"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with all applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of the claim has accepted the plan;

"(B)(1) the plan provides that the holder of the claim will retain the lien securing the claim; and

"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or

"(C) the debtor surrenders the property securing the claim to the holder;

"(6) the debtor will be able to make all payments under the plan and to comply with the plan;

"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—

"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will receive on account of the claim cash equal to the allowed amount of the claim;

"(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will

receive cash or deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; and

"(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period ending on the later of—

"(i) the date of termination of the plan; or

"(ii) the date that is 6 years after the date of assessment of the claim,

of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

"(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, the court may not approve the plan unless, as of the effective date of the plan—

"(1) the value of the property to be distributed under the plan on account of the claim is not less than the amount of the claim; or

"(2) the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such longer period as the court may approve under section 1022(c), beginning on the date on which the first payment is due under the plan, will be applied to make payments under the plan.

**§ 1027. Payments**

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).

"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any payments and funds retained pursuant to subsection (a), after deducting—

"(1) any unpaid claim allowed under section 503(b); and

"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1003.

"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of a kind described in section 507(a)(1); and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1003.

"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

**§ 1028. Effect of confirmation**

"(a) PERSONS BOUND.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

"(b) VESTING OF PROPERTY.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) FREEDOM OF PROPERTY FROM CLAIMS AND INTERESTS.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.

"(d) DISCHARGE OF DEBTOR.—

"(1) ON COMPLETION OF PAYMENTS.—As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1022(b) (5) or (9), unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of the kind specified in section 523(a).

"(2) WHEN PAYMENTS ARE NOT COMPLETED.—At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan if—

"(A) the debtor's failure to complete such payments is due to circumstances for which the debtor should not be justly held accountable;

"(B) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed secured claim is not less than the amount that would have been paid on the claim if the estate of the debtor had been liquidated under chapter 7 on that date; and

"(C) modification of the plan under section 1029 is not practicable.

"(3) EFFECT.—A discharge granted under paragraph (2) discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of a kind specified in section 523(a).

"(4) REVOCATION.—On request of a party in interest made before the date that is 1 year after the date on which a discharge under this section is granted, and after notice and hearing, the court may revoke the discharge if—

"(A) the discharge was obtained by the debtor through fraud; and

"(B) the requesting party did not know of the fraud until after the discharge was granted.

"(e) TERMINATION OF SERVICES OF TRUSTEE.—After the debtor is granted a discharge, the court shall terminate the services of any trustee serving in the case.

**§ 1029. Modification of plan after confirmation**

"(a) IN GENERAL.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—

"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.

"(b) **APPLICABILITY OF REQUIREMENTS.**—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).

"(c) **LIMITATION.**—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.

"(d) **REPORT.**—Not later than 60 days after each anniversary of the confirmation of the plan, the trustee shall file a report with the court, and serve a copy on all creditors requesting service of a copy of the report, setting forth—

"(1) the amount of distributions made to creditors during the preceding year;

"(2) a description of the debtor's compliance with the provisions of the plan during the preceding year;

"(3) a description of the debtor's disposable income in relation to the continued ability to comply with the terms of the confirmed plan; and

"(4) any modifications to the plan that are necessary to ensure the reorganization of the debtor and the payment to creditors of all disposal income.

**§ 1030. Revocation of order of confirmation**

"(a) **REVOCATION FOR FRAUD.**—On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1028, and after notice and a hearing, the court may revoke the order if the order was procured by fraud.

"(b) **DISPOSITION OF CASE AFTER REVOCATION.**—If the court revokes an order of confirmation under subsection (a), the court shall dispose of the case under section 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029."

**(d) TECHNICAL AMENDMENTS.—**

(1) **TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.**—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

**"10. Small Businesses ..... 1001".**

(2) **CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.**—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting "10," after "7," each place it appears;

(B) in section 322(a) by inserting "1005" after "703,";

(C) in section 326(b)—

(i) by striking "12 or 13" and inserting "10, 12, or 13"; and

(ii) by striking "1202(a) or 1302(a)" and inserting "1005, 1202(a), or 1302(a)";

(D) in section 327—

(i) in subsection (b) by inserting "1005," after "721,"; and

(ii) in subsection (c) by inserting "10," after "7,";

(E) in section 329(b)(1)(B) by inserting "10," after "chapter";

(F) in section 330(c) by striking "12 or 13" and inserting "10, 12, or 13";

(G) in section 346—

(i) in subsection (b) by inserting "10," after "7,";

(ii) in subsection (g)(1)(C) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (i)(1) by inserting "10," after "7,";

(H) in section 347—

(i) in subsection (a)—

(I) by inserting "1027," after "726,"; and

(II) by inserting "10," after "7,"; and

(i) in subsection (b)—

(I) by inserting "10," after "9,"; and

(II) by inserting "1026," after "943(b),";

(I) in section 348—

(i) in subsections (b), (c), and (e) by inserting "1009," after "706," each place it appears; and

(ii) in subsection (d) by inserting "1009," after "section";

(J) in section 362(c)(2)(C) by inserting "10," after "9,";

(K) in section 363—

(i) in subsection (c)(1) by inserting "1006," after "721,"; and

(ii) in subsection (l) by inserting "10," after "chapter";

(L) in section 364(a) by inserting "1006, 1007," after "721,";

(M) in section 365—

(i) in subsections (d)(2) and (g) (1) and (2) by inserting "10," after "9," each place it appears; and

(ii) in subsection (g)(2) (A) and (B) by inserting "1009," after "section" each place it appears;

(N) in section 502(g) by inserting "10," after "9,";

(O) in section 523(a) by inserting "1028(d)," after "727,";

(P) in section 524—

(i) in subsections (a)(1), (c)(1), and (d) by inserting "1028(d)," after "727," each place it appears; and

(ii) in subsection (a)(3) by inserting "1028(d)," after "523,";

(Q) in section 546(a)(1) by inserting "1005," after "702,";

(R) in section 557(d)(3) by inserting "1005," after "703,";

(S) in section 706—

(i) in subsection (a)—

(I) by inserting "10," before "11,"; and

(II) by inserting "1009," after "section"; and

(ii) in subsection (c) by striking "12 or 13" and inserting "10, 12, or 13";

(T) in section 726(b) by inserting "1009," after "chapter under section";

(U) in section 1106(a)(5) by inserting "10," after "7,";

(V) in section 1306(a) (1) and (2) by inserting "10," after "7," each place it appears; and

(W) in section 1307—

(i) in subsection (b) by inserting "1009," after "706,";

(ii) in subsection (d) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (e) by inserting "10," after "7,".

(3) **BANKRUPTCY RULES.**—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.

(4) **AMENDMENT OF TITLE 28, UNITED STATES CODE.**—Title 28, United States Code, is amended—

(A) in section 157(b)(2)(B) by inserting "10," after "chapter";

(B) in section 586—

(i) in subsection (a)—

(I) in paragraph (1)(C)—

(aa) by striking "12 and 13" and inserting "10, 12, and 13"; and

(bb) by inserting "1025, 1029," after "sections"; and

(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting "10," after "7,";

(C) in subsections (b), (d), and (e) by striking "12 or 13" each place it appears and inserting "10, 12, or 13"; and

(D) in section 1930(a)—

(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3) For a case commenced under chapter 10 of title 11, §600."

(5) **AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.**—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat. 3119) is amended in subsections (d) and (e) by inserting "10," after "7," each place it appears.

(e) **APPLICATION OF CHAPTER 10 OF TITLE 11.—**

(1) **SELECTION OF DEMONSTRATION DISTRICTS.**—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—

(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and

(B) identify those districts by notice in the Federal Register.

(2) **EFFECTIVE PERIOD.**—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.

(3) **REPEAL.**—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

**SEC. 202. SINGLE ASSET REAL ESTATE.**

(a) **DEFINITION.**—Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:

" 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto."

(b) **AUTOMATIC STAY.**—Section 362 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking "or" at the end;

(B) in paragraph (2) by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—

“(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

“(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate, which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate.”; and

(2) by adding at the end the following new subsection:

“(1)(1) Upon request of a creditor whose claim is secured by an interest in single asset real estate, if the interest has more than de minimis value, the court shall issue an order granting limited relief from the stay provided under subsection (a) to permit the creditor to continue a foreclosure proceeding commenced before the commencement of the case up to, but not including, the point of sale.

“(2) An order under paragraph (1) shall not issue before the date that is 30 days after the date of entry of the order for relief, but thereafter shall issue promptly after such a request.

“(3) A hearing shall not be required for the granting of relief under paragraph (1) unless the debtor files an objection to the request and shows the court extraordinary circumstances requiring such a hearing.”.

#### SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING STOCK EQUIPMENT.

(a) AMENDMENT OF SECTION 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

##### “§ 1110. Aircraft equipment and vessels

“(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession unless—

“(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

“(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

“(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

“(ii) that occurs after the date of the order is cured before the later of—

“(I) the date that is 30 days after the date of the default; or

“(II) the expiration of such 60-day period.

“(2) Equipment is described in this paragraph if it is—

“(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or condi-

tionally sold to a debtor that is an air carrier (as defined in that section, except that for the purposes of this section the term also includes an air carrier in intrastate commerce); or

“(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

“(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

“(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

“(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

“(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

“(1) the term ‘lease’ includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

“(2) the term ‘security interest’ means a purchase-money equipment security interest.”.

(b) AMENDMENT OF SECTION 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

##### “§ 1168. Rolling stock equipment

“(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession, unless—

“(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

“(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

“(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

“(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

“(I) the date that is 30 days after the date of the default or event of default; or

“(II) the expiration of such 60-day period.

“(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

“(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

“(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

“(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

“(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

“(1) the term ‘lease’ includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

“(2) the term ‘security interest’ means a purchase-money equipment security interest.”.

#### (c) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendment of sections 1110 and 1168 of title 11, United States Code, made by subsections (a) and (b) shall not apply to cases commenced under title 11, United States Code, prior to the date of enactment of this Act.

(2) PLACEMENT IN SERVICE.—The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service after the date of enactment of this Act, including rolling stock equipment that is substantially rebuilt after that date and accessories used on such equipment.

#### SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365(d)(3) of title 11, United States Code, is amended in the first sentence by inserting after “real property” the following: “and, in a case under chapter 11, under an unexpired lease of personal property”.

#### SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

“(p) The reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.”.

**SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-PETITION RENTS.**

POSTPETITION EFFECT OF SECURITY INTEREST.—Section 552(b) of title 11, United States Code, is amended—

- (1) by inserting "(1)" after "(b)";
- (2) by striking "rents," each place it appears; and
- (3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548, if—

"(i) the debtor and an entity entered into a security agreement that was duly recorded in the public records before the commencement of the case; and

"(ii) the security interest created by the security agreement extends to—

"(I) property of the debtor acquired before the commencement of the case; and

"(II)(aa) to amounts paid as rents of such property; or

"(bb) to amounts paid for the use or occupancy of such property (including fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in a property such as a hotel, motel, or other lodging),

the security interest extends to such amounts paid to the estate as rents or as fees, charges, accounts, or other payments after the commencement of the case to the extent provided in the security agreement, whether or not the security interest in such rents or such fees, charges, accounts, or other payments is perfected under applicable nonbankruptcy law, except to the extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.

"(B) If a security interest extends under subparagraph (A) to rents acquired by the estate after the commencement of the case, the security interest in such rents shall be deemed to be perfected for the purpose of section 544(a)."

(b) **USE SALE, OR LEASE OF PROPERTY.**—Section 363(a) of title 11, United States Code, is amended by inserting: "and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties" after "property".

**SEC. 207. ANTI-ALIENATION.**

(a) **AUTOMATIC STAY.**—Section 362(b) of title 11, United States Code, as amended by section 501(a), is amended—

- (1) by striking "or" at the end of paragraph (16);
- (2) by striking the period at the end of paragraph (17) and inserting "; or"; and
- (3) by adding at the end the following new paragraph:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profit sharing, stock bonus, or other plan qualified under section 401 (a) or (b), 403(b), or of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 408(b)(1) or of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or section 4975(d)(1) of the Internal Revenue Code of 1986 or, in the case of a loan from the Thrift Savings Plan described in subchapter III of chapter 84 of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title."

(b) **EXCEPTIONS TO DISCHARGE.**—Subsection 523(a) of title 11, United States Code, is amended—

- (1) by striking "or" at the end of paragraph (11);
- (2) by striking the period at the end of paragraph (12) and inserting "; or"; and
- (3) by adding at the end the following new paragraph:

"(13) owed to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403 (a) or (b), or 408(k) or a governmental plan under 414(d) or 457 of the Internal Revenue Code of 1986 pursuant to a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or section 4975(d)(1) of the Internal Revenue Code 1986 or pursuant to a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title."

(c) **PROPERTY OF THE ESTATE.**—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k) of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.

"(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor to the extent that such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986."

(d) **PLAN CONTENTS.**—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The plan may not materially alter the terms of a loan described in section 362(b)(18)."

(e) **PLAN CONFIRMATION.**—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking "debtor and" and inserting "debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and"; and

(2) in subsection (c) by striking "income to" and inserting "income (except income that is withheld from a debtor's wages for the purposes stated in section 362(b)(18) after confirmation of a plan) to".

**SEC. 208. EXEMPTION.**

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association," the following: "a small business investment company licensed by the Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d))."

**SEC. 209. INDENTURE TRUSTEE COMPENSATION.**

Section 503(b) of title 11, United States Code, is amended—

- (1) in paragraph (3)—
  - (A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;
  - (B) by inserting after subparagraph (C) the following new subparagraph:
    - "(D) an indenture trustee;"; and
  - (C) in subparagraph (E), as redesignated by subparagraph (A), by striking "an indenture trustee;"; and
- (2) in paragraph (5) by striking "for services rendered by an indenture trustee in

making a substantial contribution" and inserting "for reasonable and necessary services rendered by an indenture trustee".

**SEC. 210. PAYMENT OF TAXES WITH BORROWED FUNDS.**

Section 523(a) of title 11, United States Code, is amended—

- (1) by striking "or" at the end of paragraph (11);
- (2) by adding "or" at the end of paragraph (12); and
- (3) by adding at the end the following new paragraph:

"(13) incurred to pay a tax or customs duty that would be nondischargeable pursuant to paragraph (1)."

**SEC. 211. RETURN OF GOODS.**

(a) **LIMITATION ON AVOIDING POWERS.**—Section 546 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines, after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the purchase price of such goods against any claim of the creditor against the debtor that arose before the commencement of the case."

(b) **SETOFF.**—Section 553(b)(1) is amended by inserting "546(h)," after "365(h)(2)."

**SEC. 212. EXCEPTION TO DISCHARGE.**

Section 523(a)(2) of title 11, United States Code, is amended by striking "forty" and inserting "60".

**SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.**

Section 541(b) of title 11, United States Code, is amended—

- (1) by striking "or" at the end of paragraph (2);
- (2) by striking the period at the end of paragraph (3) and inserting "; or"; and
- (3) by adding at the end the following new paragraph:

"(4) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

"(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor), unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition."

**SEC. 214. LIMITATION ON LIABILITY OF NON-INSIDER TRANSFEREE FOR AVOIDED TRANSFER.**

Section 550 of title 11, United States Code, is amended—

- (1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and
- (2) by inserting after subsection (a) the following new subsection:

"(b) The trustee may recover under subsection (a) a transfer avoided under section 547(b) from a first transferee or an immediate or mediate transferee of a first transferee only to the extent that—

"(1) all the elements of section 547(b) are satisfied as to the first transferee; and

"(2) the exceptions in section 547(c) do not protect the first transferee."

**SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.**

Section 547 of title 11, United States Code, is amended in subsection (c)(3)(B) and subsection (e)(2) by striking "10" and inserting "20".

**SEC. 216. AIRPORT GATE LEASES.**

Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraphs (B) and (C) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility within 60 days after the date of the order for relief, or within such additional time (not to exceed 120 additional days) as the court sets during such 60-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.

"(B)(i) The court may enter an order extending beyond 180 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause substantial harm to the airport operator or to airline passengers.

"(ii) In making the determination of substantial harm, the court shall consider, among other relevant factors—

"(I) the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract;

"(II) the existence of competing demands for the use of the airport terminals, gates, or related facilities;

"(III) the size and complexity of the case; and

"(IV) air carrier competition at the airport.

"(iii) The burden of proof for establishing cause for an extension of time under this subparagraph shall be on the trustee.

"(iv) An order entered under this subparagraph shall be without prejudice to the right of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph."

**SEC. 217. TRUSTEE DUTIES.**

Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

"(ii) filing with the court comments with respect to each such an application and, if the United States Trustee considers it to be appropriate, objections to such application."

**SEC. 218. PAYMENTS.**

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable."

**SEC. 219. CONTINUED PERFECTION.**

(a) **AUTOMATIC STAY.**—Section 362(b)(3) of title 11, United States Code, is amended by inserting ", or to maintain or continue the perfection of," after "to perfect".

(b) **LIMITATIONS ON AVOIDING POWERS.**—Section 546(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) The rights and powers of a trustee under sections 544, 545, and 549 of this title are subject to any generally applicable law that—

"(A) permits perfection of an interest in property to be effective against an entity that acquires rights in the property before the date of perfection; or

"(B) provides for the maintenance or continuation of perfection of an interest in property to be effective against an entity that acquires rights in the property before the date on which action is taken to effect such maintenance or continuation.

"(2) If—

"(A) a law described in paragraph (1) requires seizure of property that is subject to a perfected interest or commencement of an action to accomplish perfection or maintenance or continuation of an interest in property; and

"(B) the property has not been seized or an action has not been commenced before the date of the filing of the petition, the interest in such property shall be perfected, or perfection of such interest shall be maintained or continued, by notice within the time fixed by that law for the seizure of property or commencement of an action."

**SEC. 220. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.**

Section 1114(e) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title, if there are not sufficient unencumbered assets available to make a timely payment required by paragraph (1), an order approving the use, sale, or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit, or incurring of debt to make the payment."

**SEC. 221. NOTICES TO CREDITORS.**

Section 342 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(c) If notice is required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court, such notice shall contain the name and address of the debtor and the account number, if any, of the debt owed to the creditor if the account number is known to or reasonably ascertainable by the debtor."

**TITLE III—CONSUMER BANKRUPTCY ISSUES****SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.**

Section 1322 of title 11, United States Code, as amended by section 207(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

"(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

"(2) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5)."

**SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.**

Section 1328(a)(3) of title 11, United States Code, is amended by inserting ", or a fine to

the extent such fine exceeds \$500," after "restitution".

**SEC. 303. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

(a) **RELIEF FROM AUTOMATIC STAY.**—Section 362(b)(2) of title 11, United States Code, is amended to read as follows:

"(2) under subsection (a) of this section—  
"(A) of the commencement or continuation of an action or proceeding for—

"(i) the establishment of paternity; or  
"(ii) the establishment or modification of an order for alimony, maintenance, or support; or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;"

(b) **PRIORITY OF CLAIMS.**—

(1) **ALIMONY OR SUPPORT.**—Section 507(a) of title 11, United States Code, is amended—

(A) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth";

(B) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth"; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) Eighth, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—  
"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or  
"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support."

(2) **TECHNICAL AMENDMENTS.**—Title 11, United States Code, is amended—  
(A) in section 502(i) by striking "507(a)(7)" and inserting "507(a)(8)";  
(B) in section 503(b)(1)(B)(i) by striking "507(a)(7)" and inserting "507(a)(8)";  
(C) in section 523(a)(1)(A) by striking "507(a)(7)" and inserting "507(a)(8)";  
(D) in section 724(b)(2) by striking "or 507(a)(6)" and inserting "507(a)(6), or 507(a)(7)";  
(E) in section 726(b) by striking "or (7)" and inserting ", (7), or (8)";  
(F) in section 1123(a)(1) by striking "507(a)(7)" and inserting "507(a)(8)"; and  
(G) in section 1129(a)(9)—

(i) in subparagraph (B) by striking "or 507(a)(6)" and inserting ", 507(a)(6), or 507(a)(7)"; and

(ii) in subparagraph (C) by striking "507(a)(7)" and inserting "507(a)(8)".

(c) **PROTECTION OF LIENS.**—Section 522(f)(1) of title 11, United States Code, is amended to read as follows:

"(1) a judicial lien (other than a judicial lien that secures a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of the spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, to the extent that the debt—

"(A) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support)."

"(A) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support)."

(d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—Section 547(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) to the extent that the transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support; or"

(e) APPEARANCE BEFORE COURT.—A child support creditor or its representative shall be permitted to appear and intervene without charge and without meeting any special local court rule requirement for attorney appearances in any bankruptcy proceeding in any bankruptcy court or district court of the United States if the creditor or representative files with the court a statement describing in detail the child support debt, its status, and other characteristics.

**SEC. 304. BANKRUPTCY PETITION PREPARERS.**

(a) AMENDMENT OF CHAPTER 1.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

**"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENCE OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.**

"(a) DEFINITION.—In this section—

"'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than \$500 for each such failure unless the failure is due to reasonable cause.

"(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than \$500 for each such failure unless the failure is due to reasonable cause.

"(d) FURNISHING OF COPY TO THE DEBTOR.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for

filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than \$500 for each such failure unless the failure is due to reasonable cause.

"(e) NO AUTHORIZATION TO EXECUTE DOCUMENTS.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor.

"(2) A bankruptcy petition preparer may be fined not more than \$500 for each document executed in violation of paragraph (1).

"(f) ADVERTISING.—(1) A bankruptcy petition preparer shall not use the word "legal" or any similar term in any advertisements, or advertise under any category that includes the word "legal" or any similar term.

"(2) A bankruptcy petition preparer shall be fined not more than \$500 for each violation of paragraph (1).

"(g) COURT FEES.—(1) A bankruptcy petition preparer shall not collect or receive any payment from the debtor or on behalf of the debtor for the court fees in connection with filing the petition.

"(2) A bankruptcy petition preparer shall be fined not more than \$500 for each violation of paragraph (1).

"(h) FEES FOR SERVICES.—(1) Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

"(2) The court shall disallow and order the immediate turnover to the bankruptcy trustee of any fee referred to in paragraph (1) found to be in excess of the value of typing services for the documents prepared. The debtor may exempt any funds so recovered under section 522(b).

"(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order under paragraph (2).

"(4) A bankruptcy petition preparer shall be fined not more than \$500 for each failure to comply with a court order to turn over funds within 30 days of service of such order.

"(i) DAMAGES.—(1) If a bankruptcy case or related proceeding is dismissed because of the failure to file bankruptcy forms, the negligence or intentional disregard of this title or the bankruptcy rules by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor, the trustee, or a creditor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(A) the debtor's actual damages;

"(B) the greater of—

"(1) \$2,000; or

"(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(2) If the trustee or creditor moves for damages on behalf of the debtor under this subsection, the bankruptcy petition preparer shall be ordered to pay the movant the additional amount of \$1,000 plus reasonable attorneys' fees and costs incurred.

"(j) INJUNCTIVE RELIEF.—

"(1) IN GENERAL.—A debtor for whom a bankruptcy petition preparer has prepared a

document for filing, the trustee, a creditor, or the United States trustee in the district in which the bankruptcy petition preparer resides, has conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct, the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) ATTORNEY'S FEE.—The court shall award to a debtor, trustee, or creditor that brings a successful action under this subsection reasonable attorney's fees and costs of the action, to be paid by the bankruptcy petition preparer.

"(k) UNAUTHORIZED PRACTICE OF LAW.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law."

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following new item:

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions."

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

**"§ 152. Concealment of assets; false oaths and claims; bribery**

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than \$5,000, imprisoned not more than 5 years, or both.

#### "§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than \$5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

#### "§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of estates in the person's charge,

shall be fined not more than \$5,000 and shall forfeit the person's office, which shall thereupon become vacant.";

(B) by adding at the end the following new section:

#### "§ 156. Willful disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a willful attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined \$5,000."

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new item:

"Sec. 156. Willful disregard of bankruptcy law or rule."

#### SEC. 305. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal."

#### SEC. 306. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking "claims;" and inserting "claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured."

#### SEC. 307. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) the claim is for an amount valued at not greater than \$25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim.";

(2) by adding at the end the following new subsection:

"(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor."

#### SEC. 308. EXEMPTION FOR HOUSEHOLD GOODS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;"

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings; and

#### SEC. 309. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103, or the debtor's attorney, after considering comments and objections submitted by the United States Trustee in conformance with guidelines adopted by the Executive Office for United States Trustees pursuant to section 586(a)(3)(A) of title 28—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2)(A) In determining an amount of reasonable compensation to be awarded under paragraph (1)(A), the court—

"(i) may, on its motion or on the motion of the United States trustee or any party in interest, award compensation that is less than the amount of compensation that is requested; and

"(ii) shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(I) the time spent on such services;

"(II) the rates charged for such services;

"(III) whether the services were necessary in the administration of or beneficial toward the completion of a case under this title; and

"(IV) the total value of the estate and the amount of funds or other property available for distribution to all creditors both secured and unsecured.

"(B) In calculating compensation for services for the purpose of subparagraph (A)(ii), the court shall consider—

"(i) whether tasks were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed; and

"(ii) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in nonbankruptcy cases.

"(3)(A) Subject to subparagraph (B), the court shall not allow compensation for duplication of services or for services that are not

either reasonably likely to benefit the debtor's estate or necessary in the administration of the case.

"(B) In a case in which the debtor is an individual, the court shall allow reasonable compensation for services by the debtor's attorney representing the interests of the debtor without regard to the benefit of such services to the estate.

"(4)(A) The court shall take into account the amount and timing of interim compensation, if any awarded and paid, in awarding final compensation.

"(B) If interim compensation was awarded and paid in an amount that exceeds the amount the court awards as final compensation the court may order the return of the excess to the trustee or other entity that paid it.

"(5) In determining the amount to be awarded for the preparation of fee applications, the court shall recognize the difference between the cost of professional services and services for the preparation of fee applications. The costs awarded for the preparation of fee applications shall be reasonable and based on the level of skill required."

#### SEC. 310. INTEREST ON INTEREST.

(a) CHAPTER 11.—Section 1123 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (a) of this section and sections 506(b), 1129(a)(7), and 1129(b) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law."

(b) CHAPTER 12.—Section 1222 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1225(a)(5) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law."

(c) CHAPTER 13.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1325(a)(5) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements described in sections 1123(d), 1222(d), and 1322(f) of title 11, United States Code, as added by this section, that are entered into after the date of enactment of this Act.

### TITLE IV—BANKRUPTCY REVIEW COMMISSION

#### SEC. 401. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

#### SEC. 402. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

#### SEC. 403. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 408; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

#### SEC. 404. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) One member shall be appointed by the President pro tempore of the Senate.

(3) One member shall be appointed by the Minority Leader of the Senate.

(4) One member shall be appointed by the Speaker of the House of Representatives.

(5) One member shall be appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

#### SEC. 405. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence,

and other necessary expenses incurred by them in the performance of their duties.

#### SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

#### SEC. 407. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

#### SEC. 408. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and con-

clusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

#### SEC. 409. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 408.

#### SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$1,500,000 to carry out this title.

### TITLE V—TECHNICAL CORRECTIONS

#### SEC. 501. TITLE 11, UNITED STATES CODE.

(a) ALPHABETIZATION AND ELIMINATION OF PARAGRAPH DESIGNATIONS.—Section 101 of title 11, United States Code, is amended to read as follows:

##### “§ 101. Definitions

“In this title—

“‘accountant’ means an accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized.

“‘affiliate’ means—

“(A) an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

“(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

“(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

“(B) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

“(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

“(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

“(C) a person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

“(D) an entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

“‘attorney’ means an attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law.

“‘claim’ means—

“(A) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

“(B) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

“‘commodity broker’ means a futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer (as defined in section 761) with respect to which there is a customer (as defined in section 761).

“‘community claim’ means a claim that arose before the commencement of the case

concerning the debtor for which property of the kind specified in section 541(a)(2) is liable, whether or not there is any such property at the time of the commencement of the case.

“‘consumer debt’ means debt incurred by an individual primarily for a personal, family, or household purpose.

“‘corporation’—

“(A) includes—

“(i) an association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

“(ii) a partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

“(iii) a joint-stock company;

“(iv) an unincorporated company or association; or

“(v) a business trust; but

“(B) does not include a limited partnership.

“‘creditor’ means—

“(A) an entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

“(B) an entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h), or 502(i); or

“(C) an entity that has a community claim.

“‘custodian’ means—

“(A) a receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

“(B) an assignee under a general assignment for the benefit of the debtor's creditors; or

“(C) a trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors.

“‘debt’ means liability on a claim.

“‘debtor’ means a person or municipality concerning which a case under this title has been commenced.

“‘disinterested person’ means a person that—

“(A) is not a creditor, an equity security holder, or an insider;

“(B) is not and was not an investment banker for any outstanding security of the debtor;

“(C) has not been, within 3 years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor;

“(D) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C); and

“(E) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor or an investment banker specified in subparagraph (B) or (C), or for any other reason.

“‘entity’ includes a person, estate, trust, governmental unit, and United States trustee.

“‘equity security’ means—

“(A) a share in a corporation, whether or not transferable or denominated ‘stock’, or similar security;

“(B) an interest of a limited partner in a limited partnership; or

“(C) a warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B).

“‘equity security holder’ means a holder of an equity security of the debtor.

“‘family farmer’ means—

“(A) an individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed \$1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse unless such debt arises out of a farming operation), on the date the case is filed, arise out of a farming operation owned or operated by such individual or such individual and spouse, and such individual or such individual and spouse receive from such farming operation more than 50 percent of such individual's or such individual and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

“(B) a corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family, and such family or such relatives conduct the farming operation—

“(i) more than 80 percent of the value of its assets consists of assets related to the farming operation;

“(ii) its aggregate debts do not exceed \$1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for one dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a farming operation), on the date the case is filed, arise out of the farming operation owned or operated by such corporation or such partnership; and

“(iii) if such corporation issues stock, such stock is not publicly traded.

“‘family farmer with regular annual income’ means a family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12.

“‘farmer’ means (except when such term appears in the term ‘family farmer’) a person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person.

“‘farming operation’ includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state.

“‘Federal depository institutions regulatory agency’ means—

“(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of that Act);

“(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

“(C) with respect to any insured depository institution for which the Resolution Trust

Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation.

"'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741(a)), the customer.

"'foreign proceeding' means a proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization.

"'foreign representative' means a duly selected trustee, administrator, or other representative of an estate in a foreign proceeding.

"'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, as defined in section 761, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any combination thereof or option thereon.

"'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade.

"'governmental unit' means—

"(A) the United States, a State, Commonwealth, or Territory, the District of Columbia, a municipality, and a foreign state;

"(B) a department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a case under this title), a State, Commonwealth, or Territory, the District of Columbia, a municipality, a foreign state; or

"(C) any other foreign or domestic government.

"'indenture' means a mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor.

"'indenture trustee' means a trustee under an indenture.

"'individual with regular income' means an individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13, other than a stockbroker or a commodity broker.

"'insider' includes—

"(A) if the debtor is an individual—

"(i) a relative of the debtor or of a general partner of the debtor;

"(ii) a partnership in which the debtor is a general partner;

"(iii) a general partner of the debtor; or

"(iv) a corporation of which the debtor is a director, officer, or person in control;

"(B) if the debtor is a corporation—

"(i) a director of the debtor;

"(ii) an officer of the debtor;

"(iii) a person in control of the debtor;

"(iv) a partnership in which the debtor is a general partner;

"(v) a general partner of the debtor; or

"(vi) a relative of a general partner, director, officer, or person in control of the debtor;

"(C) if the debtor is a partnership—

"(i) a general partner of the debtor;

"(ii) a relative of a general partner in, general partner of, or person in control of the debtor;

"(iii) a partnership in which the debtor is a general partner;

"(iv) a general partner of the debtor; or

"(v) a person in control of the debtor;

"(D) if the debtor is a municipality, an elected official of the debtor or relative of an elected official of the debtor;

"(E) an affiliate, or insider of an affiliate as if such affiliate were the debtor; and

"(F) a managing agent of the debtor.

"'insolvent' means—

"(A) with reference to an entity other than a partnership and a municipality, being in a financial condition such that the sum of the entity's debts is greater than all of the entity's property, at a fair valuation, exclusive of—

"(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and

"(ii) property that may be exempted from property of the estate under section 522;

"(B) with reference to a partnership, being in a financial condition such that the sum of the partnership's debts is greater than the aggregate of, at a fair valuation—

"(i) all of the partnership's property, exclusive of property of the kind specified in subparagraph (A)(i); and

"(ii) the sum of the excess of the value of each general partner's nonpartnership property, exclusive of property of the kind specified in subparagraph (A), over such partner's nonpartnership debts; and

"(C) with reference to a municipality, being in a financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; and

"(ii) unable to pay its debts as they become due.

"'institution-affiliated party'—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) (12 U.S.C. 1813(c)(2)), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

"(2) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).

"'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)).

"'insured depository institution'—

"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

"(B) includes an insured credit union (except as provided in the definition of 'Federal depository institutions regulatory agency' and in subparagraph (B) of the definition of 'institution-affiliated party').

"'intellectual property' means—

"(A) a trade secret;

"(B) an invention, process, design, or plant protected under title 35;

"(C) a patent application;

"(D) a plant variety;

"(E) a work of authorship protected under title 17; and

"(F) a mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law.

"'judicial lien' means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

"'lien' means a charge against or interest in property to secure payment of a debt or performance of an obligation.

"'margin payment', as used in sections 362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C), 556, 741(5), 761(15), 764(b), 766(a), and any other provision of this title in relation to forward contracts, means a payment or deposit of cash, a security, or other property that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including market-to-market payments or variation payments.

"'mask work' has the meaning given it in section 901(a)(2) of title 17.

"'municipality' means a political subdivision or public agency or instrumentality of a State.

"'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver or liquidating agent of a person, shall be considered to be a person for purposes of section 1102.

"'petition' means a petition filed under section 301, 302, 303, or 304 commencing a case under this title.

"'purchaser' means a transferee of a voluntary transfer, and includes an immediate or mediate transferee of such a transferee.

"'railroad' means a common carrier by railroad engaged in the transportation of individuals or property or owner of trackage facilities leased by such a common carrier.

"'relative' means an individual related by affinity or consanguinity within the third degree as determined by the common law and an individual in a step or adoptive relationship within such third degree.

"'repo participant' means an entity that, on any day during the period beginning 90 days before the date of the filing of a petition, has an outstanding repurchase agreement with the debtor.

"'repurchase agreement' and 'reverse repurchase agreement' mean an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds.

"'security'—

"(A) includes—

"(i) a note;

"(ii) stock;

“(iii) treasury stock;  
 “(iv) a bond;  
 “(v) a debenture;  
 “(vi) a collateral trust certificate;  
 “(vii) a preorganization certificate or subscription;  
 “(viii) a transferable share;  
 “(ix) a voting-trust certificate;  
 “(x) a certificate of deposit;  
 “(xi) a certificate of deposit for security;  
 “(xii) an investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is required to be the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of that Act (15 U.S.C. 77c(b)) from the requirement to file such a statement;  
 “(xiii) an interest of a limited partner in a limited partnership;  
 “(xiv) another claim or interest commonly known as a ‘security’; and  
 “(xv) a certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but  
 “(B) does not include—  
 “(i) currency or a check, draft, bill of exchange, or bank letter of credit;  
 “(ii) a leverage transaction (as defined in section 761);  
 “(iii) a commodity futures contract or forward contract;  
 “(iv) an option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;  
 “(v) an option to purchase or sell a commodity;  
 “(vi) a contract or certificate of a kind specified in subparagraph (A)(xii) that is not required to be the subject of a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or  
 “(vii) debt or an evidence of indebtedness for goods sold and delivered or services rendered.  
 “‘security agreement’ means an agreement that creates or provides for a security interest.  
 “‘securities clearing agency’ means a person that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) or whose business is confined to the performance of functions of a clearing agency with respect to exempted securities (as defined in section 3(a)(12) of that Act (15 U.S.C. 78c(12)) for the purposes of that section 17A.  
 “‘security interest’ means a lien created by an agreement.  
 “‘settlement payment’ means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, partial settlement payment, interim settlement payment, settlement payment on account, final settlement payment, net settlement payment, or any other similar payment commonly used in the forward contract trade.  
 “‘State’ includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9.  
 “‘statutory lien’ means a lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include a security interest or judicial

lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

“‘stockbroker’ means a person—  
 “(A) with respect to which there is a customer (as defined in section 741); and  
 “(B) that is engaged in the business of effecting transactions in securities—  
 “(i) for the account of others; or  
 “(ii) with members of the general public, from or for such person’s own account.

“‘swap agreement’ means—  
 “(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, or any other similar agreement (including any option to enter into any of the foregoing);  
 “(2) any combination of the foregoing; or  
 “(3) a master agreement for any of the foregoing together with all supplements.  
 “‘swap participant’ means an entity that, at any time before the filing of a petition, has an outstanding swap agreement with the debtor.

“‘timeshare interest’ means an interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.  
 “‘timeshare plan’ means an interest in any arrangement, plan, scheme, or similar device (but not including an exchange program), whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser of the interest, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than 3 years.

“‘transfer’ means a mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor’s equity of redemption.  
 “‘United States’, when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.

(b) REFERENCES TO DEFINITIONS IN TITLE XI.—

(1) SECTION 362.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (6)—  
 (i) by striking “section 761(4)” and inserting “section 761”;

(ii) by striking “section 741(7)” and inserting “section 741”;

(iii) by striking “section 101(34), 741(5), or 761(15)” and inserting “section 101, 741, or 761”;

(iv) by striking “section 101(35) or 741(8)” and inserting “section 101 or 741”; and

(B) in paragraph (7)—

(i) by striking “section 741(5) or 761(15)” and inserting “section 741 or 761”; and

(ii) by striking “section 741(8)” and inserting “section 741”.

(2) SECTION 507.—Section 507(a)(5) of title 11, United States Code, is amended—

(A) by striking “section 557(b)(1)” and inserting “section 557(b)”;

(B) by striking “section 557(b)(2)” and inserting “section 557(b)”.

(3) SECTION 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking “section 101(34), 741(5), or 761(15)” and inserting “section 101, 741, or 761”; and

(ii) by striking “section 101(35) or 741(8)” and inserting “section 101 or 741”; and

(B) in subsection (f)—

(i) by striking “section 741(5) or 761(15)” and inserting “section 741 or 761”; and

(ii) by striking “section 741(8)” and inserting “section 741”.

(4) SECTION 548.—Section 548(d)(2) of title 11, United States Code, is amended—

(A) in subparagraph (B)—

(i) by striking “section 101(34), 741(5) or 761(15)” and inserting “section 101, 741, or 761”; and

(ii) by striking “section 101(35) or 741(8)” and inserting “section 101 or 741”; and

(B) in subparagraph (C)—

(i) by striking “section 741(5) or 761(15)” and inserting “section 741 or 761”; and

(ii) by striking “section 741(8)” and inserting “section 741”.

(5) SECTION 555.—Section 555 of title 11, United States Code, is amended by striking “section 741(7)” and inserting “section 741”.

(6) SECTION 556.—Section 556 of title 11, United States Code, is amended by striking “section 761(4)” and inserting “section 761”.

(c) REFERENCES TO DEFINITIONS IN OTHER LAWS.—

(1) FEDERAL CREDIT UNION ACT.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) in clause (ii)(I) by striking “section 741(7)” and inserting “section 741”;

(B) in clause (iii) by striking “section 101(24)” and inserting “section 101”;

(C) in clause (iv)(I) by striking “section 101(41)” and inserting “section 101”; and

(D) in clause (v) by striking “section 101(50)” and inserting “section 101”.

(2) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) in clause (ii)(I) by striking “section 741(7)” and inserting “section 741”;

(B) in clause (iii) by striking “section 761(4)” and inserting “section 761”;

(C) in clause (iv) by striking “section 101(24)” and inserting “section 101”;

(D) in clause (v)(I) by striking “section 101(41)” and inserting “section 101”; and

(E) in clause (viii) by striking “section 101(50)” and inserting “section 101”.

(d) OTHER TECHNICAL AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in section 322(a) by striking “1302, or 1202” and inserting “1202, or 1302”;

(2) in section 346—

(A) in subsection (a) by striking “Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and inserting “Internal Revenue Code of 1986”; and

(B) in subsection (g)(1)(C) by striking “Internal Revenue Code of 1954 (26 U.S.C. 371)” and inserting “Internal Revenue Code of 1986”;

(3) in section 348—

(A) in subsection (b) by striking “728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)” and inserting “728(a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121(b) and (c), 1141(d)(4), 1146(a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)”;

and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(4) in section 349(a) by striking "109(f)" and inserting "109(g)";

(5) in section 362(b)—

(A) by striking "or" at the end of paragraph (10);

(B) in paragraph (12) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46, United States Code";

(C) in paragraph (13)—

(i) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46, United States Code"; and

(ii) by striking "or" at the end;

(D) in paragraph (14), as added by section 102 of Public Law 101-311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and

(E) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388-28), as paragraphs (15), (16), and (17);

(6) in section 363(c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(7) in section 364(a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(8) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(B) in subsection (n)(1)(B) by striking "to to" and inserting "to"; and

(C) in subsection (o) by striking "the Federal" the first place it appears and all that follows through "successors," and inserting "a Federal depository institutions regulatory agency (or predecessor to such an agency)";

(9) in section 507—

(A) in subsection (a)(8) by striking "the Federal" the first place it appears and all that follows through "successors," and inserting "a Federal depository institutions regulatory agency (or predecessor to such an agency)"; and

(B) in subsection (d) by striking "(a)(3), (a)(4), (a)(5), or (a)(6)" and inserting "(a) (3), (4), (6), or (7)";

(10) in section 522(d)(10)(E)(iii) by striking "401(a), 403(a), 403(b), 408, or 409 Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409)" and inserting "section 401(a), 403 (a) or (b), 408, or 409 of the Internal Revenue Code of 1986";

(11) in section 523(a)—

(A) in subsection (a)—

(i) by striking "1141., 1228(a), 1228(b)," and inserting "1141, 1228 (a) or (b)."; and

(ii) in paragraph (12) by striking the semicolon at the end and inserting a period; and

(B) in subsection (e) by striking "depository institution or insured credit union" and inserting "insured depository institution";

(12) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting "1228(a)(1), or 1328(a)(1)";

(B) in subsection (c)(4) by striking "rescission" and inserting "rescission"; and

(C) in subsection (d)(1)(B)(ii) by adding "and" at the end;

(12) in section 541(b)(3) by striking the period at the end of paragraph (3) and inserting "or";

(13) in section 542(e) by striking "to to" and inserting "to";

(14) in section 543(d)(1) by striking "of equity" and inserting "if equity";

(15) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302";

(16) in section 549(b) by inserting "the trustee may not avoid under subsection (a) of this section" after "involuntary case,";

(17) in section 553—

(A) in subsection (a)(1) by striking "other than under section 502(b)(3) of this title"; and

(B) in subsection (b)(1) by striking "362(b)(14)," and inserting "362(b)(14).";

(18) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307";

(19) in section 724(d) by striking "Internal Revenue Code of 1954 (26 U.S.C. 6323)" and inserting "Internal Revenue Code of 1986";

(20) in section 726(b) by inserting a comma after "section 1112";

(21) in section 743 by striking "342(a)" and inserting "342";

(22) in section 745(c) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986";

(23) in section 1104(c) inserting a comma after "interest";

(24) in section 1123(a)(1) inserting a comma after "title" the last place it appears;

(25) in section 1129(a)—

(A) in paragraph (4) by striking the semicolon at the end and inserting a period; and

(B) in paragraph (12) inserting "of title 28" after "section 1930";

(26) in section 1145(a) by striking "does" and inserting "do";

(27) in section 1226(b)(2)—

(A) by striking "1202(d) of this title" and inserting "1202(c)"; and

(B) by striking "1202(e) of this title" and inserting "1202(d)";

(28) in section 1302(b)(3) by striking "and" at the end;

(29) in section 1328(a)(2) by striking "(5) or (8)" and inserting "(5), (8), or (9)"; and

(30) in the table of chapters by striking the item relating to chapter 15.

**SEC. 502. TITLE 28, UNITED STATES CODE.**

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11."

**TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS**

**SEC. 601. SEVERABILITY.**

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

**SEC. 602. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in section 115(c) and in paragraph (2) of this subsection, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the date of enactment of this Act.

(2) SECTION 1110 OF TITLE 11.—Section 1110 of title 11, United States Code, as amended by section 203, shall apply with respect to any lease (as defined in section 1110(c)), entered into in connection with a settlement of any

litigation in any case pending under title 11, United States Code, on the date of enactment of this Act.

**EXECUTIVE SESSION**

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider Executive Calendar item No. 828, the nomination of Adm. Frank B. Kelso II.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the nomination.

**NAVY**

The legislative clerk read the nomination of Adm. Frank B. Kelso II, U.S. Navy, to be placed on the retired list in the grade of admiral.

Mr. EXON addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. I thank the Chair.

Mr. President, the Senate has now before it President Clinton's nomination of Adm. Frank B. Kelso II, U.S. Navy, to retire in grade as a four-star admiral. That nomination was reported favorably by the Armed Services Committee by a vote of 20 to 2.

Admiral Kelso is completing 38 years of distinguished service in the U.S. Navy, of which 14 years have been as a flag officer and last 8 of which have been in the four-star grade.

Over the last 9 years, Admiral Kelso has served as Commander, 6th Fleet; as Commander in Chief, U.S. Atlantic Fleet; and as Supreme Allied Commander, Atlantic, in his NATO hat and Commander in Chief, U.S. Atlantic Command in his U.S. hat.

When he served as Commander, 6th Fleet, forces under Admiral Kelso's command forced down the aircraft carrying terrorists who murdered an American citizen on board the *Achille Lauro*. In that position, Admiral Kelso commanded the U.S. forces which responded to Libyan armed aggression in the Gulf of Sidra and also commanded the joint air strike on Libya itself in retaliation for Libyan terrorism against United States servicemen in Germany.

When he served as Commander in Chief, U.S. Atlantic Fleet, Admiral Kelso led the way in planning and executing the integration of women in combat logistic force ships.

As the Chief of Naval Operations, Admiral Kelso has overseen a fundamental shift for naval forces from global open ocean warfare to joint and combined operations conducted from the sea in littoral regions.

Also as the Chief of Naval Operations, Admiral Kelso has overseen the admission of women to service in all ships now closed to them and sought legislation that opens combat ships and aircraft to women. Women are

joining combatant ships today and the first woman combat pilot has qualified aboard an aircraft carrier and many more are in the combat aviation, particularly in the up-front pipeline.

Admiral Kelso has also established the standing committee on the status of the women in the Department of the Navy. During his tenure as the Chief of Naval Personnel, for the first time in the history of the Navy, women have become commanding officers of ships, aviation squadrons, major naval stations, a naval base, and brigades at the Naval Academy.

During Admiral Kelso's tenure as the Chief of Naval Operations, nine women have been promoted to flag rank.

In the absence of Senator NUNN, the chairman of the committee, who will be here a little bit later on, I would like to read into the RECORD a letter that Senator NUNN received from the Women Officers' Professional Association. The letter is dated April 14, 1994, to the Honorable Sam NUNN, Chairman, Armed Services Committee, U.S. Senate, Washington, DC.

Dear Chairman NUNN. On behalf of the board of the Women Officers' Professional Association (WOPA), I express our—

And this is underlined—

wholehearted support for Admiral Frank Kelso's well earned right to retire at his present rank of full admiral.

Admiral Kelso should be congratulated for his leadership, not criticized. He, more than any other person, changed the Navy by eliminating the gender-based prejudices and restrictions which previously limited the contribution of Navy women. The world will learn from our example.

It is appalling that some people judge Admiral Kelso by whatever did or did not happen at the 1991 Tailhook convention. The important lesson of this terrible event is that it was Admiral Kelso, as Chief of Naval Operations, who forced the Navy to change for the good. Because of it, it will never happen again.

And then underlined:

We, the professional women of the Navy, are beyond Tailhook.

The WOPA is a predominantly female organization of almost 400 commissioned and noncommissioned officers. We have seen our members become part of the U.S.S. *Eisenhower's* ships company, and report that the Navy is the only service with multiple female flag officers.

Admiral Kelso will be remembered with much respect by the Navy's women. Please do not dishonor him by a rank reduction.

Sincerely, Jayne Hornstein, Lieutenant Commander, USN, Vice-President for Programs.

Mr. President, I ask that the letter I have just read be printed in the RECORD in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. EXON. Mr. President, returning to what I think is critically important that we judge, women have done very

well under the leadership of Frank Kelso. If you know Frank Kelso, as many of us do, you will know that he is a straightforward individual. He speaks frankly and on point, and he says time and time again what he thinks should be done and the right manner for all of the people in the U.S. Navy.

I simply say to you, Mr. President, that if you do not know Frank Kelso well, then you have missed meeting one of the finest men or women that I think has ever served in the U.S. Navy.

We have had him on numerous occasions before the Senate Armed Services Committee. I have never seen him other than absolutely forthright, always honest, always up front, and even understanding when I felt he was under unjust attack.

I certainly simply say that the Chief of Naval Operations, Admiral Kelso, put real teeth into the policy of zero tolerance of sexual harassment by directing that all persons found guilty of one incident of aggravated sexual harassment be automatically processed for discharge. Repeat offenders where incidents are less serious are also subject to mandatory processing for discharge. Thus far, 85 officers or enlisted personnel have been removed from the Navy under this policy.

Mr. President, let us turn for a moment to what I am sure will be a matter of some discussion on the floor of the Senate today. Of course, that is the 1991 Tailhook Symposium, if that is the proper name for it. Admiral Kelso attended the symposium. He determined that the issues facing the Navy's aviation community, including the question of women piloting combat aircraft, required that he find out firsthand the mood of the aviation community. He testified under oath that he did not witness any misconduct at the said symposium.

A military trial judge concluded that Admiral Kelso witnessed such misconduct and, further, manipulated the investigative process to shield himself and senior naval officers. The Department of Defense Inspector General, whose investigation involved the interviews of hundreds of witnesses and who reviewed the evidence introduced at the trial, determined that there was no credible evidence that Admiral Kelso had specific knowledge of the improper incidents and offenses that took place at the Tailhook Symposium and there was no evidence that Admiral Kelso sought to thwart the Navy's investigation into the Tailhook matter.

Secretary of Defense William Perry, Secretary of the Navy John Dalton, and Chairman of the Joint Chiefs of Staff General Shalikashvili each testified before the Armed Services Committee. I asked each and every one of them to specifically respond to this question, because I thought it was critically important as to whether or not the general should be retired at the

four-star rank. I remind you that these are the people that are in control of our national defense: William Perry, the Secretary of Defense; John Dalton, the Secretary of the Navy; and a very distinguished officer, General Shalikashvili, whom we have come to recognize and realize as an outstanding man.

I believe I asked the question of General Shalikashvili first, and then I said, "I would like the other two of you before us today to answer also." The question was simple. It was straightforward. "Do you believe or, to put it more precisely, do you have any hesitation or mental reservation whatsoever about whether or not Admiral Kelso saw or was present at any improper activity at the Tailhook Symposium in Las Vegas in 1991?" Each one of those individuals, in whom we place great respect, said no.

I do not know how the question could be asked any more directly than this Senator did in that event. Somewhere along the line you have to believe somebody. You have to believe in people that have stood the test of time, not only in the service but in very important civilian positions as we have now under President Clinton.

I would simply emphasize, Mr. President, that each one of these individuals, the Secretary of Defense, the Secretary of the Navy, and the Chairman of the Joint Chiefs, have conducted their own review of the evidence that they had and determined that Admiral Kelso did not personally witness improper conduct at Tailhook and did not—I emphasize "did not"—manipulate the investigative process.

Of particular note, the trial judge concluded that Admiral Kelso, and I quote: " \* \* \* received the separately maintained files containing information describing the alleged failure of leadership and other personal involvement of a number of flag officers, including his own file."

Let me emphasize that is what the trial judge said. And I expect that the statements from the trial judge will be cited at some length in our discussion on this matter today.

But the trial judge said, and I just quoted that, that Admiral Kelso " \* \* \* received the separately maintained files containing the information describing " \* \* \*" and so forth. However, both Secretary Perry and Secretary Dalton testified on their personal knowledge that the so-called flag files were under the custody of the Secretary of Defense until they were turned over to Secretary Dalton or his general counsel and that Admiral Kelso never had the authority nor the ability to withhold these files from the Navy admiral who convened the trials relating to Tailhook.

Mr. President, in conclusion on this part of my statement, I want to say that I have known Admiral Kelso for a

number of years. He has testified before the Armed Services Committee and has worked closely with us on that committee over the years. I personally consider him to be an individual of the highest integrity, who is committed to the elimination of prejudice, whether it be based on race, gender or religion, in the U.S. Navy. I also believe that his performance over the last 38 years of his career merit his retirement as a four-star admiral, as recommended by the President of the United States, by the Secretary of Defense, by the Secretary of the Navy, and by the Chairman of the Joint Chiefs of Staff.

Just for clarification at this time, Mr. President, because I am sure we will be discussing this at some length, under the retirement rules of the military services, particularly now talking about the Navy—the same general rules apply to the other branches of the service, as well—when you get two stars and the salary that goes with two stars, that is where the monthly retirement is set. And as you go to receive a third star or a fourth star, as has been commonplace over the years, those last two stars, the third star and the fourth star, are temporary ranks. And when you retire, unless by action and recommendation of the President and confirmation or agreement by the Congress, you revert back to the two-star rank, as far as retirement compensation is concerned.

I do not believe that there has ever been a three- or a four-star flag officer, or officer who has retired, who has ever been denied that request when made by the President of the United States. I hope this will not be the first time because, if so, I think a grave injustice will take place.

Madam President, I yield the floor.

EXHIBIT 1

WOMEN OFFICERS'  
PROFESSIONAL ASSOCIATION,

April 14, 1994.

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

DEAR CHAIRMAN NUNN: On behalf of the board of the Women Officers Professional Association (WOPA), I express our wholehearted support for Admiral Frank Kelso's well earned right to retire at his present rank of full admiral.

Admiral Kelso should be congratulated for his leadership, not criticized. He, more than any other person, changed the Navy by eliminating the gender-based prejudices and restrictions which previously limited the contributions of Navy women. The world will learn from our example.

It is appalling that some people judge Admiral Kelso by whatever did or did not happen at the 1991 Tailhook convention. The important lesson of this terrible event is that it was Admiral Kelso, as the Chief of Naval Operations, who forced the Navy to change for the good. Because of it, it will never happen again. We, the professional women of the Navy, are beyond Tailhook.

The WOPA is a predominately female organization of almost 400 commissioned and noncommissioned officers. We have seen our

members become part of the USS EISENHOWER's ship's company, and report that the Navy is the only service with multiple female flag officers.

Admiral Kelso will be remembered with much respect by the Navy's Women. Please do not dishonor him by a rank reduction.

Sincerely,

JAYNE HORNSTEIN,  
Lieutenant Commander, USN, Vice President  
for Programs.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Maryland. Ms. MIKULSKI. Thank you very much, Madam President.

I rise today to take the position that Admiral Frank Kelso should be retired at the rank of two stars. The question is what are we considering on the floor today of the U.S. Senate? We will be debating whether or not Admiral Kelso should retire as a four-star admiral rather than a two-star admiral. Why does this take a vote by the U.S. Senate?

Under current law, any admiral, regardless of what rank he or she holds, three-star or four-star, is automatically retired at two stars unless there is an affirmative action by the Senate to allow them to retire at an additional star or two. Let me make it clear it is the current law that an admiral automatically retires at two stars, regardless of the rank he or she holds, unless there is an action taken by the Senate to increase those stars.

To retire above the two-star level is meant to be an extraordinary reward, not something to be routinely granted, not to rubberstamp something advised by a Secretary of Defense or a Secretary of one of the military organizations. It is meant to be an extraordinary reward and something so special that the entire Senate must vote to give advice and consent to such a reward.

My position is this: That two stars is enough for Admiral Frank Kelso. I am not advocating that he be stripped of his rank, nor am I advocating that he be demoted. What I am advocating is that he be retired according to current law. I believe that he should not retire at four stars and the pay that goes with it.

A lot of the arguments that I wish to make are best summarized in a New York Times editorial of April 14.

Madam President, there is much to commend the Senate and the Nation about the record of Admiral Frank Kelso. For 38 years, he has served in the U.S. military. He is a graduate of the class of 1958 at the Naval Academy.

Our distinguished colleague, Senator EXON, has detailed many of the outstanding things that Admiral Kelso has done during those 38 years he served in the Navy. Most recently, it was being in charge of the Navy that supported General Schwarzkopf during Desert Storm. He did play a significant role in fighting the perpetrators of the Achille Lauro incident. And it is true that he

has also done many significant things affecting women in the military from the standing committee on the status of women in the Department of Navy to admitting women to service on all ships not closed to them by law. We also know that he fought to convince the Secretary of Defense that the Navy must open up combat aviation and service aviation jobs to women.

There are many things he has done, as I said, for which we could commend him.

So then why am I opposing a four-star retirement? Madam President, I am opposing the two additional stars because of, No. 1, the Tailhook matter; No. 2, the failure of leadership at all levels of the U.S. Navy related to sexual harassment and sexual assault and scandal in general; and No. 3, the unchanged culture of the Navy regarding these matters. And I believe that if we do not take action to change the culture, as well as the law and the rules, this type of activity that went on at Tailhook and other forms of sexual harassment will happen again and again and again.

The Tailhook matter is a sordid, sleazy stain on the U.S. Navy. All are familiar with what happened there. During a 1991 convention, what was supposed to be a convention of Navy aviators, there was a series of actions that no one disputes in which several women were sexually harassed, sexually battered, and sexually assaulted. It was a scene of drunkenness, debauchery, vulgarity, and violence.

But what happened after the incident was made public is as much of a problem as Tailhook itself. It was an all too familiar pattern that happens in the Navy and happens in the U.S. military.

Let me tell you what the familiar pattern is. First, a victim comes forth and declares what has happened. Then there is an outcry, followed by an investigation, but a bungled investigation. There has been a persistent pattern after every scandal that there is a bungled investigation, characterized by mishandling, inept gathering of information and evidence, so damaging the evidence that often further prosecution is unable to go forward with any degree of credibility.

Even after the investigation is bungled, there is the coverup role, often the coverup role of junior officers, and this is where that the buddy system takes over from the honor system. It is the buddy system that takes over from the code of conduct where junior officers lie and conspire to protect their buddies.

Madam President, the honor system says this: That Naval officers do not lie, cheat, or steal. But the buddy system says that does not count if you are out to protect one of your own. And this is an all-too-familiar pattern in the Navy. I believe in the military, in general. My own experience as a mem-

ber of the Board of Visitors at the Naval Academy demonstrates that.

I was part of a committee to investigate sexual harassment at the U.S. Naval Academy. A young midshipman by the name of Gwenn Dwyer was chained to a latrine where she was then sexually harassed by a whole group of midshipmen taunting, abusing her, and which no junior officer or no one stepped in to protect her. And then, once again, that was followed by a bungled investigation and the role of both the mid and the junior officers to cover up to conspire and to make sure the buddy system overrode this.

We see this pattern and culture all too often and, therefore, this pattern and culture must change. It must change in matters affecting sexual harassment, discrimination of any kind, or scandals of any kind. And if it is to stop, it will only stop if there are consequences to the behavior of the leadership at the top. It will not change if there are no consequences associated to the behavior of the leadership in the U.S. military and its organizations.

I believe right now the military believes that if you ride it out, that if you hang tough and you hang low, all of it will blow over. All you have to do is just bide your time and there will be no penalty or no price paid for retirement or promotion. It will go on. And every effort focused on instituting cultural change will be a failure unless we show that there is a penalty to those at the top or those on their way to the top either in their promotion or their retirement.

That is why I say two stars is enough for Admiral Kelso. He was the Chief of Naval Operations. He was the Chief of all Naval Operations. To give him four stars is a message that there is no penalty for Tailhook. And if there is no penalty for Tailhook, there will never be a penalty for anything like it.

There is much to dispute about what happened at Tailhook. There is much that even disputes Admiral Kelso's role in Tailhook—what did he know before; what did he know during? And it is also so disputed that there is even confusion within the Navy itself. The Navy is confused between a military judge's finding and two IG reports. We can look at those, and others will speak to that.

But what is not disputed is the bungled investigation, the coverups, and the buddy system over the honor system. That is what happened on Kelso's watch and, therefore, he must take the responsibility, pay the price, and send a message that there is no reward either in a pension, a retirement, or a promotion.

Now there are those who would say, "Judge Admiral Kelso by his entire record, not by this single, scandalous matter."

I would like to do that. However, it is not only Admiral Kelso that is being

judged, but the entire U.S. Navy and the military. Regrettably, it falls on the shoulders of Frank Kelso.

When we say two stars is enough, we know—the women of the Senate and those men who support us know—that this will trigger an outrage among naval officers currently holding office and those in retirement. We anticipate that maybe even the veterans' organizations are going to be volcanic in their reaction.

However, know this: It is not the women of the Senate who should be blamed for this. It is not the Senate or the women of the Senate and the men who support us who are pulling Admiral Kelso down. It is the U.S. Navy that let Frank Kelso down. It is the U.S. Navy and the men who served under Kelso that torpedoed the career of Frank Kelso by bungling the investigation and by this buddy system over the honor system. It was the Navy who did this and, therefore, it is they who should bear their responsibility. And they must take the responsibility for changing the culture.

For those who are outraged at the Senate for speaking up, they are outraged at the wrong people. For those who will be outraged by us daring to challenge this promotion, they themselves should be outraged that Tailhook ever happened. They should be outraged over bungled investigations. They should be outraged over the buddy system, over the honor system.

It is they, those who often will now attack us, who should call for the restoration of the honor system and the code of conduct. For too often, when there are issues of sexual harassment or sexual assault, there is a pattern of blaming the victim or those of us who defend the victim.

This is not only an issue about women. Men must also speak up. I said this at the conclusion of the Anita Hill hearings. After we had gone through the intense hearings and debate on Anita Hill, I said this:

I call upon the men of the United States of America now to speak out on the issue of sexual harassment. This is not a women's issue. It is an issue that profoundly affects men and women and I call upon the men to claim the power that they have in order to speak out and speak up, to be able to speak up about this issue. I call upon the men to speak out in the workplace, to speak out in newspapers, to speak out in talk shows, to speak out in the gym the way they have spoken to me. And I say if you speak out and you speak up, you may prevent what has happened to your wife or to your daughter, but you will help others everywhere.

I also said this to the women watching during that time. I said to them: Do not lose heart, but we will lose ground. "And we have lost ground. Otherwise, we would not be debating this today."

I said this to the women:

I know how you feel the sting of this, how you feel battered and bullied whenever you

have been a victim of much sexual harassment. Speak up to a friend. And if you are ever harassed, take good notes. When you speak up, make sure you are not alone, because there will be few there to protect you.

And now we see that through the Military Code of Conduct.

Madam President, I feel very strongly about this. I want to conclude that now we have an opportunity to send a message to victims everywhere, but also to change the culture of the military by saying two stars is enough.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, thank you very much.

I am very glad to see my colleagues here from the House of Representatives. I had the distinct privilege of serving with many of them and, as a matter of fact, I made a walk over from the House on another matter, that is very close to the one they just made.

I want to say in particular that the leadership of Congresswoman PAT SCHROEDER is going to go down in history on issues of sexual harassment and sexual assault in the military. It swells my heart with pride to see her here.

Ms. MIKULSKI. Will the Senator yield?

Mrs. BOXER. I yield to the Senator.

Ms. MIKULSKI. Senator BOXER, I too wish to acknowledge the presence of our colleagues from the House, many who serve on the Armed Services Committee, and many who have stood with us on battles for social justice and equal rights and dignity for all.

Mrs. BOXER. Thank you very much.

Madam President, I urge my colleagues to vote no on the issue before us; that is, the vote to retire Adm. Frank Kelso at four stars. I think he should retire with his pension intact at a two-star level.

I realize this is a highly unusual action for us to take. But, by the presence of my female colleagues on both sides of the aisle and my female colleagues from the House, I think the country will note that the facts before us require us to take unusual action.

This is the first time that the seven women of the Senate have pulled together across party lines. And I want to say that our unity should be noticed. It is important.

Madam President, someone in the military must pay a tangible, quantifiable price for Tailhook, and no one in the military has—except those women who were sexually assaulted. Please note that I did not say sexually harassed. I said sexually assaulted.

What was Tailhook?

Madam President, as you know, for 3 days in September 1991, the Las Vegas Hilton was a haven for misconduct, where lewd and often criminal behavior was either ignored or, worse, encouraged by officers of the U.S. Navy.

At Tailhook '91, no place in the Las Vegas Hilton was safe. Women were harassed and assaulted by the pool, in the hallways, in the hotel casino, and in private rooms. The majority of the 80 assaults occurred in the so-called gauntlet, a dimly lit hallway packed with junior officers on the third floor. I want everybody to think about this gauntlet as if they were walking down it, or their wife was walking down that hall, or their sister or their aunt or their daughter was walking down that hall.

As women approached the gauntlet, officers pretended to be merely socializing in small groups. They would quiet down and create an opening in the crowd so unsuspecting women might think there was a clear passageway. But as women entered the gauntlet, they were immediately surrounded by officers who then blocked their exit. Once trapped, most victims were groped and many of them were bitten. All of them were assaulted in some form.

In the interest of decency, Madam President, I will refrain from entering the contents of the Department of Defense inspector general's final report on Tailhook into the RECORD. However, because it is so important for Senators to understand the seriousness of the offenses, I will read carefully worded sections into the RECORD.

Victim No. 26 was walking through the third floor "gauntlet" when, according to the inspector general, "suddenly men reached out grabbing and groping \* \* \* She screamed and covered herself with her arms."

Victim No. 41 was also assaulted in the "gauntlet." As she walked into the crowd "men began hooting and hollering at her. A group of men surrounded her and began groping her body. Several men ran their hands up her legs \* \* \* and fondled her. \* \* \* She attempted to defend herself by striking out at them, but as she twisted and turned, another group of men fondled her \* \* \* from behind."

Victim No. 50 was a lieutenant in the Navy. She testified that as she walked through the third floor hallway a "man \* \* \* moved in immediately behind me with his body pressed against mine. He was bumping me, pushing me forward down the passageway where the group on either side was pinching and pulling at my clothing. The man then put both his hands down the front of my tanktop [and grabbed me]. I dropped to a forward crouched position and placed my hands on the wrists of my attacker"

She did not say harasser. She said on the hands of my attacker. —"on the wrists of my attacker, in an attempt to remove his hands. \* \* \* I sank my teeth into the fleshy part of the man's left forearm, biting hard. I think I drew blood. \* \* \* I then turned and bit the man on the right hand at the area be-

tween the base of the thumb and the base of the index finger. The man removed his hands, and another individual reached up under my skirt and grabbed [me]. I kicked one of my attackers. \* \* \* I felt as though the group was trying to rape me."

Not harass me, "rape me."  
"I was terrified and had no idea what was going to happen next."

Those are just three examples, I say to my colleagues. And I have made them far more gentle than as they appeared in the inspector general's report.

The DOD inspector general's report is filled with dozens of harrowing accounts similar to the ones I have read. I say to my colleagues who are listening in their offices, read these before voting and ask the question: Who in the military paid a price for Tailhook? No one has, my friends. No one except the victims. Oh, there has been embarrassment, yes; a couple of letters of reprimands. Admiral Kelso is retiring 2 months early. No one in the military is paying a price but the people who were hurt at Tailhook, the women who were hurt at Tailhook.

The first investigations conducted by the Naval Investigative Service and then the Navy's IG were so botched, as Senator MIKULSKI stated so clearly, that before he quit, civilian Secretary of the Navy Lawrence Garrett called in the DOD inspector general.

The DOD inspector general's review of the previous investigations revealed gross incompetence, if not outright coverup. Remember, the Department of Defense inspector general took over the investigation from the Navy because the Navy had botched it up so badly. The Department of Defense inspector general criticized four of the five officers responsible for the Navy's investigation of Tailhook. I will put into the record his specific criticisms.

I ask unanimous consent they be printed in the RECORD.

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

#### VII. PERSONAL FAILURES AND RESPONSIBILITIES

We believe that personal failures on the part of four of the five management officials were largely responsible for the inadequacy of the Navy investigative response to the Tailhook matter.

##### A. The Under Secretary of the Navy

The Under Secretary failed to ensure that the Navy conducted a comprehensive investigation.

##### B. The Commander, NIS

The Commander, NIS, demonstrated an attitude that should have caused an examination of his suitability to conduct the investigation.

##### C. The Navy JAG

The Navy JAG failed to ensure that the Navy investigations fully addressed the issues, and he failed to remedy properly a significant conflict of interest on the part of the Special Assistant to the Secretary of the Navy for Legal and Legislative Affairs.

##### D. The Naval IG

The Naval IG did not ensure that his reports would have an adequate factual basis and made questionable referrals of individuals to the chain of command for consideration of disciplinary action.

Mrs. BOXER. The DOD inspector general reports that, during his investigation, many naval officers systematically lied to hide the truth. He called it collective stonewalling. It "increased the difficulty of the investigation," says the DOD IG, "and adversely affected [the DOD IG's] ability to identify many of those officers who had committed assaults."

That is in the record. This is not a group of women in the Congress saying this may have happened. This is not a group of victims saying we think this happened. This is the Department of Defense inspector general who said it did happen and that the Navy people lied systematically, to use his words.

In other words, the Navy coverup worked. And under whose watch? Admiral Kelso's.

So, how were the women treated who came forward to tell what happened? Let us talk about Lieutenant Paula Coughlin. She told her immediate supervisor, a vice-admiral, of her experience in the gauntlet. Do you know what he said? "That's what you get when you go to a hotel party with a bunch of drunk aviators."

Blame the victim. It should not surprise anyone that just 2 months ago Lieutenant Coughlin resigned her commission, citing continuing harassment as the reason for cutting short her promising career.

Those on the other side say Admiral Kelso was wonderful at changing the military, at changing the way they think about things. Then why did Lieutenant Coughlin have to quit? She felt herself run out of the Navy. This is what she wrote when she submitted her letter of resignation: "The physical attack on me by the naval aviators at the Tailhook Convention and the covert attacks on me that followed "have stripped me of my ability to serve."

That is what she wrote in her letter of resignation. And if you think, my friends, that the climate has changed since Tailhook—which many of our colleagues have said—I want to tell you that it has not. Congresswoman SCHROEDER has recently held hearings on this subject. She heard from several witnesses, including a lawyer who was locked into the mental ward because she complained of sexual harassment.

Madam President, justice has not been done in the Tailhook scandal. The victims have been harmed, the guilty have not been punished; just the opposite of what justice is supposed to be. Tailhook has been justice turned on its head, and today we can set justice on her feet again if we vote in the right fashion and keep the admiral at a two-star level.

The Department of Defense IG found the following in his final report. This is not Senator BOXER, this is not Senator FEINSTEIN, this is not Senator MURRAY, Senator MOSELEY-BRAUN, Senator HUTCHISON, Senator MIKULSKI, nor is it Senator KASSEBAUM.

"What happened at Tailhook '91 was the culmination of a long-term failure of leadership."

"A long-term failure of leadership." And who, I ask, was the leader of the Navy at that time, the CNO? Admiral Kelso, the highest ranking officer in the Navy. He must shoulder the responsibility for that lack of leadership. I say, if you have pride in the Navy, then you take the heat for Tailhook.

It happened on Admiral Kelso's watch and, as my colleague, Senator MIKULSKI, has stated, the minutes have ticked by and the months have ticked by and the years have ticked by without a price being paid by anyone in the military.

Tailhook was not a case of junior officers running amuck without their superiors' knowledge. Admiral Kelso attended the Tailhook convention, although he claims he witnessed no misconduct. I want to put on the record that the DOD IG agrees that there is no evidence that places Admiral Kelso at the scenes of the crimes. Several junior officers and a prominent Navy judge disagree. I do not want to get into whether or not he saw what was going on or he did not see what was going on. I say it is not critical to the central point. I say that even if Admiral Kelso did not personally witness the misconduct, I believe Admiral Kelso knew what Tailhook was. I think if you were alive and you were breathing and you were in the Navy at that time, you knew what Tailhook was.

Way back in 1985, a Navy vice admiral wrote another senior officer about the behavior he had seen.

Madam President, he wrote:

The general decorum and conduct last year was far less than expected of mature naval officers. Certain observers even described some of the activity in the hotel halls and suites as grossly appalling, "a rambunctious melee". \*\* Heavy drinking and other excesses were not only condoned, they were encouraged. \*\*\* We can ill-afford this type of behavior and, indeed, we must not tolerate it.

That is what was written way back in 1985 by a Navy vice admiral who wrote another senior officer. Can I believe that Admiral Kelso did not know what happened at Tailhook? Organizers of Tailhook '91 knew of the potential problems less than 1 month before the convention. On August 15, 3 weeks before the convention opened, the president of Tailhook sent a shocking letter to all Tailhook representatives.

Madam President, I ask unanimous consent to print the text of that letter in the RECORD.

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

THE TAILHOOK ASSOCIATION,  
BONITA, CA.  
August 15, 1991.

NFWS,  
Nas Miramar, San Diego, CA.

DEAR TAILHOOK REPRESENTATIVE: Enclosed you will find a copy of the floor plan and the location of your suite. If you have any questions, please feel free to contact Tailhook at our toll free number 1-800-322-HOOK. Please be patient, our lines are crazy this time of year.

This year we want to make sure everyone is aware of certain problems we've had in past year's.

As last year, you will only be charged for damage inside your suite. The Association will pay for common area damage. In order to keep damage charges to a minimum inside your suite, please make sure you check-in with someone from the Association. You may do this by calling the Tailhook Suite prior to moving into your suite. Our representative, a Hilton representative from housekeeping, and you will go over your suite prior to move-in. Please make sure you sign the form our representative will have and retain a copy. On Sunday, 9 September we will again inspect the suites in the same manner. Damage not listed on the check-in form will be the squadron's responsibility. If you do not check-in with the Association we will not be able to dispute any damage charges made by the Hilton Hotel.

In past years we have had a problem with under age participants. If you see someone who does not look like they belong in our group, or look under age please ask for a ID. If they are under age, or do not have ID, please ask them to leave or contact Security. It is important that we try to eliminate these under age of 21. If they were to leave the hotel and cause an accident, hurting themselves or anyone else, the Association, along with the squadron, the Navy, and the Hilton could be sued and Tailhook would come to an end. Please assist us in this matter.

Also, in the past we have a problem with late night "gang mentality." If you see this type of behavior going on, please make an effort to curtail it either by saying something, calling security or contacting someone from the Association. We will have people on the floor in blue committee shirts should you need them for any reason.

Tailhook will also have a flight surgeon aboard this year. Should you, or anyone you know need a "doc", please call the Tailhook Suite or make contact with a committee member. Security will also have his beeper number.

Remember, when bringing in your suite supplies do so with discretion. We are not allowed to bring certain articles into the Hilton. Please cover your supplies by putting them in parachute bags or boxes. Do not borrow laundry baskets from the Hilton. Their sense of humor does not go that far!!!

Supplies may be purchased in town from "WOW". They have a number of items that may be purchased or rented for your suite. The lanai suites do not have wet bars. You will need to set-up your own bar. The Hilton does not supply such items.

We suggest you remove your telephones from your suites so you are not paying for someone else's long distance calls. This has happened in the past. Also, make sure the phones are returned to the room. This is an item we have all forgotten to check on our check-in/check-out inspection. Please look for outlets in your suite by the beds and in the bathroom. Almost all suites have a

phone outlet in the bathroom. It is very important that you check the bathroom for a phone or an outlet and note it!

Please make sure your duty officers are SOBER and prepared to handle any problems that may arise in your suite. It is necessary for them to be willing to work with the Association staff. We will make every effort to handle all problems.

Remember. . . There Are To Be No "Quick Hit" Drinks served. Lewd and Lascivious behavior is unacceptable. The behavior in your suite reflects on both your squadron and your commanding officer.

Have a great time. Thank you for your continued support of the Tailhook Association. We look forward to seeing you in Las Vegas.

Sincerely,

FREDERIC G. LUDWIG, JR.,  
Captain, U.S. Navy, President.

Mrs. BOXER. Madam President, he wrote in part:

\*\*\* In the past we have had a problem with late night "gang mentality."

How many times have I heard my colleagues on this floor talk about the evils of a gang mentality? Here it is admitted by the Navy that that is what Tailhook was about. He wrote:

If you see this type of behavior, please make an effort to curtail it \*\*\*

This frank admission of gang mentality is absolutely astonishing. I view it, frankly, as irrefutable evidence that high-ranking Navy officers knew what had happened at past conventions and what could happen in the future.

Madam President, how is it possible that this paper trail, not to mention all of the word of mouth that circulated around the Pentagon escaped the attention of Admiral Kelso?

Navy Judge William Vest does not believe it at all.

The DOD inspector general reached a similar conclusion:

Throughout our investigation, officers told us that Tailhook 91 was not significantly different from earlier conventions with respect to outrageous behavior. Most of the officers we spoke to said excesses seen at Tailhook 91, such as excessive consumption of alcohol, strippers, indecent exposure and other inappropriate behavior were accepted by senior officers, simply because those things had gone on for years. Indeed, heavy drinking, the gauntlet, and widespread promiscuity were part of the allure of Tailhook conventions to a number of Navy and Tailhook attendees.

In summary, even if Admiral Kelso did not see what was occurring on the now infamous third floor where most of the assaults took place, he surely knew what Tailhook was about. It was not about good, clean fun or mom or apple pie. It was not even about sexual harassment. It was about disgusting, hostile aggressive sexual assault. The IG said that Tailhook had a well-known "can you top this" atmosphere that "appeared to increase with each succeeding Tailhook convention."

Admiral Kelso chose to attend the Tailhook convention despite its raunchy reputation. His appearance left the impression of official condonation.

Condonation. Had he refused the invitation to participate, it would have conveyed the message of condemnation. Condone or condemn Tailhook—that was Kelso's choice and he chose to condone.

Madam President, the failure of Admiral Kelso to exercise leadership and prevent this sickening attack on women is absolutely inexcusable, even put into the context of his other important activities, which my colleagues, Senator EXON and Senator MIKULSKI have discussed.

Indeed, Admiral Kelso has much to be proud of. I thank him for those contributions. The American people thank him for those contributions. But for Tailhook, we should not thank him, nor should we reward him.

In summary—and I will close here, Madam President—First, Admiral Kelso went to the Tailhook convention, known quite broadly in the Navy for its history of inappropriate conduct. He should have known what went on there. If he did not, then I say he was out of touch with his own people. He condoned Tailhook by his presence there.

Second: the investigation by the Navy, under Admiral Kelso, was so bungled that the DOD IG had to take it over. They had to walk away from it and bring in a new team because the Navy bungled it.

Third: the only ones to pay a price for Tailhook in the military are the women who were assaulted physically and mentally.

Fourth: the DOD inspector general found Tailhook 91 resulted—and I am quoting them—from a long-term failure of leadership.

My friends, we are on the spot. What kind of message will we send today? I say it should be a message of responsibility. We talk a great game around here about responsibility. We talk about making sure our children are responsible, parents are responsible, taxpayers are responsible, businesses are responsible.

I will tell you, it is easy to blame the other guy, but it is a sign of maturity not to do that. In the military, individual responsibility is the key. I had the honor of serving on the Armed Services Committee in the House for several years. The chain of command is clear. It is clear where the buck stops, and that is at the top.

A series of dirty deeds occurred at Tailhook. People were eventually scarred for life, and for that you do not give two additional stars and \$1,400 additional a month. For that you say, "We're sorry, sir, but the honorable thing to do is to walk away with your many good and fine deeds, with your mistakes and with your two stars."

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Madam President, the women elected to serve in this body and in the House get it. We suggest to our colleagues that business as usual is not good enough. We believe that sexual misconduct, harassment, abuse, and assault in the military must stop, and that refusal to promote Admiral Kelso for purposes of retirement is a way to stop it.

I am pleased to join my colleagues in speaking against the retirement of Admiral Kelso at four stars and in this initiative.

What is at issue here is not Admiral Kelso's character. It is unanimously agreed by the Armed Services Committee and by the top levels of the military that Admiral Kelso is a fine, upstanding gentleman. Nor at issue is Admiral Kelso's 38-year record in the Navy. Secretary Dalton outlined the long distinguished career of Admiral Kelso in his testimony before the committee.

The issue, Madam President, is not Admiral Kelso's commitment to the U.S. Navy or to the people of this country. I would like to speak to the issue of the Navy itself and Admiral Kelso's stewardship of the Navy which, unfortunately, has had a very poor record of investigating and disciplining itself.

The Tailhook convention of 1991 and the subsequent investigation, if we can call it that, into the charges of what occurred there are symptoms of a larger problem and of the need to reform the system of justice in the Navy.

A string of inappropriate behavior and inexcusable conduct has been recurring in the last few years in the Navy. Whether it was the Miramar incident with Congresswoman Schroeder; the first report on the explosion of the U.S.S. *Iowa*, which I recognize Admiral Kelso overturned; the Tailhook convention of 1991; or, most recently, the cheating scandals at the Naval Academy, this pattern underscores that the leadership of the Navy is not doing what it should do to prevent what is considered inappropriate behavior in or out of the armed services. Nor is it properly addressing these incidents after the fact and disciplining its members in such a way that everyone is put on notice that such behavior will not be tolerated.

As Chief of Naval Operations, Admiral Kelso set the tone for the entire Navy. He is the captain, as it were, of the ship. Tailhook occurred on his watch. Male Navy officers engaged in behavior that brought real discredit to the Navy and to themselves. They treated female Navy officers as though they were not part of the Navy, as if they had no place being in the Navy. At its best, Tailhook reflected a culture of resistance to gender equality. At its worst, it reflected criminal conduct for which there is no accountability.

The behavior at Tailhook demonstrated an attitude that seemed

prevalent in at least some parts of the Navy and that Admiral Kelso had a responsibility to change. The Department of Defense Inspector General's report on Tailhook says that senior Navy officers were aware that significant misconduct had taken place at previous Tailhook conventions going back to the 1980's, and that the events that occurred at Tailhook 1991 did not occur in a historical vacuum; that, in fact, those disgraceful activities had taken on the aura of tradition.

Did Admiral Kelso meet his responsibility to the Navy and to its women? The answer clearly is no. Tailhook 1991, as the Defense Department itself said, was not an aberration. Rather, it was indicative of a basic attitude in the Navy, a problem that needed to be addressed at the highest level, at the leadership of the Navy. The fact that Admiral Kelso is retiring early and the fact that Secretary of the Navy Dalton recommended he resign suggests he recognizes that he did not fully meet his responsibility to the Navy in general, or to women Navy personnel in particular.

The admiral's responsibility did not end there. The Navy's investigation of Tailhook compounded the disgrace of that incident. The investigation was slipshod; navy officers were able to get away with covering up their misbehavior. They got away with stonewalling any inquiries.

Let me make my position clear. I do not think we are here to criticize Admiral Kelso for what he did or did not witness at Tailhook, specifically. He states forcefully that he did not personally witness the conduct, and I am prepared, as I think most of us are, to take him at his word for that.

What Admiral Kelso must take responsibility for, however, is the attitude in the Navy that Tailhook betrayed, an attitude clearly condoned at higher ranks. And what Admiral Kelso must take responsibility for is the Navy's system of justice. He knew when he took office that Navy justice needed reform, and he failed to reform it. I assume that is in part, frankly, why he overturned the Navy's finding in the *Iowa* disaster when he became Chief of Naval Operations. Most importantly, Admiral Kelso must take responsibility for the Navy's failure to ensure fairness in the treatment of all of its members, male and female alike. More needed to be done in that regard, much more, and it was not done. Admiral Kelso's watch will be as much remembered for this disgraceful disregard for women as for any of his purely military achievements. The question today is whether that disregard will be rewarded. The women of the Senate say no.

Madam President, the Armed Services Committee voted 20 to 2 to give congressional approval of Admiral Kelso's retirement at four stars. The

retirement at the rank of admiral carries with it tremendous prestige and a very generous pension. It is so significant that the Senate must approve that retirement.

I would like to bring a reality check to this debate. In the real world, Madam President, to ordinary folks, when someone is recommended to retire because he or she is being held accountable for misdeeds committed during his or her tenure, this is not an event that is celebrated or rewarded. It does not carry with it prestige or a generous increase in pension. And yet, Madam President, that is what is suggested we do here today.

I suggest to this body that if we are to apply a real-world standard, we would allow Admiral Kelso to retire at the rank of the two stars which he currently holds.

Over and over again during the committee hearing, Senators said that sexual harassment is wrong and cannot be condoned in any way. It is ironic, Madam President, Lt. Paula Coughlin, the woman who first brought charges concerning the events that occurred at Tailhook, has resigned also, but in her case without a promotion and without an increase in pension. The committee, however, voted to allow Admiral Kelso to retire with four stars.

I think that the committee's vote sends a signal to all the men and the women in the armed services. It sends a signal to the Navy that the Congress approves of its system of justice. I think the resignation of Lieutenant Coughlin also sends a signal.

Madam President, I submit to you and to my colleagues that the signals are crossed. The Senate must be clear. Sexual assault and misconduct will neither be rewarded nor condoned in the military. Responsibility for the events known as Tailhook must be borne by the admiral in charge of naval operations. The buck for Tailhook stops with Admiral Kelso.

Madam President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I do not wish to interrupt the debate. I will just take the floor for a moment. We had discussed previously before we came on board—we have been here about an hour and 15 minutes on the matter now. I was wondering, we had talked earlier off the floor about the possibility of a 4-hour time agreement equally divided. I do not want to cut off debate or end debate, but I was wondering maybe if we were at a stage now when both sides could maybe agree to such a unanimous consent request.

Mr. SPECTER. Madam President, reserving the right to object, if that is a request for a unanimous consent agreement, I would ask for 20 minutes under any such agreement. Otherwise, I would lodge a formal objection.

Ms. MIKULSKI. Madam President, I object to—

Mr. EXON. I have not proposed a unanimous consent request. I was just asking if there was any sympathy for such a suggestion.

Ms. MIKULSKI. I thank the Senator from Nebraska for raising the issue. I think, as of yet, we are not quite sure how many Senators wish to speak, and at this time would object to a unanimous consent time agreement.

Mr. EXON. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Senator from Georgia is recognized.

Mr. NUNN. Madam President, I think at the outset of my comments I want to stipulate just a couple of things.

First of all, the Tailhook symposium activities were totally repugnant, repugnant to the U.S. Navy, repugnant to the women who were there, whether they were uniformed or not, but especially to the uniformed women who are serving this country with dedication and with courage and with effectiveness, and I think repugnant to the entire Department of Defense.

This conduct was unacceptable in 1991. In my view, it would have been unacceptable in 1951 or 1931 or 1911. I do not think we have to be in an age of political correctness for this conduct to be labeled repugnant at any interval of our history.

I believe that Admiral Kelso has said virtually the same thing and said it many times. I will come back to this key point before I conclude my remarks. But the theory here seems to be more and more that the captain should go down with the ship. That is a time-honored tradition in the U.S. Navy.

In this case, I think everyone should understand that Admiral Kelso offered to resign in 1992. He was willing to go down with the ship. He was willing to be held accountable. That resignation was turned down by his civilian superiors, and he was asked to stay on and to try to remedy these problems, to try to straighten out what I would also stipulate was a botched investigation, and to try to bring dignity and honor to the U.S. Navy.

He also took on the job of making sure that everything that could be done from his level was done to end sexual harassment in the Navy, to end sexual discrimination in the Navy, and to treat everyone in the U.S. Navy with the kind of dignity and honor they deserved.

So the captain of this ship, Admiral Kelso, offered to go down with the ship.

Now the question is, 3 years later, 2½ years later, we find the captain of the ship, Tailhook, on the shore, on the shore, and now the question is, do we say to the captain of this ship, you should have been down on the bottom with the ship when it went down? There was a mistake made in 1992. You

should have gone down with the ship. So we are going to take a rowboat, put you in the rowboat, tie an anchor to your leg, and throw you down to the ship where you should have been all along.

That is what we face here today. That is what we face here. If you want accountability with the captain going down with the ship—and there is something to be said for that—it has to be viewed on a case-by-case basis, and it relates to a lot of different considerations. But if you want accountability under that theory, it ought to be contemporaneous accountability, not accountability 2½ or 3 years later from an individual who has done everything he could do to straighten up this mess, and to end the repugnant conduct that led to this unacceptable behavior in 1991.

Madam President, last Thursday evening when the Armed Services Committee favorably reported Admiral Kelso's nomination, I put the statement that I made at the committee's open session prior to the committee's vote in the RECORD. Since those comments which describe in detail my views on this nomination are now in the RECORD, and since there are so many people who want to speak here this afternoon, I am going to make my remarks more brief than I did at the committee meeting.

I want to state at the outset—and I will discuss this more fully—that if you agree with the military trial judge findings that Admiral Kelso witnessed misconduct at Tailhook, and if you agree that Admiral Kelso manipulated the investigative process to shield both himself and senior naval officers, then you should clearly vote against this nomination.

If I agreed with those findings, I would vote "no," and I would lead the charge voting "no." If you agree with the findings of the DOD inspector general who viewed this in a much more comprehensive and exhaustive fashion, if you agree with the findings of Secretary Perry, Secretary Dalton, and the Chairman of the Joint Chiefs, General Shalikashvili, that Admiral Kelso neither witnessed misconduct nor manipulated the investigative process, then I believe the issue shifts to one of accountability. And there are serious issues relating to accountability that have been brought up today.

Obviously, there are some in this body who believe in absolute accountability, even if it is 3 years later or 2½ years later, and those views are being expressed very forcefully here today.

I believe we need to look at the implications of this in the broader context. First of all, I want to note my own thinking, where I am on this matter, and why I arrive at my judgment. I relied on the conclusions of the DOD Deputy Inspector General, Dereck Vander Schaaf, who has a well-deserved

reputation for all who followed his career of telling it like it is. He does not pull punches, and everybody that has followed his career knows that.

His first report on Tailhook led to the early retirement of two Navy admirals. It led to the replacement of the Navy inspector general with a three-star admiral, and the replacement of the uniform head of the Naval Investigative Service with a civilian.

To say there have been no uniform military people punished is simply wrong. It is wrong. That report by the IG was a scathing attack on the Navy investigations. You can get a flavor of that report in the following sentence in the forwarding memorandum. "We also concluded that the inadequacies in the investigations were due to the collective management failures and personal failures on the part of the Under Secretary, the Navy IG, the Navy JAG, and the Commander of the Naval Investigative Service." The DOD IG concluded that Admiral Kelso did not observe misconduct at Tailhook and did not thwart the investigation.

Second, I rely on the testimony of Secretary of Defense William Perry, Secretary of Navy John Dalton, and Chairman of the Joint Chiefs of Staff, General Shalikashvili. Secretary Perry and Secretary Dalton had the independent duty to assess the evidence to determine whether administrative or disciplinary proceedings should be brought against Admiral Kelso and whether he should be retired in grade.

Secretary Perry, Secretary Dalton, and General Shalikashvili concluded that Admiral Kelso did not personally witness misconduct during Tailhook and did not manipulate the investigative process to shield himself and senior naval officers.

Third, I rely on Admiral Kelso's 38 years of distinguished service to our Nation, and his leading role in enhancing the ability of women in the Navy to serve at sea and in combat aviation positions and dramatically changing the Navy's focus from open ocean to littoral warfare and in urging an independent investigation of Tailhook when he received the result of the Navy's investigation.

Finally and most importantly, I relied on my personal knowledge of Admiral Kelso. I have known Admiral Kelso since the 1970's. I have always found him to be an individual of the highest integrity and veracity. I believe Admiral Kelso is one of the least manipulative persons I have ever known in the U.S. military. Like anyone else, he has his faults, but deceit and manipulation are not even part of his style, and everyone who knows him understands that.

So one cannot divorce one's personal observations when you are judging someone's integrity, and when you are judging their record.

As I stated earlier, if you believe the trial judge's finding that Admiral

Kelso actually witnessed misconduct at Tailhook, and that he manipulated the process, then you would necessarily conclude that he lied in court when he denied seeing any misconduct or manipulating process. In that case, he not only should be denied a fourth star, he probably should have been court martialed for perjury. On the other hand, if you believe the DOD IG, the Secretary of Defense, the Secretary of Navy, the Chairman of the Joint Chiefs, then you will conclude, as I did, that Admiral Kelso told the truth and did not witness any misconduct at Tailhook and did not manipulate the process.

The issue then, if you believe the IG and the Secretary of Defense, becomes one of accountability. And the issue becomes a standard of performance we expect of our military leaders.

Madam President, we hold our military leaders to a very high standard, but it is not one, and it never has been one, of strict liability for anything that goes wrong during that tenure. If that were the case, few of our senior leaders would retire in grade. Think how many times in our military history a standard of absolute accountability would have meant termination, early retirement, demotion, and even court martial for people in charge when disasters occurred.

Let us take the failed attempt to rescue American hostages from Iran in 1980. There were serious deficiencies in planning and execution of this critical operation. Gen. David Jones, Chairman of the Joint Chiefs of Staff at that time, was subsequently nominated by the President and confirmed by the Senate to retire in a four-star grade.

The 1983 bombing of the Marine barracks in Beirut was another disaster marked by serious deficiencies in planning and preparation.

Gen. P.X. Kelly was the Commandant of the Marine Corps, subsequently nominated by the President and confirmed by the Senate to retire in a four-star grade.

In 1987, the U.S.S. *Stark* was struck by an Iraqi missile in circumstances demonstrating problems in training and preparation.

In 1988, the explosion of the gun turret on the U.S.S. *Iowa* led to 47 deaths in circumstances reflecting problems in training, as well as serious deficiencies in the subsequent investigations and review.

By the way, on that one, Admiral Kelso was not the CNO when it happened. He was the one who came in and cleaned it up after our committee produced independent evidence from the laboratories. He said: Let us go back and look at it again. He not only went back and looked at it again, he apologized for the Navy investigation. I have seen some references to that being part of his tenure. It is just the contrary. He came in after it occurred and he cleaned it up.

In 1989, another ship, the U.S.S. *Vincennes*, mistakingly shot down an Iranian civilian airliner in circumstances reflecting problems in training and operations. Adm. Carlisle Trost, who was the Chief of Naval Operations during each of these problems, subsequently was nominated by the President and confirmed by the Senate to retire in the four-star grade.

In 1976, the Army had a major cheating scandal at West Point, reflecting serious deficiencies at the Academy. Gen. Frederick Weyand, the Chief of the Army at that time, was nominated by the President and confirmed by the Senate to retire in the four-star grade.

Going back a little further, in 1968, the North Koreans captured the U.S.S. *Pueblo*. That was a very humiliating incident, for those who recall. Adm. Thomas Moorer, who was the Chief of Naval Operations at the time, and Gen. Earle Wheeler, who was then the Chairman of the Joint Chiefs, both were subsequently nominated by the President and confirmed by the Senate to retire in the four-star grade.

In the 1960's and early 1970's, the military, as we all know, was beset by severe racial problems, including race riots such as those that occurred on the U.S.S. *Constellation* and on the U.S.S. *Kitty Hawk* in 1971. The then Chief of Naval Operations, Adm. Elmo Zumwalt, subsequently was nominated by the President and confirmed by the Senate to retire in grade.

Could any of these problems have been avoided if senior leadership had performed their duties with absolute perfection? Yes, perhaps. Did the President or the Senate hold any of them to a standard of strict liability for deficiencies that occurred during their tenure? We did not. And if we do so today, make no mistake about it. We are sending a different signal. We are creating a different precedent.

I want to emphasize, the issue of accountability is very important to the Committee on Armed Services. Military commanders and civilian leaders have responsibility for the operation and maintenance of the awesome arsenal of America's Armed Forces. We hold them to a very high level of accountability for their actions, as well as their omissions.

As Secretary Perry noted in his testimony before our committee, when something goes wrong, the primary issue with respect to accountability involves the question of due diligence—due diligence. Given the individual's position, scope of responsibility, and relationship to the incident, we must ask whether the individual acted with due diligence; and if not, how serious was the individual's deficiency?

(Mrs. BOXER assumed the chair.)

Mr. NUNN. Madam President, our committee spends an extensive amount of time reviewing nominations on the issue of accountability. Our actions in

the Tailhook matter are a prime example. All Navy and Marine Corps nominations were held up by our committee. The Senator from Virginia and I made the joint announcement when we found that the investigation was going awry, and the Senator from California, who now occupies the chair, I remember, was very much involved and attentive to that at that time because she called me and wrote me a very nice letter about it. All Navy and Marine Corps nominations were held up until a process was put in place to ensure that the committee obtained all the information necessary to assess every officer's accountability and responsibility with respect to the operation or scenario we call Tailhook symposium. Every one of them was held up. We disrupted the whole promotion system of the Navy for a matter of months because we were disturbed, because we felt that the investigation had not been handled properly, and because we were demanding accountability.

Madam President, we require that the executive branch provide us with all adverse information regarding each flag and general officer nominee in all branches of the service, Navy and Marine Corps, including nominations for retirement in grade. We scrutinize that information with care. We take it into account when acting on a nomination. We have done that for 2½ years; we have done it on every one of them.

Madam President, there is such a thing as retiring without three and four stars, and I do not want to lead anyone to believe today, by my defense of Admiral Kelso and my vote for him, which will come later, or assume today that I do not believe it is appropriate to review these matters and to take action where the record so indicates.

A recent example involves our review of the Air Force promotion system in 1992. The committee conducted a review. We issued a report documenting serious systemic deficiencies in the procedures used by the Air Force to select officers for promotion. During the period in which the committee considered the deficiencies in the Air Force promotion process reported by the Department of Defense, the committee also considered the nomination to retire in grade of a three-star officer who had served as Deputy Chief of Staff of the Air Force for personnel.

The committee carefully reviewed his specific responsibilities for the promotion system. We concluded he had not acted with due diligence with respect to an ongoing major responsibility for his office, and we determined that his nomination should not be reported to the Senate. As a result, he retired in a two-star grade.

I think our committee probably spent more time on this nomination than any other single thing during that particular interval. I personally probably spent 50 to 75 hours reviewing that one record.

But we did it with a great deal of care, and we applied the standard of due diligence. We looked at not only his overall record, which was splendid, but we looked at his tenure in office. We looked at his connection to the wrong that had taken place in the promotion system, and we applied the standard of due diligence.

Neither the executive branch nor the Congress, however, applied a standard of absolute accountability, because if we had, we would have also held accountable the Chief of Staff of the Air Force during that period. We would have held accountable the four-star above him, and everybody else in the chain of command.

We did not sweep out and condemn the whole Air Force because of that deficiency. We tried to find who was at fault.

The tragedy in Tailhook and the reason we are here today is because the Navy investigative system and the Navy justice system did not produce convictions. If there had been three or four junior officers or even senior officers convicted under court martial, we would not be here today. We all know that.

There is a frustration, and an understandable frustration, that nobody has been convicted. I am frustrated, too, because we all know that crimes took place. But in our frustration, we also have the duty of justice, the duty of looking at this case, the duty of looking at an individual. We cannot, in the U.S. Senate, abandon looking at an individual case in our frustration because the system in this case did not work.

It did not work, and I think Admiral Kelso would probably be the most frustrated person in the Navy because this system did not work.

Was it lack of due diligence on his part? That is what everybody has to ask. In my opinion, I know it was not, because I talked to him too many times. I do not expect everybody in the Senate to understand that. Nor do I expect it to be persuasive evidence. But to me, it is persuasive because I talked to him time after time after time. At one point, the Navy became so aggressive trying to convict people that they had to be cautioned to apply due process and not to scapegoat someone because they just happened to be in the way.

We have to have the same standard here. I had to call several of the senior people in the Navy into the armed services room and say: You have to be diligent; you have to pursue this investigation; you have to do everything you can on it. But you cannot throw out due process and eliminate all rights of individuals. And that was the tendency at one time, because they were so intent on bringing about some sense of justice in this outrage, which leaves us all frustrated.

Ms. MIKULSKI. Madam President, will the distinguished chairman of the

Armed Services Committee yield for a question?

Mr. NUNN. I am glad to yield for a question.

Ms. MIKULSKI. Acknowledging what the Senator is saying, in his own very fine record on these matters, is it the Senator's findings that the investigation of the Tailhook matter was bungled?

Mr. NUNN. Yes.

Ms. MIKULSKI. And there is conflicting evidence between the military court and the IG reports?

Mr. NUNN. Yes, definitely.

Ms. MIKULSKI. And, essentially, the culture seems to lend itself to these bungled investigations?

Mr. NUNN. I would say we have a serious problem in the whole investigative services, not just for the Navy but for the other services. But we also have it not simply in sexual harassment cases, it is across the board. And I have talked at length with the new Secretary of Defense and with Secretary Aspin about that. We need to have more continuity. We need to have more professionalism. There is too much rotation in the military for people to become professional.

I have run an investigative subcommittee now for 10 or 12 years. Investigators are wonderful people, but they have to have supervision, they have to have careful supervision. I think that is what we are missing. We do have a system.

Ms. MIKULSKI. So it is not the issue of sexual harassment, but there are bungled investigations.

In the matter of the Tailhook, is it also the Senator's finding or observation—perhaps "finding" is too strict a legal word—that there was this cover-up and there is this conspiracy of what I have said, the buddy system over the honor system, and which there is an actual conspiracy to lie and to distort the events, a bonding, if you will, among the junior officers not to come forth with the facts of the occasion?

Mr. NUNN. I could not identify with that broad a statement that the Senator from Maryland made. But I would readily agree that, based on what I have read, there certainly was not cooperation by a number of Navy officers. They did not cooperate with the original investigation; some of them did not. I am sure that within that there must have been some misleading statements and there must have been some effort by individuals to cover up.

I would not conclude from that that there was a broad conspiracy, because I do not have enough evidence to warrant that. But there certainly was not cooperation by a number of Navy personnel with the Navy investigation, as well as the IG investigation. I would agree.

Ms. MIKULSKI. So as we can see, there is a lot to be changed, both the law and the culture.

I thank the Senator for yielding.

Mr. NUNN. Madam President, the Senator from Maryland is correct, the culture does need changing. And I happen to know that Admiral Kelso spent more time trying to change the culture of the Navy in this area, probably than any other feature, during his entire CNO tenure.

That is why I am here defending him, knowing that there is a search and a frustration to find someone to punish. That is the mood of the Senate today, is to find someone to punish.

The Senate of the United States needs to administer due process and justice and make sure that when we vote to basically, in effect, punish Admiral Kelso—if we do, and I hope we do not—that we should do so after searching our conscience and after looking at the evidence and after looking at his tenure and after looking at his due diligence and after looking at the entire case, not simply out of frustration and not simply because nobody has yet been punished severely enough for this body in terms of the transgressions that occurred.

Mr. WARNER. Will the Senator yield for a brief question?

Mr. NUNN. Yes, I yield to my friend from Virginia.

Mr. WARNER. Madam President, first I wish to commend Senators to read the CONGRESSIONAL RECORD of April 14, page S. 7581, when the distinguished chairman of the Armed Services Committee spoke to this body about this issue before. His previous statement, and the statement that he has just made, reflect one of the most courageous statements ever made in the history of the Armed Services Committee when he addressed the full Senate just prior to the vote.

But I would like to proceed to a question, Madam President, of the chairman.

He used the word "punishment." And he referred only to Admiral Kelso. But I would hope that those who are debating here today would broaden the word punishment to include Admiral Kelso's partner for 38 years in the U.S. Navy, his wife and his family. They are subject to the same punishment that this body is considering.

For 38 years, Mrs. Kelso has packed and unpacked and traveled throughout the world, as have other Navy wives, other Army wives, other Air Force wives, other Marine Corps wives. Military service is a partnership. It is a family.

Part of that punishment will be monetary. And, Madam President, I ran this calculation. Assuming Admiral Kelso elected to participate in the survivor's benefit plan, which the great majority of regular officers have participated in, his surviving spouse, again should she survive the admiral, would lose \$770 a month if he retired, subject to Senate action, as a two-star versus four.

Madam President, I ask the chairman, is that fair to the Navy family? Is that fair to a wife? What message does that send to the wives at all ranks, from seaman to four star, as to the fairness of this body in judging this case?

I hope those standing in opposition to Admiral Kelso today will address that question, but I pose it first to the distinguished chairman.

Mr. NUNN. I would say to my friend from Virginia, I think the military personnel, men and women in the military, will be looking at the U.S. Senate vote today to determine basically whether they believe that the U.S. Senate is capable of looking at a case that has very broad symbolism, but to look beyond the symbolism and to look for justice to the individual.

I would say to my friend from Virginia, the monetary consideration certainly would be significant. But knowing Admiral Kelso as I do, I believe he would give up the money in a moment, and I believe his wife would also. I believe he would rather have physical mutilation than for the U.S. Senate to vote, in effect, that he is responsible for Tailhook and that we are holding him absolutely accountable, notwithstanding the fact that the Navy IG, the Secretary of Defense, the Chairman of the Joint Chiefs, the Secretary of the Navy, and everyone concerned in the Department of Defense chain of command believes that he did not manipulate the process and that he did not personally witness the kind of transgressions that later came to light.

So I believe that the money is a part of it, but I believe it is a very small part of it, because this goes to integrity, it goes to a man's career, it goes to honor.

And I would say that the question of the Senator from Virginia, certainly, about the family and the wife and all of the people that are part of the Kelso family, is not only appropriate but very pertinent.

Mr. WARNER. Madam President, a second question to my distinguished chairman.

Yes, I tried to make the point money was an example. But a military at all levels is a partnership between that service person who wears the uniform—be he or she male or female—and the spouse and the family. That is what is being judged by the Senate today.

And I put that question to the chairman: Does he recall the Chairman of the Joint Chiefs during the hearing? Our record reflects the following:

So, my question to you, General Shalikashvili, how would the men and women of United States military today, of all branches, view it as an act of fairness if this committee and the Senate were to reject the request of the President to retire Admiral Kelso at four stars?

The general replied:

I believe, without any hesitation, that they would not see a reduction in rank as a

fair act. They would see that as a reaction to something that was very wrong at Tailhook, and trying to find someone to hold accountable for it and that settling on Admiral Kelso. And that would not be correct, nor considered fair.

It is the issue of fairness.

And I say to every Senator, as you proceed to cast your vote—hopefully today—ask of yourselves: How will the men and women of the Armed Forces, particularly those from your respective States serving at this moment on 120 ships on the high seas, serving in over 50 military installations in the Navy alone—but this is not just a Naval question; this is all branches; the issue of fairness—how would that service-person from your State wearing the uniform view your vote? Was it fair or unfair to them as well as Admiral Kelso?

I thank the chairman.

Mr. NUNN. I thank the Senator from Virginia. I agree with his remarks.

Madam President, I will wind up my remarks because I know there are others who would like to speak. Let me just summarize by saying, as the senior uniformed officer in the Navy, Admiral Kelso had supervisory responsibility for those who planned and conducted the Tailhook symposium and for those who conducted the investigation. The responsibility, however, was also ultimately in the hands of his civilian superiors.

He could have done better, and I would venture to say that, if he was standing here today, he would tell all of us that, if he could go back, he would probably think of some things he could do better. If that is our standard, though, we are adopting a new standard. It is my view that he was not made aware of this conduct before and during Tailhook, he did not impede or interfere with the subsequent investigation.

On the other hand, there is substantial evidence that he intended the Navy to undertake a proper investigation and that he acted vigorously to combat the problems that were at the root cause of the Tailhook misconduct.

Make no mistake about it, this effort has to go on. This is not one of those things where you say, "We have cleaned up this mess. Now we can go on to other things." The effort in giving women an equal opportunity and preventing sexual misconduct in the military is an ongoing, continuous effort that must be followed by everyone in the chain of command. No matter who the new CNO is—and I hope we will confirm Admiral Boorda next week—there is no way he can supervise the conduct of several hundred thousand personnel—no way. He can set a standard. He can set the kind of atmosphere that we all desire and want. But we are going to continue to have problems in the U.S. military in sexual areas, just as we continue to have some problems in the racial areas—although, thankfully, with the leadership of the mili-

tary, those problems have gone down immensely. The real question is, once something happens, do we have accountability, and do we do everything we can to prevent and deter that conduct to begin with?

I repeat, for those who believe the captain ought to go down with the ship, Admiral Kelso offered to resign in 1992 in order to allow other individuals to chart a new course for the U.S. Navy. His civilian superior declined to accept his resignation. If he had resigned in 1992, contemporary to any kind of failure of leadership that may have occurred, would we have denied him his fourth star, in 1992? If he said, "I am taking the responsibility, I am resigning," would we, on the floor of the Senate in 1992, say, "Not only are you going to resign and take the responsibilities; we are going to deny you your 38 years of service in achieving your fourth star"?

I think the answer is obvious. No, we would not. So what are we doing? Since he is the last one standing, we are saying: No, you did not resign because your superiors did not allow you to resign. They wanted you to stay on. They thought you were the best person to try to straighten up this tragedy we call Tailhook. You stayed on. You have done everything you could do to get the women in the military, women in the Navy, an equal opportunity. You made tremendous strides. But since nobody else has been convicted, the target is Kelso. That is where we are today.

Is that justice? Is that fairness?

I ask everyone to examine his or her conscience on this matter. If the standard which the Senate wishes to apply is absolute accountability, then Admiral Kelso does not meet that standard. Nor would virtually every CNO we have had for the last 45 years. You could go back and look at military history. You will not find a one that did not have something bad, something tragic occur during that tenure as Chief of Naval Operations. If, however, the standard is the high degree of due diligence that we have applied in the past with respect to our military leaders on the issue of retirement in grade, then Admiral Kelso should be confirmed to retire as a four-star admiral.

Mr. EXON. Before yielding the floor, will the Senator yield for a question from me?

Mr. NUNN. Yes.

Mr. EXON. I have been listening with great interest to the excellent comments by the chairman of the committee. I have some statistics on point here, and I was wondering, they seem to indicate—basically to prove—what the Senator from Georgia said and also the remarks made by the Senator from Virginia.

Is the Senator aware of the exact numbers, over the last 5 years, of those who have been nominated for and re-

ceived retirement in the third or fourth star grade?

Mr. NUNN. I do not have those numbers in my head, but they are substantial numbers.

Mr. EXON. I think they might fit in right now. If I might read them into the RECORD, they may prove the point the Senator has made so well.

Earlier today it was suggested in debate that there was something extraordinary, that we were somehow rewarding Admiral Kelso if we retired him in the four grade status. That certainly is not the case. The Senator from Georgia has made that point. In fact, it would be extraordinary if he did not retire in the fourth grade.

In the last 5 years, there have been 206 individuals in the third or fourth star grades of admirals and generals to retire; 200 of the 206—all but 6—retired on their highest grade, basically along the specific items that were cited earlier by the Senator from Georgia. Three were eligible to retire at the three star, but were not nominated by the President for that rank. In other words, of the six that did not receive the higher rank, three, for reasons best known to the President, were not so indicated. Three others were nominated by the President to retire, but were not confirmed to retire at the four-star or three-star grade by the Senate.

It seems to me that these figures show that it is normal and customary for three and four grade generals and admirals to retire at the higher grade. But it is not automatic, which shows that we do take a look at these things. Both the President and the Senate review these retirements in great detail.

I simply say, once again, I thank my chairman for his excellent remarks. There is no rubberstamp under the leadership of Senator NUNN on this or any other matter that comes before our body. Certainly in the case of Admiral Kelso, both the President and 20 of the 22 members of the Armed Services Committee recommended the admiral retire in his rank of admiral. We looked at it. We reviewed it. And I certainly agree with my friend from Georgia that to do otherwise in this instance would be a complete reversal and have some ill effects on other people that are looking to retirement in the future.

I thank my friend from Georgia.

Mr. NUNN. I thank my friend from Nebraska. I commend him for those facts, which I think are very important.

This would be an exception. This would be a dramatic exception. I am not against exceptions where the facts warrant them. I am not against retiring people at a lower rank if the facts warrant it. My view is the facts do not warrant it here.

Madam President, in closing, let me commend those who are on the other side of this debate today—not because I

agree with them, not because I think their logic is impeccable. Obviously, I do not in this case. But they are sincere. They are absolutely dedicated to making sure that we honor the men and women who serve in our military; that we treat everyone equitably in our military.

They recognize that women are an indispensable part of our national security now. I commend them for that point, which needs to be made over, and over, and over again on the floor of the Senate.

I hope that everyone in the military in uniform who listened to this debate will understand that the facts of this case divide us. There is no division in terms of condemning the activity that took place at the Tailhook symposium. There is no division in terms of the kind of honor and integrity that we expect of our military leaders and that we expect of the men and women who serve in the military. We simply cannot have an effective national security unless the women in the military are treated equitably and with respect and with dignity.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I believe that there has been a new and higher standard, as those who argue for Admiral Kelso getting four stars are attempting to inject into this argument, that is fallacious. I do not see that this is an issue, to quote the chairman of the Armed Services Committee, of "absolute accountability."

I do not think this is an issue as to whether or not Admiral Kelso witnessed the events at the Tailhook Convention, those that were clearly found to be sexual harassment. I accept that he did not witness these events, because if he did, and if he perjured himself, why, then, this proceeding would have taken place sooner. He would have been drummed out of the Navy long before now.

I accept the contention that maybe he should have and would have even been offered the opportunity to resign in 1992 and may have even resigned as a four-star admiral. But that is not the situation today, because I do not believe that he has exercised due diligence, and I do not believe that he has met the standard of accountability as the commanding officer that he should have, subsequent to the events mentioned at the convention.

When we talk about fairness and justice, let me ask my colleagues who argue for fairness and justice for the admiral—and I understand the pain he and his family must be enduring—but what about the fairness and justice for Lt. Paula Coughlin? What about the victim who first came forward? What about the victim who continues to be

victimized today? What about the victim who has literally been drummed out of the Navy, who just several months ago resigned, that resignation being tendered in February, accepted in April and effective in May?

Let me ask you where was the admiral and where was his followup and where was his counsel to meet with and have his people meeting with the lieutenant and to see to it that the harassment that continued, that kind of freezing out, that kind of situation that has left the lieutenant embittered today? Where was her justice?

Where was this new revolution that really gave meaning to the fact that we understand that sexual harassment cannot and should not be condoned? I do not hold the admiral to a new and higher standard of strict accountability. That is not what this question is about.

No one seeks to say that because it happened on your watch, any unfortunate incident of this kind, that we hold the commander accountable for it, but we certainly do as it relates to dealing with it afterward.

Was the problem dealt with appropriately? I think the answer clearly is no. If we were to go forward and give him his four stars, we would be saying that the admiral has conducted himself appropriately; that the victim was given justice; that we have really turned the situation around. I say let us look at the record, and I see that the record is clear. Paula Coughlin was victimized at Tailhook. Lt. Paula Coughlin still continues to be victimized, and that it is the failure of the commanding officer, Admiral Kelso. I intend to vote no on this nomination.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I listened very carefully to what Senator NUNN and Senator WARNER had to say. I have great respect for both of them. I do not think there are any two Members of this body that know more about the military than do they. I think we are very privileged to have their service in this body.

However, I must say I look at this a little differently. I took the time to read the IG report, to read the trial judge's ruling, and also read a Navy policy document with which I would like to begin. This is entitled "The Navy Policy Book. A Single Reference of the Most Important Guiding Principles of Our Navy."

There is one section, and it is titled "Accountability is critical to our success." It is very short, and I want to read it. It says:

We accept the consequences of our own actions. In leadership positions, we bear responsibility for the actions of our subordinates. We are members of the naval service 24 hours a day, and we are accountable for

our professional and personal behavior, both on and off the job.

This is signed by the Commandant of the Marine Corps, the Secretary of the Navy, and the Chief of Naval Operations, Admiral Kelso himself.

I find it a very difficult thing not to give someone full honors when they retire after a lifetime of good service. I also find it very difficult to put a Senate imprimatur on a nomination when the issue is about the personal behavior of people at a Navy convention, sanctioned by the Navy, and the fact that there were hundreds of Navy officers and those of flag rank present who saw, who knew, who condoned, who participated, and who did nothing.

That, I think, is the crux of the matter. Is what appears in this Navy policy book a statement that is going to be followed, or do we practice tacit hypocrisy?

Admiral Kelso has had a distinguished career of 38 years in the U.S. Navy, and he has risen to its highest rank. Under normal circumstances, he would be nominated and go out with his four stars. But what I contend is, these are not normal circumstances.

We, the women of the Senate, have been bringing to public attention the issue of sexual harassment. It started in different ways. Everywhere we turn, we see it. We know but one way to send a message, and that is to send a message to every flag officer in the U.S. Navy and every officer in every other branch of the military, that if you come before this body, and if you have not exercised your full command responsibility, as put out in policy books like this one, the Senate of the United States is not going to put their imprimatur on your retirement.

I feel constrained to make some other statements about some of the specifics of this. Many of my colleagues have outlined what took place at Tailhook, and I do not want to rehash that entire incident. But I think we must look into this a little more deeply.

According to the Department of Defense inspector general, at least 90 indecent sexual assaults took place at the 1991 convention. This, though, apparently was nothing. Tailhook 1991 was tame compared to earlier conventions.

This has been pattern and practice in the U.S. Navy. The annual event began in 1956, and rowdy and improper behavior supposedly culminated at the 1985 convention.

The president of the Tailhook Association itself warned members in preparation for the 1991 convention that there were problems with "gang mentality." It appears that Tailhook conventions of the past have been tolerated with the notion that boys will be boys, a notion which simply can no longer be permitted in today's Armed Forces. That is the message of our

stand. You have a responsibility in the U.S. Armed Forces that is both personal as well as professional, and that responsibility exists 24 hours a day.

The Department of Defense inspector general is quite specific in detailing the various kinds of assaults that took place. When a female entered what was called a gauntlet—and I wish to point out in this report one chart which indicates where the assaults took place.

This is the notorious third floor of the Hilton Hotel, and the title of this chart is "Incidents of Indecent Assault on Saturday, September 7." There were approximately 80 such assaults which all took place in a corridor. This corridor is known as the gauntlet. Women were abused as they ran that gauntlet.

The question is, on whose watch did this happen? The question is why did not someone stop it? This went on for several hours. And this was not the only behavior. There were incidents that took place which, frankly, I do not want to mention on the Senate floor. I do not believe it is appropriate.

But as a woman walked the gauntlet, as she was molested, if a woman resisted, it got worse. So the more a woman fought and resisted, the more the males attacked.

This is part of the problem of leadership. I recognize it would not be popular, if admirals were out on the patio, to go in and say, "Hey, guys, knock it off; this thing is at an end." But do I think they should have? Yes.

Let me read one comment from trial judge Captain Vest's findings, and this is quoting Vice Admiral Dunleavy. It is on page 6. Vice Admiral Dunleavy says:

I've seen some wild stuff over the years—broken furniture and spilled drinks. I heard of the '90 gauntlet from my son. He says it's a bunch of drunks running around chasing girls. It's a grabass of JO's [junior officers]. Everyone just lines up in the passageway and every good looking girl that goes through, they grab at some of that.

This is what we are trying to put an end to. This is the statement of a vice-admiral in the U.S. Navy. This statement says this attitude had been condoned.

Now, when you talk about Admiral Kelso, you also have to speak about what exactly did he do. And one of the things that disturbed me when I read the testimony of the trial judge—and I recognize that this trial judge's findings are contested.

However, with Admiral Kelso's retirement, we will never really know the truth because the Navy decided not to appeal the ruling. So this is the testimony which remains on record, the findings of a military trial judge. Let me quote, and I will begin on page 3.

In short, they reason as follows:

Admiral Kelso's presence on the patio during the evening hours of 6 and 7 September '91, at which times he either observed or knew of the inappropriate behavior of his subordinates and failed to act to stop such behavior; Admiral Kelso's subsequent status

as a criminal suspect and as a potential material witness; and the current controversy regarding Admiral Kelso's denial that he was ever physically present on the patio during the evening hours of 7 September '91, viewed either separately or collectively, give him an interest other than "official" in the outcome of the prosecution of courts martial stemming from Tailhook '91.

If Admiral Kelso has an "other than official interest" in this litigation generally, or these three accused cases specifically, he is an "accuser" within the meaning of article 19 United States Code of Military Justice. As an accuser, Admiral Kelso was disqualified from appointing any subordinate in rank of command to convene a court martial stemming from Tailhook '91, and as a subordinate in rank and command to Admiral Kelso, Vice-Admiral Reason became a junior accuser and was disqualified from acting as the convening authority in these cases pursuant to RCM 504(C)2.

And I go on reading:

Finally, that Admiral Kelso's action in appointing a subordinate, Vice-Admiral Reason, to act as the CDA, when Admiral Kelso knew himself to be a possible suspect for his own actions relating to Tailhook '91, which appointment effectively shielded himself and possibly other officers senior to Vice-Admiral Reason from courts martial, amounted to unlawful command influence within the meaning of article 7 UCMJ.

Now, that is the record of the trial judge.

Mr. STEVENS. Will the Senator yield right there?

Mrs. FEINSTEIN. May I please finish my statement. I would appreciate it. I have been here for 2, almost 3 hours now waiting for the opportunity, and I would like to finish the statement.

If I might go now to the inspector general report and read from section 10 of that report, the third paragraph. This is under the section "Officer Attitudes."

Although there were approximately 4,000 naval officers at Tailhook '91 and significant evidence of serious misconduct involving 117 officers has been developed, the number of individuals involved in all types of misconduct or other inappropriate behavior was more widespread than these figures would suggest.

Furthermore, several hundred other officers were aware of the misconduct and chose to ignore it. We believe that many of these officers deliberately lied or sought to mislead our investigators in an effort to protect themselves or their fellow officers.

And then let me go on and read from the IG report on "Attitudes."

One disturbing aspect of the attitudes exhibited at Tailhook '91 was the blatant sexism displayed by some officers toward women. The attitude is best exemplified by a T-shirt worn by several male officers. The back of the shirt reads "Women Are Property," while the front reads, "He-man Women-Haters Club." The shirts, as well as demeaning posters and lapel pins, expressed an attitude held by some male attendees that women were at Tailhook to serve the male attendees, and that women were not welcome within naval aviation.

And then it goes on to cite the failure of leadership.

One of the most difficult issues we sought to address was accountability from a leader-

ship standpoint for the events at Tailhook '91. The various types of misconduct that took place on the third floor corridor, if not tacitly approved, were nevertheless allowed to continue by the leadership of the naval aviation community and the Tailhook Association.

The military is a hierarchical organization which requires and is supposed to ensure accountability at every level. As one moves up through the chain of command, the focus on accountability narrows to fewer individuals. At the highest levels of the command structure, accountability becomes less dependent on actual knowledge of the specific actions of subordinates. At some point, "the buck stops here" applies.

And I will stop at this point reading from the IG report.

So, Madam President, what I believe we women are saying is it cannot be business as usual in the U.S. military. Women are taking their places in the ranks of the military, defending our Nation proudly, and they must be treated with respect. They are not property. They are not to serve people who view themselves as women haters. They are individuals. They are there to serve one entity, and that is their country, the United States of America, and they are to be treated with respect, their minds as well as their bodies. And I hope this is not looked at as any—at least it is not on my part, and I know it is not on the part of my female colleagues—any kind of female need to speak out. What it is is that we have suddenly come head-on with the whole ethic, a whole mentality, a whole period of decades of condoning activity of people at official conventions, official behavior at conventions, and in their personal lifestyle as well.

These activities at wild parties—heavy drinking, lewd behavior, molestation, attacks of women, indecent gestures made to passersby—cannot be condoned on the part of anyone in the American military. I believe that we by our actions are simply trying to send a message that if leaders come before the Senate expecting the body to put their imprimatur on their leadership, that leadership must be complete; and when incidents happen on your watch, and when you are there, and when you may know they are going on and you do nothing to stop them, it is a mistake. It is failed leadership. And you must be held accountable.

So I hope that our votes are viewed in this light. I believe a man should not be judged by the last thing he did. He should be judged in his life by the best thing he did. Nonetheless, the issues here have been joined, and the Senate simply cannot sanction these kinds of activities at officially sponsored conventions of the U.S. military.

I ask unanimous consent that the full text of my statement now appear in the RECORD.

I thank you. I yield the floor.

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

STATEMENT OF SENATOR DIANNE FEINSTEIN REGARDING THE RETIREMENT OF ADM. FRANK B. KELSO II, TUESDAY, APRIL 19, 1994

I rise today concerning a very important and difficult issue to come before the Senate: the nomination of Frank Kelso to retire as a four-star admiral.

Admiral Kelso has had a distinguished 38-year career as a Navy officer. Under normal circumstances, the Senate would most likely confirm his retirement with four stars—the rank he currently holds as Chief of Naval Operations.

However, the action, or non-action, that the Senate takes will send a signal through the entire Defense Department. I do not think that the Senate imprimatur should be put on the leadership of a Navy that endorsed and poorly investigated a major military scandal.

As we all know, the controversy over Admiral Kelso's retirement dates back to the infamous 1991 Tailhook convention at the Hilton Hotel in Las Vegas—an event which cast a dark shadow over the entire United States Navy, a shadow that remains even today. In addition, the Navy has been shaken by investigation into the USS Iowa accident and wide-spread cheating at the Naval Academy.

While this debate is not about what happened at the 1991 Tailhook Convention, and I do not want to re-hash that entire incident, I do think it is appropriate to briefly review what happened at Tailhook '91 to provide a little background and put things into context.

According to the Department of Defense Inspector General, at least 90 indecent sexual assaults took place at the 1991 Tailhook convention. This, though, apparently was nothing. Tailhook '91 was "tame" compared to earlier conventions. The annual event began in 1956, and rowdy and improper behavior supposedly culminated at the 1985 convention.

The President of the Tailhook Association warned members in preparation for the 1991 convention that there had been problems with "gang mentality". It appears that Tailhook conventions of the past have been tolerated with the notion of "boys will be boys"—a notion which simply can no longer be permitted in today's armed forces.

Most of the sexual assaults at Tailhook '91 centered around a "gauntlet" on the third floor of the hotel, in which women would walk through a hallway and be sexually assaulted by scores of men lining the hallway.

The DoD Inspector General is quite specific in detailing the various types of assaults that took place. Let me quote the report: "When a female entered the gauntlet, the participants would surround her and touch, pat and grab her while she was funnelled down the hall."

On numerous occasions, the DoD Inspector General cites instances where women would walk through the gauntlet and be "groped and molested". And if someone resisted, it got worse: "... the more the women fought the men who were attacking them, the more the males attacked."

Further, many witnesses described women who had articles of clothing ripped or removed as they went through the gauntlet, and of men grabbing women's breasts, buttocks and crotch. One female Navy officer said she felt as if the men were trying to rape her.

There were other indecent actions commonplace at the Tailhook convention, which I do not want to mention on the Senate floor.

I cannot imagine any officer permitting these activities to occur, not to mention participating in these activities. But, apparently many did.

In addition to the fact that many naval officers lied to investigators and tried to obstruct the DoD Inspector General investigation, probably the most disturbing aspect of the 1991 Tailhook convention is that many in the Navy still believe that nothing inappropriate happened.

According to the DoD Inspector General, many officers stated that the events at Tailhook '91 were "no big deal". One officer said that "it is an annual tradition at Tailhook conventions to harass women physically and verbally in the hallway . . ." He implied that any women present would be labeled a "slut" and said that they have been assaulting women "since cavemen days".

In other words any woman present should expect this treatment. Should the Senate put an imprimatur on this kind of leadership? I think not.

After the incidents, some of those assaulted began to report what occurred. The convention was followed by a botched Navy investigation—involving both the Naval Investigative Service and the Navy Inspector General—in which the Navy simply could not investigate itself and assign responsibility for what occurred. In the end, the Department of Defense Inspector General was asked to provide a detailed report of the entire incident and subsequent Navy investigation.

Still, almost four years since the infamous Tailhook convention took place, not one single person has been convicted of any crime. 28 officers received non-judicial punishment, 32 officers received non-punitive counseling, and 51 cases received no action.

The then-Secretary of the Navy was forced to resign. Only three mid-level Admirals received any form of punishment—a "Secretarial Letter of Censure"—and one of those admirals retired with one star lower than the highest rank in which he served.

The question this body has before it today, though, does not involve the entire Tailhook incident or the investigation that followed. Nor does it involve the investigation into the specifics of the USS Iowa explosion or the cheating scandal at the Naval Academy (though these do raise the question of a pattern of botched investigations within the Navy).

The question we have before us today relates specifically to Admiral Kelso and his retirement.

Admiral Kelso was the Chief of Naval Operations—the highest ranking naval officer—during the 1991 Tailhook convention and the subsequent investigation. In addition, Admiral Kelso was present at the Las Vegas Hilton during the 1991 Tailhook convention. It happened on his watch, and he was there.

I believe there are two, independent issues that must be addressed. First, what was Admiral Kelso's personal involvement with and/or knowledge of the indecent activities occurring at Tailhook '91? And second, what was Admiral Kelso's leadership responsibility as the Chief of Naval Operations?

I realize that Admiral Kelso's personal involvement and knowledge of the activities which occurred at Tailhook '91 has been in dispute. The DoD Inspector General found "no evidence that Admiral Kelso has specific knowledge of the improper incidents and events that took place" and goes on to say that they "believe" Admiral Kelso did not witness any indecent acts.

However, I find a recent ruling by a Navy judge, Captain William Vest, to be quite

compelling. In a 59-page ruling, Judge Vest states:

"Based on the convincing nature of the testimonial evidence and the many corroborating facts and circumstances surrounding such evidence, this court finds ADM Kelso is in error in his assertion that he did not visit the patio area on Saturday evening. This court specifically finds ADM Kelso visited the third deck patio at some time during the evening hours of 07 September 1991. This court further finds ADM Kelso was exposed to incidents of inappropriate behavior while on the patio on Saturday evening, including public nudity and leg shaving activities."

Judge Vest cites numerous credible eyewitnesses in accounts personally linking Admiral Kelso to indecent activities at the Tailhook convention.

Even if one discredits Judge Vest's charges and assumes that Admiral Kelso was not present when indecent acts and sexual assaults occurred, I find it hard to believe that the Chief of Naval Operations did not know what occurred at Tailhook conventions, past and present.

As both the DoD Inspector General report and Judge Vest's ruling assert, the Tailhook convention—an annual event since 1956—was notorious throughout the ranks of the Navy and was an officially sanctioned Navy event.

The DoD Inspector General report states that the Navy "knowingly supported and encouraged" attendance at the Tailhook convention. And, the report says, "Clearly, some of the activities that took place at Tailhook conventions were known within the Navy to be incompatible with Navy policies dealing with sexual harassment and abuse of alcohol."

Judge Vest, in his ruling, supports this assertion when he states:

"This court finds that this quantum of information concerning the symposium's notorious social reputation prior to Tailhook 1991 \* \* \* could not have escaped ADM Kelso's attention. It served to place him and other high ranking officers on notice as to the social climate at past Tailhook Symposiums, and the kind of social environment to expect at Tailhook '91."

After carefully weighing Judge Vest's ruling and the DoD Inspector General report and other information, I believe the question of Admiral Kelso's personal involvement at the 1991 Tailhook convention and his knowledge of the types of activities for which Tailhook conventions were notorious, remain in question. Unfortunately, due to Admiral Kelso's decision to retire early, this question will probably never be fully answered.

The second question that must be addressed deals with leadership, responsibility and accountability.

One of the first questions I asked myself was how could something like this take place in one of the most professional and highly regarded military institutions in the world.

Well, as the DoD Inspector General report states, "Tailhook '91 is the culmination of a long-term failure of leadership in naval aviation."

Not only was the indecent activity not stopped when it was occurring, but it appears that these activities were commonly known to occur. As the report states, the "heavy drinking, the gauntlet, widespread promiscuity were common, and were part of the allure of Tailhook conventions \* \* \*."

Regardless of Admiral Kelso's personal involvement with or knowledge of the incidents at Tailhook '91, I believe that the Chief

of Naval Operations—as the highest ranking naval officer—has ultimate command responsibility for what occurred at the 1991 convention.

Let me quote from the DoD Inspector General report:

"The military is a hierarchical organization, which requires and is supposed to ensure accountability at every level. As one moves up through the chain of command, the focus on accountability narrows to fewer individuals. At the highest levels of the command structure, accountability becomes less dependent on actual knowledge of the specific actions of subordinates. At some point, 'the buck stops here' applies."

Well, I believe that the buck stops at the top.

In the case of Tailhook 1991, with such widespread misconduct that had occurred for years and years, I believe that the buck stops with the head civilian and military leader of the Navy: the Secretary of the Navy and the Chief of Naval Operations.

Then-Secretary of the Navy Garrett resigned in June 1992 after a botched Navy investigation into the Tailhook affair. Admiral Kelso, the Chief of Naval Operations, has only received a non-punitive "Letter of Caution" for his lack of leadership.

I believe that the Chief of Naval Operations must be held accountable for what occurs on his watch. As The Navy Policy Book (which Admiral Kelso helped write) states, "Accountability is critical to our success. . . . In leadership positions, we bear responsibility for the actions of our subordinates."

I do not want to question Admiral Kelso's 38-year Navy career, beginning with his days in the Naval Academy to his command of the Sixth Fleet. I am sure that anyone who becomes Chief of Naval Operations certainly has had a long and distinguished career.

However, I believe it would be a mistake to confirm Admiral Kelso's retirement with four-stars. The Senate would be overlooking the entire Tailhook incident, Judge Vest's ruling, and exonerating Admiral Kelso of any responsibility or accountability for what occurred at the 1991 Tailhook convention.

And, what signal will the Senate's action send to the men and women of today's Navy and our entire armed forces? Does the Senate condone sexual abuse and indecent activity? What about the victims of Tailhook? Is this just business as usual in the United States Senate? Is it okay for lower ranking officers to be held accountable, but not top admirals? Will the Senate's inaction simply reinforce the culture of sexual harassment still prevalent in the military today? And, will boys continue to be boys?

I believe the Senate must send a clear message throughout the ranks of the military—from the newly enlisted private and seaman, to the highest ranking generals and admirals. That message is simple: sexual abuse, misconduct, harassment, and other forms of lewd conduct and indecent activity will not be tolerated in today's military. And, there will be accountability at all ranks.

I urge my colleagues to oppose the nomination of Admiral Kelso to retire with four stars.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The manager.

The Chair would just note that the Senator from Texas was on her feet

first, and it would be the intention of the Chair—

Mr. EXON. Will the Senator from Texas yield for a unanimous-consent, please?

Mrs. HUTCHISON. I yield for that.

ORDER OF PROCEDURE

Mr. EXON. In consultation with both sides of the issue, we are now proposing to offer a unanimous consent request that I will pose at this time. We would like to enter into a unanimous consent request for the remaining debate on this issue with 1½ hours of time to be controlled by the Senator from Maryland, 1 hour of time to be controlled by the Chair for a total of 2½ hours, with a vote scheduled not before 7:30.

Mr. MCCAIN. Reserving the right to object, I would be interested to know why there would be 1 hour on one side for who would be managing the other side. I understand it might be the Chair. Why is not someone designated on the other side of this debate and—let me finish my question, if I might—and I need at least 10 to 15 minutes before I would agree to a unanimous consent request.

Mr. EXON. In response to the Senator, I will simply say that, as I stated in the unanimous consent request, it would be those in opposition who would have 1½ hours to be controlled by the Senator from Maryland, and those in support would have 1 hour controlled by the Senator from Nebraska. I had already scheduled those Senators who had indicated to me that they wanted to speak. I have the Senator down for 5 minutes. I would be glad to extend that time. How much time does he wish?

Mr. MCCAIN. Fifteen minutes.

Ms. MIKULSKI. If the Senator from Nebraska would yield, as part of 1½ hours, we wish to acknowledge that we have reserved 30 minutes for the Senator from Pennsylvania, Mr. SPECTER; 10 minutes for the Senator from Texas, Mrs. HUTCHISON; and 5 minutes for the Senator from Kansas, Senator KASSEBAUM as well as 15 minutes for Senator BYRD, 5 minutes for Senator CONRAD, and some time for wrap-up.

Mr. STEVENS. In behalf of leadership, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Madam President.

Madam President, our debate this afternoon should not be construed as an assault on the U.S. military, on the Navy, or on any individual in the armed services. Instead, I believe this is a debate involving two very different approaches to a common objective. I am convinced that all parties to this discussion are intent on pursuing improvement in the reputation and the record of the U.S. Navy.

Last week, I outlined my concerns over this nomination at the Armed

Services Committee hearing. Some have said I am trying to hold Admiral Kelso accountable for what happened at Tailhook in 1991. That is not the case. I spent hours reading all of the reports on the Tailhook investigation. That study led me to conclude that there are three areas of concern. I believe Admiral Kelso is responsible for two of those.

Area one: Before the convention. It is clear that abuses of alcohol and degradation of women were part of the regular activity at the Tailhook convention, and there was no secret about that. In fact, many of these actions had reached ritual or traditional status. For the Secretary of the Navy and the Chief of Naval Operations to attend and lend their stature to such activity was clearly wrong.

Area two: During the convention. There has been a dispute about whether Admiral Kelso actually saw any of the debauchery or unseemly behavior. He says he did not. I believe him. I do not hold him accountable for actual knowledge of the events there.

Then we come to the third area: After the convention. Lt. Paula Coughlin stepped up immediately to reveal what happened to her and other Navy women and civilians. There was a studied effort by officers in senior responsible positions to ignore or overlook offenses at Tailhook, followed by an equally serious failure to follow up on complaints from victims of the affair, including from Navy officers and personnel.

Finally, there was a complete breakdown of the naval investigatory process that resulted in the Department of Defense inspector general stepping in to conclude the inquiry.

Active interference in the investigation by senior officers was the rule, not the exception. Even Admiral Kelso's defenders admit a failure of leadership on his part before and after Tailhook '91.

But there is another issue beyond conduct at the convention. Whenever we have a mistake or accident or incompetence that leads to an unfortunate incident, we have the responsibility to investigate fully, to ascertain the facts and, most of all, to take whatever steps are necessary to prevent similar problems in the future. Only by a full investigation, with the chips falling where they may, will we be able to learn from our mistakes.

Internal investigations, in the military or anywhere else, are never easy. They will produce the truth, however, only when the individual at the top decrees, in no uncertain terms, that he or she insists that the truth be found. It is no secret to anyone that few officers believed the Navy was serious about getting to the bottom of Tailhook '91. In fact, officer after officer stymied the investigation, refusing to produce witnesses and tolerating lying by others.

This all occurred on Admiral Kelso's watch. I believe Admiral Kelso is a patriotic man, an officer of integrity and honesty. But, in my view, his excellent character is not the issue here. The issue is his captaincy of the ship, what happened on his watch, and the signal his performance sends to the Navy and the world.

The proper standard in a similar situation was described by Secretary Perry himself last week, following the tragic downing of two U.S. Army helicopters over northern Iraq. Secretary Perry said: "As the Secretary, I feel the full responsibility for this action, and \* \* \* I will be accountable for following up on it." The individual at the top must take responsibility, because it is his actions that will prevent future accidents like this from happening, and it is what will save future lives in the U.S. Army and our helicopter pilots.

I am a great believer in our military and its great history and traditions. I want the best of those standards to be reinforced and bolstered, and I have concluded that the best way to do so is to insist upon full accountability by those honored with positions of leadership in our armed services. For that reason, I believe we should not give our consent to the request for Admiral Kelso to be placed on the retired list in his current grade.

What I want for the future of the Navy is the best. In expanding the role of women in our Navy, we must offer them equality of opportunity and, most of all, basic respect so they can fulfill their own potential for themselves and for our country. We cannot settle for less.

I fully understand that we must now focus on the future. I have met with Admiral Boorda, who will be the next Chief of Naval Operations, and I have discussed these issues with him. I believe he is committed to equality of opportunity for women, and to achieving ethics and high morale for all of our Navy men and women.

When I voted in committee last week, I did not know if I would be the lone vote. I did not know if I would be the lone vote in the U.S. Senate. But I did what I thought was right under the circumstances at the time. Each person must make up his or her own mind.

I understand that there are those among my colleagues here who share my goal of strengthening our services, but they will differ with me on the appropriate method of achieving those goals. Our military today is facing a very difficult transition period, and it is vital that we in Congress demand the highest quality of leadership. We must have the highest quality for our armed services, to remain the greatest superpower in the world. I think that goal is best reached by saying no to this nomination.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. WELLSTONE). The Chair heard the Sen-

ator from Arizona first. The Senator is recognized.

Mr. MCCAIN. Mr. President, I noticed with interest the dramatic presence of some of our colleagues from the other body at the beginning of this debate. I would say to our colleagues who seek to punish the captain for a scandal which occurred on his watch, a scandal he did not cause, did not participate in, and tried his best to correct—I would say to our guests from the other body and Members here who, like the Senator from California, was formerly a Member of that body: Will you demand the leadership of the House be held accountable for the scandals that have occurred on their watch?

I must say, I cannot remember any one of the Members of the House who joined us here today calling for the Speaker or the majority leader of the other body to be punished for the House bank scandal or the House post office scandal. Perhaps our House colleagues hold themselves, their leaders, and their institution to lesser standards than they hold Admiral Kelso, the U.S. Navy, and the Members of the U.S. Senate.

Mr. President, I do not intend to take a long time because this is a very unpleasant chore for me. I would like to note that the Women Officers Professional Association, an organization of 400 commissioned and noncommissioned women officers who serve in the U.S. Navy, feel differently than those women Members who have spoken here today on the floor.

This letter is addressed to the Honorable SAM NUNN, chairman of the Senate Armed Services Committee.

DEAR CHAIRMAN NUNN: On behalf of the board of the Women Officers Professional Association (WOPA), I express our wholehearted support for Admiral Frank Kelso's well earned right to retire at his present rank of full admiral.

Admiral Kelso should be congratulated for his leadership, not criticized. He, more than any other person, changed the Navy by eliminating the gender-based prejudices and restrictions which previously limited the contributions of Navy women. The world will learn from our example.

It is appalling that some people judge Admiral Kelso by whatever did or did not happen at the 1991 Tailhook convention. The important lesson of this terrible event is that it was Admiral Kelso, as the Chief of Naval Operations, who forced the Navy to change for the good because of it; it will never happen again. We, the professional women of the Navy, are beyond Tailhook.

The WOPA is a predominately female organization of almost 400 commissioned and noncommissioned officers. We have seen our members become part of the U.S.S. *Eisenhower's* ship's company, and report that the Navy is the only service with multiple female flag officers.

Admiral Kelso will be remembered with much respect by the Navy's Women. Please do not dishonor him by rank reduction.

Sincerely,

JAYNE HORNSTEIN,  
Lieutenant Commander, USN,  
Vice President for Programs.

Here is a letter from the Department of Defense, Defense Advisory Committee on Women in the Services. Mr. President, this is a committee that is appointed by the President of women who are knowledgeable, experienced, and seriously involved in the multitude of issues involving women in the military and various military family issues.

On April 8, 1994, Wilma Powell, the 1994 chairperson of the Defense Advisory committee on Women in the Services, known as DACOWITS, sent the following letter to Admiral Kelso.

DEAR ADMIRAL KELSO: Congratulations on the occasion of your retirement. Your many years of commitment and dedication to men and women in the United States Navy is very much appreciated by former and current members of the Defense Advisory Committee on Women in The Services (DACOWITS). As Ellen Murdoch and I mentioned to you at our meeting in December 1993, DACOWITS is extremely gratified with the recent policy changes that will allow military women to be more fully utilized in the Armed Services. We are particularly pleased with your vision and leadership that has opened opportunities to Navy Women. In particular, we appreciate your efforts in the late 1980's to open Combat Logistics Forces Ships to women which was a DACOWITS supported initiative. Under your leadership, more women have been selected for operational command, flag rank and major shore command that at any other time in the Navy's history. We share the view of many military women that you are the one individual who has done more to further opportunities for women than anyone since Admiral Zumwalt in the early 1970's.

While "quality of life issues" are not strictly "women's issues", they are of critical concern to the members of DACOWITS. We would like to express our appreciation for your commitment to quality of life issues. During your leadership, you have worked to secure additional funding for quality of life programs including child care, medical care and Morale, Welfare and Recreation Facilities. We recognize and appreciate your aggressive approach to increase and retain minority officers and enlisted personnel and the vigor you displayed in ensuring that peacetime deployment lengths were controlled to the maximum extent, thereby allowing Sailors to spend as much time as possible with families.

While the Committee regrets the incidents of Tailhook, we accept this as a watershed which focused attention on a substantive problem, and which provided the impetus for discussion and growth. Although DACOWITS continues to be concerned about sexual harassment throughout the Armed Services, the zero tolerance policy initiated for the Navy under your leadership makes a statement about your position on this very undesirable unacceptable behavior. The mandatory sexual harassment prevention training for all Sailors is an important component in eradicating this despicable behavior. As a proponent of military readiness, DACOWITS believes harassment or discrimination of any kind, i.e. gender or racial negatively impacts military readiness.

Again, on behalf of the Defense Advisory Committee on Women in The Services and Women of the American Armed Forces, I would like to take this opportunity to say thank you for your visionary leadership, to

wish you all the best and to say "God Bless" you in your future endeavors.

Sincerely,

WILMA D. POWELL,  
1994 Chair, Defense Advisory Committee on  
Women in The Services (DACOWITS).

Mr. President, there is very little I can add to the Women Officers' Professional Association, professional military women with years and years of military service who have actually served on Admiral Kelso's watch, and the Defense Advisory Committee on Women in the Services, who work day to day on issues affecting women servicemembers. There is very little I can add, except to highlight the following facts.

Mr. President, I was the first elected official in either body of Congress to go to the floor of the Senate and express outrage and indignation at the events that took place at Tailhook. I immediately made a statement on the floor of the Senate condemning the abuses and demanded an investigation and full and complete cooperation of the Defense Department in seeing that those who were guilty of such evil transgressions were punished. The first and immediate respondent to that was Admiral Kelso. The first action taken in the Department of Defense was Admiral Kelso's immediate action calling this type of behavior that had occurred at Tailhook unacceptable and would not be tolerated—period.

I urge my colleagues to not simply accept the word of people about what Admiral Kelso did or did not know about the events of Tailhook, because there may be some difference of opinion. But, again, facts are facts.

And what does the inspector general of the Department of Defense say. He says:

During our investigation we were unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and events that took place. We reached that conclusion based on numerous witness interviews. We found individuals who believed they saw Admiral Kelso on the third floor during that infamous Saturday night. However, based on all the testimony, we believe that he was not present on Saturday and that those who believed they saw him are mistaken. We continue to believe that Admiral Kelso had no specific knowledge of the indecent activity that took place. We have not had a chance to examine the entire court record, however we are in the process of comparing testimony from the court proceedings with information from our investigation files. We have identified several discrepancies in the court's opinion that call into question the factual basis for the court's conclusion that Admiral Kelso had specific and detailed knowledge of those events and the implication that he lied to Federal investigators and the court when he testified that he did not have such knowledge.

In addition, it should be noted that Admiral Kelso's conduct during our investigation was beyond reproach. He offered his assistance in making himself and other senior witnesses available and ensured that the Navy provided "logistical" support and related as-

sistance. Additionally, we found no evidence either testimonial or documentary that Admiral Kelso sought to thwart the Navy's internal investigation of the Tailhook matter. In short, his conduct was certainly not what one would expect from a person in authority who had a lot to lose from a thorough public airing of the facts.

Unfortunately, clearly Admiral Kelso did have a lot to lose because of the way that this situation is being treated.

On March 30, 1994, with respect to Admiral Kelso's presence at Tailhook, again from the inspector general of the Department of Defense—no higher authority, no higher authority to investigate anything that goes on in the Department of Defense than the inspector general. And this particular inspector general, by the way, has a superb reputation, Mr. Derek J. Vander Schaaf.

We concluded that Admiral Kelso was not on the patio Saturday evening and did not visit the hospitality suites at any time. Further, we were unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and events that took place. Finally, we found no evidence that Admiral Kelso sought to thwart the Navy's internal investigation into the Tailhook matter.

With respect to Admiral Kelso's presence on the patio Saturday evening, virtually all the key witnesses who said they saw Admiral Kelso on the patio Saturday evening stated that they saw him in the company of Secretary Garrett, Vice Admiral Dunleavy, and/or Vice Admiral Fetterman. Each of these individuals, as well as other witnesses who were in a position to know Admiral Kelso's whereabouts, consistently stated that Admiral Kelso was not on the patio Saturday evening.

Mr. SPECTER. Will my colleague from Arizona yield for a question?

Mr. MCCAIN. No, I will not until I finish my statement, and then I will yield for questions from him.

I think it might be of interest also for the RECORD to note that during his 38-year military career, among many distinguished assignments both in combat and in peace, Admiral Kelso received the Defense Distinguished Service Medal, the Distinguished Service Medal with two gold stars, Legion of Merit with three gold stars in lieu of subsequent awards, Meritorious Service Medal, Navy Commendation Medal, Navy Achievement Medal, Navy Unit Commendation with two bronze stars in lieu of subsequent awards, Meritorious Unit Commendation, Navy Expeditionary Medal, National Defense Service Medal with two bronze stars in lieu of third award, Armed Forces Expeditionary Medal, and the Sea Service Deployment Ribbon.

A distinguished career, Mr. President, a distinguished career of a decent, honorable, and widely respected person.

I might add that the DACOWITS members are a group of approximately 36 women—mostly women—who have many significant and respected credentials as far as the issue of the military

is concerned. I have dealt directly with many of the members over the years and know them to be heavily involved in issues relevant to military life, including women in the military.

Mr. President, I will conclude, because I find this such an unpleasant and distasteful exercise.

There has not been a lot said about what will be the impact on the military, the men and women of the military, of allowing Admiral Kelso to retire at a four-star rank, his involvement or noninvolvement with the Tailhook, how he handled it, what he saw or did not see, et cetera.

I can tell you that there are men and women throughout the Navy today, some of whom have access to C-SPAN, are watching and paying attention to these proceedings. I will tell you what they are thinking, because I know them, I know them better than anybody in this body. I know them well.

What they are thinking is: Here is a person who served for 38 years, for whom there is no evidence, according to the inspector general of the Department of Defense, for having done anything wrong, a person who served honorably and with distinction in war and in peace. And now, in a precedent shattering move, some Members of the U.S. Senate, because of what happened on his watch, seek to reduce him in rank and humiliate him and force him from the service under a cloud which will stain and destroy his reputation for the rest of his life.

These men and women in our Armed Forces are wondering whether they indeed might be a victim of this same kind of situation. Maybe they might serve for 38 years with honor and distinction, reach the highest position attainable in the U.S. Navy, have something go wrong that at least in their mind they had no involvement with, and did their very best—and be faced with the same humiliation. The record is clear that Admiral Kelso did his very best to try and remedy these terrible, tragic events that took place at Tailhook. What is to be accomplished by the Senate's piling on at this late date—3 years later? The message has already been sent by Admiral Kelso's early resignation.

I also think that they will be impressed by the Women Officers Professional Association, over 400 commissioned and noncommissioned women in the military, and their view of Admiral Kelso. Many of these women have worked with him on a daily basis.

They may also be impressed with the Department of Defense Advisory Committee on Women in the Services—highly qualified women who deal with issues affecting the military and professional military service members on a day-to-day basis. And then they will wonder whether a military career is the proper course for them to pursue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, yes, it is a distasteful discussion, but I remind my colleagues it is the result of a distasteful experience of over 80 women that lead us to this today.

I stand today to urge every one of my colleagues to listen carefully and thoughtfully to this debate and ask themselves whether the U.S. Senate should confer this extremely high honor on retiring Adm. Frank Kelso, an honor received by relatively few people in the history of this Nation.

There is no doubt that Admiral Kelso served a distinguished military career. He is the Chief of Naval Operations. Without our action today, he can retire with two stars and a pension of \$5,600 per month. Our job is to decide if Admiral Kelso should be given a monthly pension supplement of \$1,100 and two additional stars.

This is the question before the Senate: Did Admiral Kelso serve to a higher standard? Did he serve above all reproach? Should thousands of young men and women coming behind him use him as a role model in their own lives as they shape their military careers?

As U.S. Senators, we cannot ignore the tarnish of Tailhook in today's debate.

I have reviewed carefully the documents and history that bring us to today's debate. There is no doubt the stories and the secrets of the Tailhook conventions are well known, and beyond comparison in abhorrent behavior.

We talk a lot in this body about moral decay, taxpayers' funds and personal responsibility. Tailhook 1991 had it all. The Navy paid for transportation for officers to attend. Naval personnel on official time actively recruited officers to attend in numbers which were double that which could be accommodated at the official—as opposed to social—functions of the convention. The tales of the gauntlet are well documented and not disputed.

No one has described the conduct exhibited toward women at those events as that to which you would want your daughter, sister, mother, or wife subjected.

Young women and men who attended Tailhook had no way to defend themselves. There was no one in a leadership position who said, "You are my responsibility. You will be safe."

For more than a decade before the infamous 1991 Tailhook Convention, alarm bells were sounding throughout the Pentagon and the Navy on the issue of sexual harassment.

According to Naval Judge William Vest:

Despite the worthy official purpose [of Tailhook], the evidence is replete with references to the annual symposium's longstanding and widely-known reputation for wild partying, heavy drinking and lewd behavior.

Beginning in 1986, some naval officials had begun to document their fears about the Tailhook conventions, aware as they were that the trend had been for these meetings to degenerate into drunken brawls where inappropriate behavior by Navy personnel was commonplace.

Was Admiral Kelso out-of-the-loop? Did his staff not tell him about past problems? While he was at the convention, did he see nothing, hear nothing?

The evidence suggests that would have been nearly impossible. So well known was the climate at Tailhook that, by 1991, the president of the Tailhook Association wrote to squadron commanders and urged them to guard against "late night gang mentality."

Year after year, however, little was done to correct the situation.

As Judge Vest stated:

It should go without saying that this behavior should have never been permitted to start; having started, should have swiftly ended; and that due to years of permissive leadership, the situation had gotten completely out-of-hand.

Admiral Kelso was at the very top of that "permissive leadership." It was under his charge these events occurred. It was under his leadership.

The U.S. Senate cannot say with one voice "we do not condone sexual harassment," and then, look the other way and reward those who are in charge when harassment and abuse occur.

I fear that the message from the Navy and the Pentagon has not changed, and that many sailors, soldiers and officers still consider the whole Tailhook incident to be a joke. Women have testified before Congress that the message to all ranks is "you can get away with sexual abuse and harassment in the U.S. military."

It is very discouraging to talk with young women and hear them say that although a lot of adults talk about the evils of sexual harassment and violence, no one backs that message with actions. No one pays.

We continue to send the message that violence will go unpunished. Abuse will be overlooked. Harassment is OK.

Among the most prominent public cases that have been aired over the past few years, those who have been accused continue to receive top salaries and remain in high public offices. Nothing seems to change.

Any mother or father who sends their son or daughter to serve in the military should be assured at a minimum that the commanders-in-charge will not allow behavior such as this to occur. And, if it does occur, they should be assured at a minimum that it will be investigated to the fullest extent. And, if their son or daughter is the victim of harassment or abuse, they should be assured at a minimum,

they will not be the ones to suffer the consequences.

To vote to reward and honor Admiral Kelso today with an additional two stars would continue to send the wrong message.

I want my daughter and thousands of our country's young women and men to see service in the military as an outstanding career opportunity, as a place where those who serve with dignity and honor are rewarded—and most importantly, as somewhere they can succeed without becoming the victims of abuse while those at the top look the other way.

This is what bothers me most. I have to face young women and men across my State who say to me, "I want to be an astronaut, or an aviator, or a U.S. Senator." I tell them these are great goals. They are difficult and rewarding jobs that come with a great deal of responsibility.

What do I tell them about Tailhook if they dream of a career in the Armed Forces? Do I say to young women, "Go ahead, be all that you can be, but don't expect the top person to protect you if you get in a situation that gets out of control—even if she or he is present at the time."

It is appalling to me that 30 admirals, 2 generals, and 3 Reserve generals attended Tailhook 1991 and not one of those individuals exercised the responsibility of their command. And Admiral Kelso was at the top of that chain of command. So much authority; so little leadership.

I urge my colleagues to remember why we are present at this time. The voters continue to call for change, and they are watching. Part of that change is sending a strong message that we do not approve an action simply because that is the way it has always been done.

My colleague from Georgia earlier stated that if we vote against four stars today we are sending a different signal and setting a different standard with regard to these awards. That is exactly what we should do. It is time for a change.

In closing, as we exercise our constitutional responsibilities to advise and consent on the retirement status of Admiral Kelso, it is to the American people that we will ultimately have to answer. We must be able to tell them that those who are honored by this body have passed the highest test: They are the figures to whom we, as parents, can point with pride and say we want our children to grow up just like them. Admiral Kelso did not pass that test.

Thank you.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

UNANIMOUS-CONSENT AGREEMENT

Mr. EXON. Mr. President, I pose a unanimous-consent request that we

have been working on for some time now.

I ask unanimous consent that the following time limitations apply to the remainder of the debate on the motion regarding Admiral Kelso: 90 minutes for opponents, under the control of Senator MIKULSKI or her designee, 30 minutes of which will be under Senator SPECTER's control; 60 minutes for the proponents of the motion, under the control of Senator EXON or his designee, with the following Senators to be recognized for the following time limitations out of Senator EXON's time: Senator MATHEWS, 5 minutes; Senator STEVENS, 20 minutes; Senator WARNER, 10 minutes, with the remainder of the time scheduled to the Senator under his control or his designee; that at the conclusion or the yielding back of time, the Senate, without any intervening action or debate, vote on the nomination; that if the nomination is confirmed, the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

I will add here, for the understanding of all—I believe it is the understanding—that in any event, the rollcall vote will not occur before 7:35 p.m.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. Mr. President, to amplify the Senator's unanimous-consent request, the opposition requests 90 minutes, 30 of which is to be controlled by Senator SPECTER; 15 minutes for Senator BYRD; 10 minutes for Senator KASSEBAUM; 10 minutes for Senator METZENBAUM; 5 minutes for Senator CONRAD; 10 minutes for Senator BOXER; and 5 minutes for myself.

Mr. GORTON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. This Senator simply does wish to speak for 5 minutes in opposition and did not total up all those minutes, but they sounded suspiciously like they were all occupied, I say to the Senator from Maryland. If he can be recognized for 5 minutes in due course, he would appreciate it; otherwise, I suspect he is going to have to object.

Ms. MIKULSKI. Acknowledging the request of the Senator from Washington, we hotlined this and had not received word that the Senator from Washington had wished to speak. Senator SPECTER wished to speak for 20 minutes, and we have added an additional 10. Will the Senator from Pennsylvania yield some time to—

Mr. SPECTER. Mr. President, if I may respond, I will be glad to yield 5 minutes of my 30 to the Senator from Washington.

Mr. GORTON. Then this Senator has no objection.

Ms. MIKULSKI. I thank the Senator from Pennsylvania.

Mr. EXON. I have no objection to so amending the unanimous consent request.

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, on this date of the record, I am at a loss to understand the testimony of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff and the testimony of the Secretary of the Navy in recommending four stars for Admiral Kelso, because the report of the general court-martial judge is very explicit in finding the facts contrary to the sworn testimony of Admiral Kelso.

When arguments have been advanced on the floor about the findings of the inspector general's report, those findings are, on their face, at variance with what the military judge has outlined and backed up with very detailed evidence.

I note that the Secretary of Defense said in his prepared statement:

Admiral Kelso could have chosen an additional judicial forum to resolve conflicts between the military judge and the inspector general's conclusions.

The Secretary of Defense goes on to point out that Admiral Kelso chose, rather, to spare the Navy yet another drawn-out hearing with attendant costs and distractions. But what has happened is there has been a drawn-out Senate proceeding, first in the Armed Services Committee and now on the floor, to try to figure out the facts.

Had Admiral Kelso chosen the judicial forum, that body would have taken into account the very exhaustive opinion and finding of fact by the military judge running some 59 single-spaced pages filed by Capt. William T. Vest, Jr., circuit military judge, with very abbreviated documents which have been filed by the inspector general.

When my staff requested the inspector general's report on Admiral Kelso, my staff was advised that it was not public, which was a curious response to a Senator who has to vote on an important issue. This is an important issue because it involves the integrity of an admiral and it involves the integrity of the court-martial system.

Secretary of the Navy Dalton said in his prepared testimony before the Armed Services Committee:

Even the appearance of command influence over military courts must be avoided.

As I read that statement, I wonder how Secretary Dalton explains his conclusion which contradicts the military court or explains the conclusion of the Secretary of Defense which contradicts the military court. What the Senate is being asked to do today is to approve the Armed Services report, which does not make any effort to reconcile or to explain why the military judge was wrong and why the very brief summary statements of the inspector general are correct.

I read the memorandum for the Secretary of Defense from the inspector

general dated February 11, 1994, in which he comes to the following conclusion:

During our investigation, we were unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and the events that took place.

Then farther on the first page of a 1½-page memorandum, the inspector general notes:

We have not had a chance to examine the entire court record. However, we are in the process of comparing testimony from the court proceedings with the information from our investigation files.

It is amazing to me that anyone would make a conclusion of the absence of credible evidence, acknowledging on the same page that they have not examined the entire court record.

There was an effort to cure that with a later memorandum on March 30, 1994, which says that the inspector general has since reviewed all of the evidence now available. It still raises the question in my mind about the preliminary memorandum of February 11, and I wonder as to the procedures used by the inspector general.

I am at a loss to understand the inspector general's conclusion that there is no credible evidence, when the inspector general does not contradict, at least as to the Friday evening event, the testimony which is detailed on page 12 of the military judge's opinion about the testimony of Captain Beck, which was corroborated by Lieutenant Commander Fordham.

There was one other evidentiary piece noted that someone had not seen Admiral Kelso in the area, but that hardly undercuts the forceful, explicit testimony of Captain Beck that Admiral Kelso was well within view of a major incident, and that Captain Beck talked to Admiral Kelso, and that Admiral Kelso in effect acknowledged what was happening.

Now, it surprises me in the course of our consideration of this matter that so little weight is given to the detailed opinion of the military judge. One of my colleagues was in the Chamber saying that Senator SPECTER was going to present some details and inquired, yielding for a question. I raised the question about how anybody could say this is not credible evidence on the Friday night incident.

Admiral Kelso concedes he was present, says he did not see any of the events in question. One witness testifies positively that Admiral Kelso was on the site of the event, talked about the event. Another witness corroborates the event occurred. Is that not credible evidence? I have had some experience in the field of evidence, and that certainly is credible evidence.

On the Saturday event, the military judge notes at page 16 of his 59-page opinion, single spaced opinion:

The Court further finds that many of the eyewitnesses gave detailed accounts of their

observations of Admiral Kelso's presence on the patio on Saturday evening. Notwithstanding disparities regarding times, exact times, most address the specific locations.

Now, perhaps someone could say, if there is some variation as to exact times or modes of dress or specific locations, that raises some question; but not really. The testimony does not become incredible because of such minor deviations, or at least I do not understand on the face of this record, if the inspector general makes that contention, that we ought not see why he makes it, what the facts are and what leads him to that result.

The military judge went on to note some ambivalence at pages 22 and 23, stating:

The court further finds that a number of the witnesses who testified were ambivalent regarding their prior statements to DCIS investigators. Some of these witnesses admitted to being personally intimidated in knowing that Admiral Kelso denied ever being on the patio during his in-court testimony. However, the majority of these witnesses confirmed the accuracy of their prior statements. These witnesses include Rear Admiral Paul Parcells, Deputy Commander Naval Forces Central Command—

Not an unsubstantial individual.

Captain Daniel Weyland, USN Retired, Miss Margaret Hendly, Lt., and more.

Mr. President, I do not know how someone could take a look at that and come to a conclusion that there was no credible evidence.

The military judge at page 26 then makes a finding that:

Based upon the convincing nature of the testimonial evidence and the many corroborating facts and circumstances surrounding such evidence, the Court goes on to find that Admiral Kelso is in error in his assertion that he did not visit the patio on Saturday evening. This court specifically finds that Admiral Kelso visited the third deck patio at some time prior to the evening hours of 7 September 1991. This court further finds Admiral Kelso was exposed to incidents of inappropriate behavior while on the patio on Saturday evening including public nudity and "leg-shaving activities".

The military judge made a further finding at pages 39 and 40 of his report as follows:

Captain Gutter indicated that Rear Admiral Williams had also personally briefed Admiral Kelso on the results of the NIS investigation. During that briefing, according to Captain Gutter, Admiral Kelso had asked Rear Admiral Williams point blank, "Is there anything in your investigation that's going to place the Secretary on the third floor of Tailhook?" or words to that effect.

Rear Admiral Williams responded to the effect, "I've taken the pulse of all the agents in the field and there's nothing out there that's going to implicate the Secretary." This court finds that while this statement expressed a direct interest in any information linking Secretary Garret to misconduct that occurred on the third floor, it also signaled Admiral Kelso's personal concern for any information that might link him to such conduct.

Now, that is not the voluminous evidence which is quoted before, but these

are all matters which are detailed in the record in a very specific way. It is my view, Mr. President, that the Senate has a right to know what the answers to these questions are when we are being asked to approve a four-star status.

We have a right—and I will pursue the inquiry beyond today—to ask the inspector general just how he squares that evidence with his conclusion: "We are unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and events that took place."

The proceedings in court have the degree of sanctity which is recognized by Secretary Dalton in his prepared statement, that even the appearance of command influence over military courts must be avoided. Without dealing with the detailed statements of fact, the inspector general provides us with a very abbreviated statement and does not give to Senators who have to vote on this issue the information at hand.

I think it is very unfortunate that this matter has reached the Senate floor, because there is a record here of a naval officer which is longstanding, and it surprises me that anyone would want to bring this matter to the Senate floor on the issue of the promotion for two stars and some additional retirement compensation. Speaking for myself, I do not see how this body can turn its back on a 59-page detailed report which stands on this record and stands certainly in the face of a conclusory statement by the inspector general that there is no competent evidence.

I personally would prefer to have had the Senate avoid this. I personally would have preferred to have had a record which would have supported the four stars for Admiral Kelso. But in good conscience, I cannot support that kind of a promotion in the face of this record.

I yield the floor.

Mr. GORTON. Will the Senator yield his time to me?

Mr. SPECTER. I do yield. I thank the Senator from Washington. I yield 5 minutes to my colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, nothing is more fundamental to the doctrine of effective and responsible armed services than command responsibility. That responsibility finds its way all the way up through the chain of command, affecting the duties of and responsibilities of each officer in that chain, but being diminished in no way whatsoever by the time it reaches the highest military authority, in this case, the Chief of Naval Operations.

Under those circumstances, Admiral Kelso is ultimately responsible for the actions and conduct of his inferior officers in the U.S. Navy.

This Senator is impressed with the remarks of his colleague from Pennsylvania. He is deeply disturbed by the findings of the judge advocate denoting the denial of the accuracy of those findings, and is not entirely certain whether or not findings on individual conduct rather than command responsibility fall into his theory of that command responsibility.

This Senator would be reluctant, without having studied it far more deeply, to ground his decision in this matter solely on stating that he believes Captain Vest as against Admiral Kelso; or for that matter, vice-versa.

Far closer to the doctrine of chain of command, however, is the method, the way in which the investigation of Tailhook was conducted—obviously defective, obviously with a great deal of resistance on the part of a number of officers, and ultimately resulting in no significant disciplinary actions being taken against any of the officers who participated in illegitimate forms of conduct at Tailhook.

For the failure of the effectiveness of that investigation, I suspect that Admiral Kelso can properly be called to account, and can properly be said not to have conducted his office of Chief of Naval Operations in an appropriate fashion. But there are still cloudy circumstances in connection with that investigation and his responsibility.

What is, however, crystal clear, it seems to this Senator, Mr. President, is the fact that the one officer who is no longer in the Navy as a result of Tailhook is Lieutenant Coughlin, the victim, one of the principal victims, the victim who reported what went on in Tailhook itself. And that, this Senator finds to be unsupportable with backing the promotion of Admiral Kelso to full admiral for his retirement.

To have all of the time and money expended with no disciplinary action beyond the merest of reprimands directed at any of the officers engaged in the sexual harassment, and to have allowed the overt and covert attack, as Lieutenant Coughlin wrote in her letter of resignation to have taken place in such fashion as to have destroyed her career in the Navy, although she was the victim of these attacks, is utterly and profoundly wrong, and over her failure Admiral Kelso clearly had a high degree of control.

Had she been treated appropriately, had the chain of command been ordered to, required to treat her appropriately, had she been individually encouraged by the admiral himself that she retain a future in the Navy, my own views in this case might very well be different. But I cannot in any way accede to the proposition that Lieutenant Coughlin loses her career, and that no one else does.

This Senate is required by law to approve of the promotions of flag officers

in the armed services, granted that this, at the time of retirement, is almost automatic, but it is not quite automatic, and it should not be. To grant this promotion, to vote for this promotion, is to approve of all of, including the last part of, Admiral Kelso's career. That career is, most respectfully, extraordinary and distinguished. He would not have reached four-star rank even temporarily without it. But at this point, he must rise or fall on the way in which he dealt with this matter, either as an individual or—

Mr. NUNN. Will the Senator from Washington yield briefly?

Mr. GORTON. Yes.

Mr. NUNN. I listened to some of the Senator's remarks. I have not heard them all. But I believe the Senator said no one except Lieutenant Coughlin lost a job. That simply is not correct. The Secretary of Navy resigned in light of all of this, and then Admiral Dunleavy, who was the Chief of Naval Aviation, was forced to retire and would have retired with three stars, but retired with only two stars.

So there has been punishment at the very top. The IG of the Navy was also given a reprimand. So the Senator's information—I do not know where he gets that information, but it is simply incorrect.

Mr. GORTON. The Senator stands corrected with respect to Admiral Dunleavy. The Secretary of the Navy, however, does not wear a uniform. Under the circumstances in which the Secretary went, it is the view of this Senator that Admiral Kelso should have gone at the same time and under the same circumstances.

In any event, with the principal person losing her career in midcareer, perhaps the only person losing her career in midcareer being Lieutenant Coughlin, it is the view of this Senator that Admiral Kelso does not deserve the affirmative promotion in retirement to four-star admiral which he here seeks.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, the Navy JAG, Judge Advocate General, resigned over this. The head of Naval Investigative Service resigned over this. We held up nominations for months and months, and looked at every single record of those coming before us, as to their possible involvement here.

So the Senator's information—I do not know where that information comes from, but it is simply erroneous. There have been a number of people at the very top of the Navy whose careers have been completely disrupted, some of whom have been forced into early retirement, one of whom was head of aviation and retired on two stars rather than three.

So I do not know where this information is coming from. But the RECORD should reflect that it is erroneous.

Mr. STEVENS. Who is controlling the time?

Mr. EXON. How much time would the Senator from Alaska like? I believe we had the Senator down for 20 minutes.

Mr. STEVENS. Let me have about 10 minutes of that right now. We will see what happens.

Mr. EXON. I yield 10 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do not know about other Members of the Senate, but I have dealt with Admiral Kelso now, I think, for at least 14 years; maybe longer. I know that he, at the time of the Tailhook incident, sought to retire to take the total responsibility as then CNO.

Secretary Garrett decided to retire, and the admiral was convinced to stay on board. He had a substantial job to do in downsizing the Navy.

I further want to call the Senate's attention to the fact that this has developed into an unfortunate situation.

I am the father of three daughters. I know Admiral Kelso to be the father of two daughters and two sons he is very proud of. One is a naval lieutenant. One of the daughters is married to a naval lieutenant.

I do not know about the rest of you. I know this man as a man, and I have talked to him as a man about Tailhook. He is not an aviator. He was not there at that event as an aviator participating in Tailhook, whatever it was that was going on.

I have before me now a statement that was made by the Secretary of Navy to the Chairman of the Joint Chiefs. It is signed by John Dalton as Secretary of the Navy.

My good friend from California said that we had to understand that women must be treated with respect. I know of no naval officer who seeks to treat women in the Navy better than Admiral Kelso. He wanted to take the responsibility, and now 2 years later, having taken the responsibility for what he was assigned to do, he was not assigned the investigation of Tailhook.

Three Secretaries of the Navy have looked through his record as regards to Tailhook, and support this man. Three Secretaries of Defense looked through the record with regard to Tailhook, and support this man. Two chairmen of the Joint Chiefs have signed off that he was not in any way responsible for, nor should be connected to, Tailhook. And now two Presidents have relied upon him as the CNO, and one of them, President Clinton, has sent to us a request that this man be retired with four stars, with the rank of admiral.

I think it is unfortunate that people who say they have read, for instance, the record of the military judge, do not read what the Secretary of Navy said when he wrote this to the Chairman of the Joint Chiefs.

Mr. President, I ask unanimous consent that this memorandum for the Secretary of Defense, dated 17 February 1994 be printed in the RECORD at the closing of my remarks.

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

(See exhibit 1.)

Mr. STEVENS. I now read from this memorandum for the Secretary of Defense, dated February 17, 1994:

Investigative files and all systems of records maintained in this Department referring to this officer by name or identifying particulars, including Standard Form 278 (Financial Disclosure Report), have been reviewed since last Senate confirmation, and we find no evidence of conflict of interest. To our knowledge, there is no pending investigation of alleged misconduct by this officer.

Admiral Kelso was present at the Tailhook '91 Convention. He did not engage in any personal wrongdoing with respect to the planning for Tailhook or conduct at Tailhook. Accordingly, he was not the subject of any adverse action concerning those matters. However, because of his accountability as Chief of Naval Operations for the conduct of subordinates, he received nonpunitive correspondence in that regard. As guidance for the future performance of his duties, that letter described the Secretary of the Navy's standards concerning the leadership responsibilities of Flag Officers. By its express terms it was not intended to have any adverse impact upon Admiral Kelso's retirement in the grade of admiral at the conclusion of his service in that grade.

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. STEVENS. 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. STEVENS. Mr. President, if I may continue, this memo goes on to point out to the Chairman of the Joint Chiefs the circumstance concerning the ruling on a pretrial motion in a general court martial. It pointed out the military judge determined that Admiral Kelso was an accuser within the meaning of article 1, paragraph 9, of the Uniform Code of Military Justice with regard to each accused and, therefore, had an actual and apparent unlawful command influence in each case. And the military judge dismissed the charges.

The military judge's order—and this is the Secretary of Navy now writing this—was based in part upon certain findings of fact concerning Admiral Kelso. Those findings of fact reflect the military judge's assessment of the credibility of witnesses Admiral Kelso was unable to confront or cross-examine.

An impartial official fact-finder has reached a conclusion contrary to that of the military judge concerning the issues about

Admiral Kelso that the military judge considered. On February 11, 1994, the Department of Defense Deputy Inspector General issued a statement describing the findings reached by him as the result of his office's investigation of Tailhook '91 and Admiral Kelso. His statement declared that during his investigation, his office found no credible evidence that Admiral Kelso had specific knowledge of the incidents and events that took place. He also stated his belief that, based on all the testimony, Admiral Kelso was not present on the third floor patio on Saturday night and that those who believed they saw him are mistaken. The Deputy Inspector General further stated that Admiral Kelso's conduct during the DODIG investigation "was beyond reproach" and was inconsistent with the conduct of an individual who was motivated to hide misconduct from public scrutiny.

Mind you, Mr. President, this is the current Secretary of Navy who has recommended that the President send this nomination to us to retire Admiral Kelso in the grade of Admiral.

But the main point I want to make is, the people who are here now asking that he not be retired at that grade do not realize that this man wanted to take responsibility because of the way he was totally revolted by the evidence of Tailhook. He wanted to be the symbol himself. He was asked in the interests of our country to stay on board, and he did stay on board. He has conducted himself extremely well in his duties. He was not responsible for this investigation and, on the contrary, an active Secretary and then subsequently the new Secretary had people review this, particularly through the Office of Inspector General of the Department of Defense.

Admiral Kelso has been at the center of the planning of the base force concept that was advocated by Gen. Colin Powell when he was Chairman of the Joint Chiefs, and the Bottom-Up Review that was led by Secretary Les Aspin. During this period he stayed on board, the Navy has radically reduced the number of ships, aircraft, and submarines, while conducting nonstop missions in the Persian Gulf, off Bosnia, and around North Korea. He continued the combat readiness and high morale of the Navy during this period. These are tributes of leadership of what he has done.

Instead, people here want to use him as a symbol of the Tailhook incident and the fact that someone ought to pay.

This man wanted to take that responsibility, but, in the interest of the Navy and in the interest of the United States, he was asked to stay on board and he did stay on board.

To punish him now as a symbol of misconduct of other naval officers to me is just wrong. I think that it is time we recognized what is happening.

Senator INOUE and I conducted hearings this morning on recruitment. Recruitment is down. The quality of people who are coming into the Armed

Forces is down. The problem is that people who are interested in a career are looking to see what Congress is doing to the armed services.

And here is an incident of just total, total wrongful interpretation of this man's record and what he has done. I cannot believe that a man who has done what he has done ought to be in some way blamed for what went on at Tailhook or the cheating incidents at the Naval Academy. I think the people here fail to recognize what he tried to do to respond to those crises. But, above all, I think they fail to recognize what he has done for the country.

Just think, how many of you here have had complaints from people in the Navy about the downsizing? We have downsized our Navy. We have put our Navy under greater stress than it has been under since World War II, and we have done it at a time when we got through a complete review, three Secretaries of Defense, and three Secretaries of the Navy. This man's watch has been one of the most difficult watches in the history of this office.

I think he is entitled to the rank he has earned through 38 years of service for this country.

I was just walking down the hall and I met a young ex-officer I know. He said, "You know, one of these days all of the people who have defended this country under fire are just going to resign en masse." He was just irritated over what he had heard out here on this floor.

And some of the Senators making some comments, on the one hand, "Oh, he is entitled to credit for his service; but then, we don't want him to retire in that rank because we want a symbol, a symbol somehow that Tailhook was wrong."

Tailhook was wrong. My God, if there was anybody who knew it was wrong and wanted to show it was wrong immediately, it was Admiral Kelso.

I think to strip him of his rank, to not allow him to retire to the rank he served in now as CNO—some people seem to think this is a last-minute promotion. This is a permanent recognition of the rank he served under as the admiral of the Navy.

Admiral Kelso cannot come here to the floor to answer the critics who oppose this nomination. It is not a nomination in the normal sense. It is a confirmation. We are asked to confirm this man in retirement status as a four-star admiral because he has earned it.

I implore the people who are here to recognize the lifetime of dedication to this country of a man who was a distinguished naval officer. But particularly, to the women Senators here, I ask you to remember he is a father. He is a father of two young women who are very sensitive about their father's role in this matter. And there are others around here who are fathers who are sensitive of their own daughters' impressions of Tailhook.

I cannot quite understand why any Senator wants to take a person and hold him up as a symbol. Everyone on the floor today has recognized this man's service. I have not heard anyone condemn his service—38 years of dedicated service to our country and his leadership in peacetime and wartime.

The PRESIDING OFFICER. The Senator has used his time.

Mr. STEVENS. I will take 2 more minutes, if I may.

Mr. EXON. I yield 2 additional minutes to the Senator.

Mr. STEVENS. Mr. President, I am just hard put to understand it.

I guess I cannot understand it because I participated in some of the conversations at the time we urged him not to step down. We urged him to continue what he was doing. I am one of those who urged this man to stay in office.

And now he is going to be given worse treatment.

As one Senator said before, how many people would have denied him his four-star rank if he had retired and taken on the full responsibility of Tailhook at the time the incident first came to light? How many people would have said, "No, you cannot retire in the grade you have served this country in as Chief of Naval Operations"?

I think the conclusion to be reached is somehow or another, it should be taken away from him because of what he did or did not do since then.

If you know what he has done, as I know what he has done, in that period of time, he has downsized, he has led the country to a better Navy, a smaller Navy, a more affordable Navy, a more capable Navy. If for nothing else in his whole career, he deserves that rank for what he has done since Tailhook, but I think he deserves that rank for his total service to the country.

I thank my friend for yielding time.

#### EXHIBIT 1

DEPARTMENT OF THE NAVY,  
OFFICE OF THE SECRETARY,  
Washington, DC, February 17, 1994.

Memorandum for the Secretary of Defense  
Thru: Chairman, Joint Chiefs of Staff, Deputy Secretary of Defense

Subject: Navy Flag Officer Nomination

Recommend the President nominate Admiral Frank B. Kelso II, United States Navy, age 60, for appointment to the grade of admiral in the retired list. Admiral Kelso is currently serving as Chief of Naval Operations. He will retire in Spring 1994.

In accordance with the provisions of Title 10, United States Code, and DOD Instruction 1320.4, a proposed memorandum for the President is attached.

Investigative files and all systems of records maintained in this Department referring to this officer by name or identifying particulars, including Standard Form 278 (Financial Disclosure Report), have been reviewed since last Senate confirmation, and we find no evidence of conflict of interest. To our knowledge, there is no pending investigation of alleged misconduct by this officer.

Admiral Kelso was present at the Tailhook '91 Convention. He did not engage in any personal wrongdoing with respect to the planning for Tailhook or conduct at Tailhook. Accordingly, he was not the subject of any adverse action concerning those matters. However, because of his accountability as Chief of Naval Operations for the conduct of subordinates, he received nonpunitive correspondence in that regard. As guidance for the future performance of his duties, that letter described the Secretary of the Navy's standards concerning the leadership responsibilities of Flag Officers. By its express terms it was not intended to have any adverse impact upon Admiral Kelso's retirement in the grade of admiral at the conclusion of his service in that grade.

On February 8, 1994, a ruling on a pretrial motion was issued in the general courts-martial of three officers accused of Tailhook offenses. Because Admiral Kelso was not an accused, he was not a party to those cases or to the motion. In consequence, Admiral Kelso did not have the right or opportunity to be represented by his own counsel, present evidence or argument to the Court or cross-examine witnesses.

In his ruling, the military judge determined that Admiral Kelso was an "accuser" within the meaning of Article 1(g), UCMJ, with regard to each accused and that there had been actual and apparent unlawful command influence in each case. As a result, the military judge dismissed the charges against the three accused officers. (A copy of the military judge's written ruling and order is attached as exhibit A.)

The military judge's order was based in part upon certain findings of fact concerning Admiral Kelso. Those findings reflected the military judge's assessment of the credibility of witnesses Admiral Kelso was unable to confront or cross-examine.

An impartial official fact-finder has reached a conclusion contrary to that of the military judge concerning the issues about Admiral Kelso that the military judge considered. On February 11, 1994, the Department of Defense Deputy Inspector General issued a statement describing the findings reached by him as the result of his office's investigation of Tailhook '91 and Admiral Kelso. His statement declared that during his investigation, his office found no credible evidence that Admiral Kelso had specific knowledge of the incidents and events that took place. He also stated his belief that, based on all the testimony, Admiral Kelso was not present on the third floor patio on Saturday night and that those who believe they saw him are mistaken. The Deputy Inspector General further stated that Admiral Kelso's conduct during the DODIG investigation "was beyond reproach" and was inconsistent with the conduct of an individual who was motivated to hide misconduct from public scrutiny. (A copy of the DODIG's statement is attached as Exhibit B.)

On February 15, 1994, you issued a statement concerning Admiral Kelso. Your statement was based upon your review of the DODIG's conclusions and discussions with me about the military judge's ruling. You noted that Admiral Kelso had not been a party to the courts-martial proceedings. You also noted the DODIG's findings and conclusions about Admiral Kelso. You stated that you had personal knowledge that Admiral Kelso did not himself decide on the disposition of the Flag Officer files developed by the Inspector General and that then-Secretary Aspin decided to hold those files for review by civilian leadership. (A copy of SECDEF's statement is attached as Exhibit C.)

On February 15, 1994, I also issued a statement concerning Admiral Kelso. My statement declared that I have never questioned the personal integrity and honor of Frank Kelso. I further stated my full concurrence with your judgment regarding Admiral Kelso's character. I know that Admiral Kelso was not given custody or control of any of the Flag Officer files prior to the Consolidated Disposition Authority's decision to refer cases to trial. (A copy of SECNAV's statement is attached as Exhibit D.)

If you desire any additional information about the preceding matters, I will provide it at your request.

Admiral Kelso has rendered exceptionally meritorious service in the grade of Admiral. In addition, he discharged even more substantial responsibilities while serving for approximately six months as Acting Secretary of the Navy on the basis of his distinguished service to our Navy and our Nation in peacetime and in war. I most strongly recommend that this retirement in the grade of admiral be confirmed.

This action will not result in any change to the Navy's authorized number of admirals.

JOHN H. DALTON  
*Secretary of the Navy.*

Ms. MIKULSKI addressed the Chair. The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield to the distinguished chairman of the Appropriations Committee, the Senate President pro tempore, Senator BYRD, 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland for her yielding 15 minutes. I will not use that much time.

#### LEADERSHIP AND ACCOUNTABILITY

Mr. President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Secretary of the Navy, have all maintained that the Chief of Naval Operations, Adm. Frank Kelso, should be allowed to retire as a four-star admiral. They believe that his long and distinguished career, 38 years of service in the Navy, merits retirement at four stars, regardless of the blot on his escutcheon known as the Tailhook scandal. Mr. President, I respect the individuals who have made this recommendation, and I appreciate their thoughtfulness in considering the full scope of Admiral Kelso's contributions to the Navy as they have made their recommendation and as Senators have stated here on the floor today. But I cannot agree with them on this issue. As the Chief of Naval Operations since 1990, Admiral Kelso must assume responsibility for the failure of leadership that allowed the events at the Tailhook convention to occur.

The continuing disgrace of the Tailhook scandal was clearly a failure of leadership, a "deficiency of leadership" noted by Secretary Perry. I quote from a letter from then-Secretary of the Navy Lawrence Garrett to the president of the Tailhook Association, dated 29 October 1991, termi-

nating the Navy's support of the Tailhook Association:

There are certain categories of behavior and attitudes that I unequivocally will not tolerate. You know the phrase: "Not in my Navy, not on my watch." Tailhook '91 is a gross example of exactly what cannot be permitted by the civilian or uniformed leadership of the Navy, at any level. No man who holds a commission in this Navy will ever subject a woman to the kind of abuse in evidence at Tailhook '91 with impunity. And no organization which makes possible this behavior is in any way worthy of a naval leadership or advisory role.

As we may recall, Mr. President, Secretary Garrett resigned as a result of his role in the Tailhook scandal. But his words still ring true, and Tailhook '91 remains a gross example of what cannot be permitted by the civilian or uniformed leadership of the Navy, at any level.

The presence of senior officers, including Secretary Garrett and Admiral Kelso, at a convention renowned for its parties, drinking, and lewd behavior makes a mockery of official statements about a "zero tolerance for sexual harassment," a policy that Secretary of Defense Perry notes in his testimony was instituted by Admiral Kelso in November 1991. The Department of Defense inspector general's report notes that:

Clearly, some of the activities that took place at Tailhook conventions were known within the Navy to be incompatible with Navy policies dealing with sexual harassment and abuse of alcohol. To some, the presence of the Secretary and flag officers gave tacit approval to the event, including those aspects of the convention that were contrary to established Navy policies.

To fail to censure the leadership, Mr. President, that allowed this, while holding junior officers responsible and accountable, in my judgment, is not reasonable.

In response to concerns generated by the leadership failures related to the Tailhook scandal, the Senate included in the fiscal years 1992 and 1993 National Defense Authorization Act a provision that made the retirement of the Chief of Naval Operations and the Commandant of the Marine Corps at the highest grade subject to confirmation by the Senate. Mr. President, that is why this retirement is being debated today. In 1991, the Senate recognized the need to hold leaders accountable for failures of leadership. Secretary Garrett resigned. Admiral Kelso was recommended for an early retirement by our current Secretary of the Navy, John Dalton, a recommendation that was not accepted by then-Secretary of Defense Les Aspin. While the Senate did not have the opportunity to act on Admiral Kelso's retirement earlier, he ultimately must be held accountable for his failure of leadership. If the Senate does act today to hold Admiral Kelso accountable, it will do more than any sexual harassment training session to bring home the responsibility and

accountability of all uniformed personnel to conduct themselves professionally and to respect the rights of women, civilian and military. So, Mr. President, I shall cast my vote to hold Admiral Kelso accountable.

I yield back the remainder of my time.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, am I correct in my understanding that under the agreement now governing the disposition of this matter, that the time for debate will expire, if all used, at 8:04 p.m. this evening?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Mr. President, I ask unanimous consent that an additional 26 minutes for debate be added, to be equally divided and controlled in a form consistent with the prior agreement, and that a vote on the pending matter occur at 8:30 p.m. today.

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

Mr. EXON. I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, this is clearly a difficult time for all of us, particularly the Navy. Tailhook was an ugly incident. I am pleased to be able to use the past tense, because it is an incident that will not be repeated. I doubt if any institution is more sensitive to that fact than the U.S. Navy at this particular point.

No one on this Senate floor condones what happened at Tailhook. Any incident of sexual harassment, sexual intimidation, is not something that we can condone. The question before us, I believe, is whether we look at what has transpired in the Navy since the occurrence of this particular incident and others, or whether we make a final point by demoting a man who has given 38 years of service in the service of his country and reached the pinnacle of success in the branch of service that he has served in.

As Senator NUNN has said, the Armed Services Committee has very thoroughly investigated this matter. We held the almost unprecedented procedure of bringing before our committee the Secretary of the Navy, the Chairman of the Joint Chiefs of Staff, and the Secretary of Defense. We particularly were interested in finding out whether Admiral Kelso did, in fact, have knowledge of the incident that occurred at Tailhook. I was persuaded, as many on the committee were—and those who I think have seriously investigated it—that Admiral Kelso did not have specific knowledge of the incident that took place.

We also very seriously investigated the matter as to whether Admiral Kelso in any way interfered with the investigation. Based on the testimony before us and my review of the case, I

have concluded along with many others that he in no way interfered with the investigation that took place. In fact, Secretary of Defense William Perry indicated to us that he had spent well over 100 hours of his personal time—not just reading the IG report, but talking to those who were present at Tailhook, talking to anyone who was even remotely involved in this matter; and that he had personally satisfied himself as to these two facts that I just related.

So one question that I think has been answered to the satisfaction of this Senator and most on our committee is Admiral Kelso's knowledge and Admiral Kelso's involvement, if any, in the investigation.

The question then comes, because this was his watch, do we take this step of demoting him—in a sense demoting him in his retirement—which is accelerated? I think it is important, as long as we are talking about what has taken place on Admiral Kelso's watch, it is important to balance the scales somewhat to talk about what else has taken place on Admiral Kelso's watch in regards to the question of women in the military, and particularly women in the Navy.

The role of women in the day-to-day operations of the Navy as we all know has been very significantly increased. We have expanded women's aviation assignments. Three women aviators were recently promoted to captain. None had achieved that rank as a woman aviator prior to 1990. Promotion opportunities have been expanded very substantially. Nine women have been promoted to flag rank. All of this has taken place during Admiral Kelso's tenure.

Admiral Kelso also has greatly expanded command opportunities for women officers, both ashore and afloat. He has instituted a strong, workable prevention policy to combat sexual harassment. He has put teeth into the zero tolerance policy among both military and civilian personnel. He has established a forceful training initiative which outlines for every Navy man and woman acceptable and unacceptable behavior; the procedure for filing complaints, the role of commanding officers in preventing harassment, actions they are required to take; the role that alcohol abuse has; and discharge procedures used.

I can go on, but given the limitations of time I think it is important to note what Admiral Kelso has done on his watch in this regard is very positive. I think it is also important to understand that Admiral Kelso has, as Senator STEVENS said, volunteered to be a symbol but was persuaded not to be a symbol by then-Secretary of Defense Les Aspin, and confirmed by the President of the United States.

It is important to understand the Chairman of the Joint Chiefs of Staff,

current Secretary of the Navy, the Secretary of Defense, and the President of the United States, have all recommended, after thorough review of this matter, that Admiral Kelso be retired in his current rank.

The man has suffered. The man has been punished. The man and his family now have a blot on his record that cannot be erased regardless of what we do here. He has suffered personally, I think, very substantially, as has his family. Because he has not been engaged in any delay or had any involvement in interfering with the investigation, and because I think it has been proven that he has not had knowledge of what took place at Tailhook, in the opinion of this Senator, Admiral Kelso has paid the price. He should be retired at his current rank, and I will vote accordingly.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. The Senator from Ohio is allocated 10 minutes, I believe, under the order; is that correct?

Ms. MIKULSKI. I yield to Senator METZENBAUM 10 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from Maryland.

Mr. President, I rise because I am somewhat disturbed that so much of this debate has revolved around female Members of this body, who have led the charge on this issue. But I rise because I believe it is an issue that belongs to the other 94 Members of this body, the male Members. I believe that what is involved here has to do with what the American people, and the world, for that matter, will perceive as to how the Senate treated the entire Tailhook incident.

There are probably few incidents in the Navy's history more embarrassing than Tailhook. I can see the headlines tomorrow: "U.S. Senate Confirms Admiral in Charge of Tailhook Investigation, and One Most Directly Involved, a Four-Star Admiral." That is not the way it should be. That is not the message that should be sent. I think it is an embarrassment that we are being forced to take up this issue.

The argument is made that this man is a fine admiral and he has done his job well. I do not question the fine work he has done in the U.S. Navy. I am sure he has been an excellent member of the naval forces. I have no quarrel with that at all. But we send a signal if 94 male Members of the U.S. Senate see fit to confirm him with four stars. He would retire under any circumstances with two stars.

We somehow look totally aside from the findings of that man who had to be a very courageous captain, the findings of the Navy's own judge, Capt. William

T. Vest. Captain Vest concluded that the admiral had lied about his own activities at Tailhook '91 and then used his rank to impede the investigation. Somehow some on this floor would have us totally disregard the findings of that captain and say, "Well, look what the inspector general did and look what the Secretary of the Navy did." I think you have to look at the findings of that person who was on the scene who was charged with the responsibility and look at his conclusions.

There is not much question about the fact that Admiral Kelso was responsible for the botched investigation, and for that we promote him to a four-star general? A Navy judge accused him of lying when he denied he had witnessed any misconduct there and charged he used his rank to impede the investigation. I do not know if all that is true. But that is what the Navy judge concluded, and I have to assume that when he was placed in that position to be the Navy judge, it is because he had the qualifications, the ability, and the character to be in that position.

But I cannot see how we, who are males in this body, can literally slap in the face all the women in this country who are concerned about what happened to those women who were forced to run the gauntlet at Tailhook. When we learned about that, the whole Nation was embarrassed by it. Then the investigation was botched.

Now what do we do? We turn around and we say, "Oh, yes, oh, yes, but the fact is, he has had a distinguished naval career, and, therefore, we want to retire him with four stars." It is not the amount of money involved. We are talking about a difference of \$1,100 or \$1,400 a month. That is not the issue. The issue is whether or not the U.S. Senate, a body dominated, as far as numbers are concerned, by males, who see fit to turn our backs on this issue and to say that we will give our stamp of approval to the "old boys network," that we will be willing to stand up and say, "Well, yes, he did it, but you know how those things are; let's just go along and give him four stars." I do not think that is right. I think it is the wrong thing to do, but I think it is an embarrassment to do it as well.

I think that we ought to be out here on the floor—no, we should not be on the floor. This issue should not even be before us. It should never have gotten this far. As long as it got this far, I think the U.S. Senate ought to refuse to award Admiral Kelso four stars.

I yield the floor.

Mr. EXON. Mr. President, I yield 8 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. MATHEWS. Mr. President, I rise this evening as one of the Senators from the home State of Admiral Kelso,

and I rise to ask my colleagues to join me in judging a man on the basis of a long history of positive accomplishments, rather than what some say is an incident, and I would say serious incident, of failure to perform. I ask you to join me in judging him on what he did rather than what he failed to do.

As a former Navy man, I followed the repercussions of the 1991 Tailhook convention with some concern and at times with considerable distress. The professionalism, character, and behavior of the Navy's officer corps are not small matters to me or for the Nation.

The Senate does not make a judgment that reflects on the professionalism, the character, and behavior of the Navy's seniormost officer, and that, too, is not a small matter. There is not a Senator among us who condones or excuses the repugnant events of Tailhook '91. Admiral Kelso was present at that event. Testimony by the admiral's superiors before the Armed Services Committee concluded, however, he did not personally witness any misconduct. Nevertheless, Admiral Kelso is a 38-year veteran of the Navy. He knew the reputation of the Tailhook Symposium, or certainly he should have known. The men involved were active-duty officers, and I suspect that the admiral himself wishes he had taken more direct personal control of its goings-on.

But Admiral Kelso has already been judged for his failure to do so in a court of public opinion, whose verdict has been less than generous.

That said, Mr. President, I also point out that we are about to make a judgment not about a single episode in the admiral's career, but about that career as a whole. Deciding whether Admiral Kelso retires with four stars is a decision that we must base upon his performance throughout an entire career. Mr. President, I point out there has not been any question that he has had a distinguished career.

It was his leadership that assured naval forces were prepared, fit, and able to perform superbly during Operation Desert Storm. As commander of the 6th Fleet, he commanded naval forces that helped seize Palestinian terrorists responsible for killing Americans aboard the *Achille Lauro*. He headed operations that conducted air raids on Libya after the terrorism against United States personnel in Berlin.

He showed immense integrity in reopening the investigation into the explosion above the U.S.S. *Iowa* that overturned the conclusions of an earlier inquiry.

His leadership and foresight were the driving forces on shaping the Navy's modern warfare strategy that changed focus from open-ocean warfare to beach warfare. This strategy created greater cohesion between the Navy, Marines and other services. It is a major con-

tribution in the reorientation on American forces.

I also point out that Admiral Kelso has been at the forefront of efforts to open shipboard service to women. He has been vocal and earnest in recommending that the law be changed to permit women to serve on combat warships and Navy aircraft. I have long believed that our fighting forces become more effective when their composition reflects more fully the society they protect.

Admiral Kelso's leadership in opening naval opportunities for women would promote that goal and leave a legacy for which I hope he will be remembered.

Mr. President, I have listened to the reasoned and thoughtful comments of our colleagues, who speak their perspective so rightly and convincingly. I am persuaded by much of what they have to say.

At bottom, however, I ultimately am persuaded by remarks from Senator NUNN, capable chairman of the Armed Services Committee, who has differentiated between Admiral Kelso's accountability as Chief of Naval Operations and his sole responsibility as senior officer present.

Mr. President, our task today would be considerably less difficult if the facts about Admiral Kelso's direct personal and professional involvement in Tailhook were clear. To the contrary, however, the facts are in dispute. The report of the inspector general leads us in one direction. The finding of the special military judge leads us in another. By the same token, our task would be less difficult if Admiral Kelso's service record indicated previous blemishes, repeated failures to exercise command, incidents of not upholding standards, or winking at unacceptable behavior.

However, if anything can be said to be clear, it is that the record shows the opposite. Admiral Kelso has served his Nation and the Navy in an exemplary career.

When we are to make a judgment about how the admiral ends that career, we should make it on the evidence of that career, not on the basis of disputed testimony, conflicting facts, and the intensity of our indignation over a single moment in that career.

Mr. President, I ask my colleagues to join me in voting to retire Adm. Frank Kelso at his current rank. We are not giving him a gratuity. He has earned the rank which he now holds, and I ask you to join me in retiring him at this rank.

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

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Chair.

This concludes the number of people who had designated times, with the exception of Senator BOXER and myself.

Senator Nancy KASSEBAUM intends to submit a statement for the RECORD.

Later on this evening, I know we will be doing our wrapup and rebuttal prior to the vote.

It is very hard to debate this on the Senate floor. The reason it is hard is that when one reads what happened in Tailhook, and when one hears about the chants that Admiral Kelso allegedly heard and turned his back on, it is so vulgar I cannot bring myself to even read from the report on the Senate floor. I will not do that to the Senate. But let me say to the American people and to everyone watching on C-SPAN, because that is the where it is, it is pretty bad. In fact, it is so bad that we, the women of the Senate, do not wish to use the type of language that is described.

But I am going to talk about some things. For example, pornography. Some squadron hospitality suites did feature pornography. Witnesses described various types of pornography ranging from softcore to hardcore videos and slides. A few suites simply used the Hilton Hotel's pay-per-view. However, it was openly condoned.

There were other things that went on there that created an atmosphere of degradation to women, and actually degradation to all men who regard themselves as officers and gentlemen.

For a lot of people who saw "Top Gun", that is what they thought it was all about, being an officer and a gentleman. And what is this that we expect of the officers? We expect them to be gentlemen, just as we would expect the female officers to be gentleladies.

What then is the code of conduct? The code of conduct is not monastic behavior. It is not schoolmarmish behavior. But it is a code that, first of all, recognizes the dignity of all people. There is a saying that often goes around in events like that: Boys will be boys.

Well, when will men be men? The men I know do not take great joy in watching pornography. They think it is repugnant behavior for a man to demean anyone, be it a woman or another man. Also, they take great pride in the fact that in order for them to look strong, they do not have to make someone else look weak, and debase and humiliate them. That is what they call being an officer and a gentleman. Or if you are not an officer, it is what is called a gentleman.

The other is that the code of conduct calls for a sense of honor, meaning that when something goes astray others step in. If something gets out of hand, like a rumble, and just escalates into an environment that has punched itself into chaos and out-of-bounds behavior and, almost, a group behavior, like out of Deliverance, takes over, that others would step in. Well, nobody stepped in—like nobody, but nobody, stepped in.

There are those who would say, "Well, Senator MIKULSKI, you are describing Tailhook. What's that got to do with Admiral Kelso?"

The facts are in dispute. The facts are that no one disputes Tailhook and the violent, vulgar behavior that went on there. No one disputes that. And no one disputes that the Navy could not even get its act together to conduct an investigation. There is incredible dispute between the inspector general's report as well as the military court. Here we have a whole U.S. Navy, it equipped itself with night optics, but it has myopia when it goes to investigate this matter.

Well, put your goggles on, guys. It is time to look and see what is going on.

No dispute over the dispute. Is that not a shock in a United States of America that prides itself on its legal system, its competency in investigation? Yet we have disputes over who knew what, and what Admiral Kelso knew or what he did not know. And he presided over that.

Now, in the course of the debate, what so disturbed me was those who spoke in favor of the admiral's four-star retirement talked about how we have targeted Kelso; that we are looking for a symbol; that we are out to punish him; and that we are out to humiliate him.

We did not start out this way. It is not us that torpedoed Admiral Kelso. It is his own United States Navy. It was his own inspector general that has bungled the investigation. It was his own head of naval aviation. It was one source of Navy involved in this after another that bungled it. They torpedoed Kelso. The junior officers at Tailhook torpedoed Kelso and torpedoed the reputation of the U.S. Navy as top gun and as officers and gentlemen.

We did not do that. We are not out to humiliate Kelso.

Then there is this whole thing about what President Clinton did and the Secretary of Defense, and they agreed to this, that he retire.

Well, that might be fine. But the Senate function here is an advise and consent one. We are recommending that Admiral Kelso retire as the current law dictates. He is by law entitled to a two-star retirement. We are not advocating anything less than what he is entitled to by law.

He was entitled to that two-star retirement when he signed up for the Navy, when his wife followed him around the world, when his devoted daughters supported him. They knew that the retirement was two stars.

We hear that there have been 200 military personnel allowed to move through this august body above the two-star rank—some distinguished, some mediocre, some very distinguished, and some close to the edge.

Well, Mr. President, I cannot be held responsible for star bloat or star in-

flate. The law says you retire at two stars unless there is advice and consent by the Senate. My understanding is that that was not automatic. It was meant for something extraordinary and exemplary. Maybe if we want to have people retire in grade, change the law. But do not change the rules when we are talking about Kelso. We are saying retire Admiral Kelso at what he is entitled to by law, nothing more and nothing less. We do not think that is humiliating. We do not think that is punishing. We do not think that is singling him out. We are not saying retire at one star. We are not saying retire at no star. We are saying retire according to the law.

About these 200 who retired, perhaps we need to change the law. The distinguished chairman of the Armed Services Committee talks about how there were other members of the military who retired at full grade or the grade that they held and talked about terrible things that happened while they were commanding officers. And certainly many of those things were terrible, going back from the Korean war through now. However, when a lot of those things happened, there were not bungled investigations. There was not the coverup by junior officers. There was not the lying by junior officers. There was not the buddy system taking over for the honor system.

Instead of everyone being worried about what the women in the Senate and the men who support us are saying, I would worry about the failure of the honor system. I would worry about the code of conduct. I would hope my critics are worried about the code of conduct. I would hope our critics are worried about the honor code. I would hope they would be concerned about this pattern of bungled investigations when it occurs during these issues relating to scandal.

We know that this is not a perfect world. We know that there are always errors in judgment. We know there are technological failures. We know in some of those matters that the distinguished chairman outlined there were human errors in judgment, that there were technological failures, and there were great tragedies.

At the same time, we also know that for many of them, when we were investigating, we could get to the bottom of it and make sure it never happened again. And guess what? We want to get to the bottom of this and make sure it never happens again, just the way we correct our technology, just the way we try to have better judgment. We have to change the culture. That is what we are trying to do here. We are trying to do the lessons learned, and perhaps through the lessons learned there have to be lessons conveyed.

So for all of those who believe that somehow or another we are the problem by raising this issue, I will respect-

fully bring to their attention that I believe it is not us who have spoken out on the issue that are the problem. The problem is the failure of the bungled investigation and the tarnishing of the Navy's reputation.

Mr. President, I yield the floor.

Mr. MATHEWS addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. MATHEWS. Mr. President, on behalf of the Senator from Nebraska, I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the distinguished Senator from Tennessee, Mr. President.

Mr. President, I would like to make several comments regarding the debate concerning Admiral Kelso's pension. My thoughts are influenced to some degree by my experience as Secretary of the Navy in the early 1970's. But I am also influenced by the manner of the legal profession.

First, I want to review the admiral's career. At the age of 19, Frank Kelso went into the U.S. Naval Academy, and for the next 38 years made a career in the Navy. By all accounts, Admiral Kelso has been a distinguished officer. He led the 6th Fleet, commanded Navy forces that seized the terrorists responsible for the killing of an American aboard the *Achille Lauro* cruise ship, and was in charge of the air strikes against Libya in response to that nation's sponsorship of international terrorism. He became a four-star admiral in 1986. In short, Admiral Kelso has had an impressive career.

In June of 1990, 4 years after having become a four-star officer, Admiral Kelso became Chief of Naval Operations. As we all know, it was during this period that the infamous Tailhook convention took place. It was there that the Navy aviators in 1991 harassed, abused, and assaulted female sailors and female guests in one of the Navy's worse moments. Tailhook was a disgrace for the Navy. Sexual harassment has no place in our society and certainly no place in the armed services.

Tailhook took place on Admiral Kelso's watch, and I strongly believe in and commend accountability regardless of what the admiral knew and when he knew it. He was present in the very building where these reprehensible actions took place. Furthermore, his investigation of the incidents was badly handled.

I make these stern statements, Mr. President, in spite of the fact that the deputy inspector general of the Department of Defense, Derek J. Vander Schaaf, a civilian, reported on March 30, which was just 3 weeks ago, as follows. This is what his report said:

We concluded that Admiral Kelso was not on the patio Saturday evening and did not

visit the hospitality suite at any time. Further, we are unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and events that took place. Finally, we find no evidence that Admiral Kelso sought to thwart the Navy's internal investigation into the Tailhook matter.

When a Navy commander fails in his responsibilities such as Admiral Kelso did, the Secretary of the Navy has two options. First, the Secretary can relieve the officer of his command. Second, the Secretary can initiate a court-martial. In Admiral Kelso's place, Secretary John Dalton recommended the first option: Relief of the admiral from his command as Chief of Naval Operations. In my judgment, the Secretary of the Navy acted correctly, and I admire him for it. Admiral Kelso should have been relieved as Chief of Naval Operations. Regrettably, Secretary Aspin, Secretary of Defense Aspen, chose to overrule that recommendation.

Today, however, Mr. President, the Senate is being asked to review a different subject, which is the admiral's pension earned over a 38-year Navy career. Today's debate is not a referendum on whether the Navy did a good job handling Tailhook and its subsequent investigation. Clearly, it did not. It also is not a vote on whether sexual harassment is wrong and should be severely punished. Clearly, it should be.

Mr. President, the specific question the Senate is being asked to consider today is as follows: Does the U.S. Senate levy a severe penalty, deprivation of a portion of an earned pension, without any form of due process?

Admiral Kelso had 4 years of service, as I mentioned before, as a four-star admiral before he became Chief of Naval Operations in 1990. Had he chosen to retire in 1990, he clearly would have been entitled to his full pension as a four-star admiral.

What the Senate now proposes is to punish him by denying him part of that earned pension with no process whatsoever, no hearing, no chance to face his accusers, no right to counsel, and without having been convicted of anything.

Clearly, if Admiral Kelso had been through a trial and had been convicted, then consideration of the amount of his pension would be legitimate. That is not the case here. To those who say Admiral Kelso has not been held accountable for his failure to act, the answer is that there are proceedings to ascertain whether such a charge is valid. No such proceedings have been held here.

Mr. President, the Senate is abusing its powers when it commences to take earned pensions away from any retirees, including military, without any formal proceedings. Therefore, I oppose the effort to reduce the admiral's pension, and I plan to support the retirement of Admiral Kelso as a four-star admiral.

I yield the floor.

Mr. INOUE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Who yields time?

Mr. MATHEWS. On behalf of the Senator from Nebraska, I yield to the Senator from Hawaii such time as he may require.

Mr. INOUE. Mr. President, it was not my intention to participate in this debate, but I have spent the last hour watching my colleagues discuss this matter on television. I came to the floor because I felt I had to make my position known.

I believe all of us agree that the admiral's record is an exemplary one, that he has served this country well in peace and in war. The question arises as to whether we believe the trial judge or the inspector general.

Second, do we believe the Secretary of Defense and the Chairman of the Joint Chiefs of Staff?

If we believe the trial judge, then, as the chairman of the Armed Services Committee has suggested, this should not be a matter of debate; we should court-martial him. But having known the admiral all these years, I cannot question his honesty and veracity. I believe he was telling the truth.

The argument that has been brought up by many of my colleagues that this happened during his watch. The word "accountability" has been used on many occasions. In some cases, the words "absolute accountability" have been used. It reminded me of the Nuremberg trials. In this trial, some of the most vicious and evil men in mankind's history were being tried. But in each case our prosecutors had to demonstrate that these men on the dock had some knowledge, or had participated in, or were involved in the commission of a crime.

No one has come forward to suggest that he was involved in the commission of these crimes. The question is: Did he know about it? He has said under oath that he did not, and his position has been backed up by the inspector general.

Because I have such great respect for my colleagues in the Senate—and I wish to commend them for bringing this matter to this point of debate—and because I agree with them that the charges are serious, it is deserving of our full attention and full discussion. But in this case, I find myself disagreeing with their conclusions.

I will vote for the admiral.

Mrs. BOXER addressed the Chair.

Ms. MIKULSKI. I yield to the Senator from California such time as she may consume.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from California [Mrs. BOXER] is recognized.

Mrs. BOXER. Madam President, I thank my friend from Maryland, and I commend her for her excellent job managing this side of the debate. It has

been a very, very long and difficult debate, and I thank both sides for their contributions.

The reason I am rising again at this point in the debate, is to rebut some of the comments made to support this nomination to grant Admiral Kelso four stars and an additional \$1,400 a month on his pension.

Many arguments were made, and I listened very carefully. I have been on the floor, as many of my colleagues have been, continuously. I think they deserve to be analyzed.

I say to my friend, Senator CHAFEE, who said that this is not the proper venue to make a stand on this issue: This is our only venue. I used to serve on the Armed Services Committee in the House. I no longer do in the U.S. Senate. I enjoyed my tenure there. I did not have a chance to express myself in that committee, so this is my only opportunity.

Senator NUNN points out that maybe we should not have the responsibility to review retirements in this manner. Maybe we ought to reform the system. I am very happy to look into it.

But the fact is that this issue is before us, and those of us who have been troubled by Tailhook and its aftermath, and some of the continuing problems in the military, feel this is an appropriate venue and feel that our vote is far more than symbolic. Our vote is the right vote—to vote "no" on granting these two additional stars.

My dear friend from Hawaii, Senator INOUE, says the issue to him is whether Admiral Kelso knew what was going on at the time. He backs the Senator from Georgia, Senator NUNN, who says that the issue you have to decide is simple: was he there, or was he not there?

I respect that approach, Madam President, but I think that it is the wrong question. I do not think this is about whether Admiral Kelso was on the third floor, heard the kind of chants the Senator from Maryland referred to, saw the T-shirts that said "women are property," and heard the screams and the noises that came from the gauntlet.

I say that it is beyond that, because I believe that Admiral Kelso, the chief of Naval Operations, had to know what Tailhook was about. It seems that everybody did.

But he went to the symposium. He gave it the dignity of his presence. I think that was wrong. Then, when the investigation came to the Navy, it was bungled. Nobody was brought to justice, and the only victims are the women. By the way, that is not a passing victimization. Anybody who could tell you—and I know my friend from Maryland was a social worker and my friend from Washington was a teacher—that the effects of abuse do not wash away easily.

Senator NUNN said to search your conscience before you vote. Absolutely,

of course, we should do that on all votes. We should search our consciences. He also says: "Do not vote out of frustration." Well, I am not sure that it is altogether frivolous to vote out of frustration. I am sure if I asked the good Senator if he ever cast a vote out of frustration, if he was true to himself, he would agree that once in a while you do cast such a vote. The frustration in this case is that not one person in the military really paid a tangible price for the Tailhook scandal. Yes, a few letters of reprimand, a couple of early retirements. But really, there has been no tangible price paid.

Only the women, only the women who were assaulted are the victims. And, again, that will not be easily forgotten. Any of us who have had any experience with sexual assault, any of us who have had any experience with sexual harassment, will tell you straight from the heart, you do not forget it.

I myself had an experience when I was very young, a senior in college, and I can tell you every single detail of what happened to me. And I was not bleeding and I was not subjected to the same kind of groping and pain that some of these women faced in the gauntlet.

So the good Senator from Georgia, the chairman of the committee, says do not vote to punish Admiral Kelso. I want to say to him and to others, this is not about punishment. This is not a court martial. We are not here presiding over a court martial of Admiral Kelso. This is about whether an admiral retires with honor, with two stars or with four stars. This is not about a punitive court martial.

Who were the victims? Is Admiral Kelso a victim, a man who is going to retire with either two or four stars? Or is it the women who were brutally attacked in the gauntlet.

Senator MCCAIN wonders about what people in the military are thinking as they watch us. He is clearly upset about that. Well, I say, maybe they are thinking that we are finally serious about the way we treat our people in the military; that people should not be viewed as someone else's property, but as dignified human beings.

Senator MCCAIN finds this vote distasteful. But Senator MURRAY said just ask the women who were accosted in that gauntlet. Distasteful does not begin to describe it. It was revolting. It was criminal. So if this vote is distasteful, we really apologize to Senators who find it so. But it is far more than a distasteful vote that is at stake here.

Senator WARNER talked about Mrs. Kelso. He warns us that she is being hurt. I was sitting in the chair when he made that argument, and I found it to be a bit of a disconnect. I do not know what the point was in bringing her name into this. Was it to give a message to the women of the Senate that

we are hurting another woman; namely, Mrs. Kelso? We do not want to hurt Mrs. Kelso and, as Senator MIKULSKI has said in a very clear way, Senators did betray Admiral Kelso or Mrs. Kelso. It was the culture of the Navy. It was an inability for them to get their act together, even after warning after warning and letter after letter that this was a rude and terrible tradition that was being carried on at Tailhook.

We all feel pain when our loved ones are hurt, and I feel for Admiral Kelso's family in these difficult times. It is hard, and I know that. But how about the families of the women who were assaulted? My colleagues should know that these events leave lasting scars, not only on the victim but the people who love them. If we are going to focus on Admiral Kelso's family, we surely should focus on the families of the victims.

You know, Admiral Kelso gets a chance to retire on a pretty good pension, whether it is two stars or four. Lieutenant Paula Coughlin quit the military in the middle of a promising career. I think we should grieve for that.

Senator NUNN says if we deny four stars, we are setting, and I quote him, "a new standard of accountability in the military." Maybe we need one. Maybe we need a new standard of accountability.

I never served in the military. As I said, I did serve on the Armed Services Committee, and I always thought that there was a chain of command, and that the buck stopped at the top. If in any place in our society we have a chain of command, it is in the military.

Senator NUNN asked a very important question, and I admit, it made me think: What would we have done if this came to us in 1992 on the floor of the U.S. Senate? He speculated that had this nomination come to the floor in 1992, that this would have happened; that the nomination would have been confirmed overwhelmingly.

It is important to recall that in 1992, Senator CAROL MOSELEY-BRAUN was not in the U.S. Senate. She came here in 1993 with me, Senator MURRAY, and Senator FEINSTEIN, and we joined Senator MIKULSKI. Senator HUTCHISON was not here, either. So I do not know what would have happened in 1992. Knowing my colleague, Senator MIKULSKI, who knows? She may have taken this battle on and stood on her feet hour after hour, hopefully with Senator KASSEBAUM.

I do not know, but I will tell you one thing. It is 1994, and here we are, and we are making this an issue with good reason.

I also want to add something else: The final report of the inspector general came out in February 1993. In 1992, we did not know all this. So I do not

know what would have happened in 1992. But in 1993, this final report came out, and we ought to pay attention to what it said.

On page 1, section 4, it said that "inappropriate behavior was accepted by officers because it had gone on for years." And it says that "naval officers consistently lied during the investigation." It says on section 10 on page 5 what I consider to be the most damaging thing in the report: "Tailhook is the culmination of a long-term failure of leadership in naval aviation." Failure of leadership, and the ultimate leader was Admiral Kelso.

It is not the women of the Senate saying there was a failure of leadership. It is this report, which did not come out until 1993.

Senator STEVENS is angry with us for raising this issue. He was quite angry when he spoke. He has a right to be angry. I respect his anger. He said we, meaning the women in the Senate, are ruining the military. He said that.

Madam President, I find that unbelievable. I say when you stand up for the dignity of individuals in the military, regardless of who they are, you are standing up for the rank and file. That is a good signal to send. I hope we are going to send that signal tonight, whether we win this vote, which I hope we do, or make a strong show of support.

I applaud Senator BYRD and Senator HUTCHISON for being the only two Senators on the Armed Services Committee to oppose this nomination in committee. And I hope others on the committee listening to this debate tonight, will reconsider their previous vote based on the comments that are made here today.

Madam President, in conclusion, I want to rebut Senator COATS, who says—and this is very important—that Admiral Kelso moved to take charge of the Navy culture after Tailhook. I want to point this out. He said Admiral Kelso brought in a zero tolerance policy on sexual harassment. Make no mistake, this was a terrific thing, and many of us were involved, including Senator NUNN. He was a terrific leader on this.

But let me tell you, we can do a lot of talking about changing the culture, we can write new regulations, we can put on sexual harassment workshops, but without accountability, it will not be enough. After Tailhook, a long time after Tailhook, here comes another interesting story—the testimony of Lt. Darlene Simmons, a lawyer in the Navy. She gave her testimony before the House Armed Services Committee. I want to very briefly read a few passages from her testimony.

She complained about sexual harassment on the job, and this is what happened to her. And I remind my colleagues, this was after Tailhook, after Admiral Kelso introduced the zero tol-

erance for harassment policy. Lt. Simmons testified:

I was placed in a locked psychiatric unit and evaluated by a Navy psychiatrist," and she gives the psychiatrist's name. "I was found fit for full duty after a 24-hour period of observation. Hospital policy at Naval Air Station, Jacksonville, where I was sent, is not to release psychiatric patients on weekends unless a command requests that release. My command did not request my release, and I, therefore, had to remain in a locked psychiatric unit for the rest of the weekend and through Tuesday, the 13th of October, because Monday, the 12th of October, was a holiday. The experience of the psychiatric evaluation was humiliating and unnecessary.

This is a woman who complained about sexual harassment after—after—Admiral Kelso supposedly clamped down and there was going to be zero tolerance.

She goes on:

I relied on my chain of command to protect me from reprisal and to take swift and tough action when there was reprisal. My good faith reliance was not justified. Instead, my chain of command used the opportunity to cover up yet another act of reprisal.

And this is interesting. And does this sound familiar, I say to my friends?

It is ironic that the only person to suffer adverse career consequences from the incidents related in this testimony was me. I am convinced that, despite the rhetoric, the Navy will not tolerate those who report sexual harassment. The failure by the system to take timely action compounds the damage done by the original victimization. The lack of an effective corrective mechanism means that victims of sexual harassment have little hope of restoration.

So here we see it. This is a woman, after Tailhook, when everything was supposed to be better, who gets treated so badly that her case still has not been resolved.

So, my friends, in conclusion, this is about a lot more than Admiral Kelso. This is about each and every one of us standing up for the right of individuals in the military to be free from discrimination of any kind, harassment of any kind, and to enjoy the dignity that he or she deserves simply as a member of the human race.

I yield the floor.

Ms. MIKULSKI. Madam President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Presiding Officer.

I thank my distinguished colleague from California for her eloquent synopsis and point-counterpoint to the debate and discussion we had today.

Much is said about 1991 and what would we have done in 1992. Well, I would like to remind everybody what happened in 1991. In September 1991, there was Tailhook. In October 1991, there were the hearings of Clarence Thomas for the Supreme Court, in which we saw Anita Hill undergo one of

the most serious, grueling, humiliating experiences that anyone has ever endured before the U.S. Senate. That happened in October 1991.

At that time, in the closing hours of the debate, I stood up and said that, "These hearings have men and women across the country talking and thinking about sexual harassment."

This was on Tuesday after that marathon weekend of hearings that I know many of you were gripped by, as was the Nation. I said this:

These hearings have men and women across the country talking and thinking about sexual harassment. That is important. The Nation is going through a very important teach-in on sexual harassment. But I am afraid the Senate is about to flunk the course. I am very concerned that the victim who had the courage to stand up and say, "No, this is not right," has been treated as if she were the villain. This is where the process has failed and I am quite angry and disappointed about it. If you talk to the victims of abuse the way I have, they will tell you they are often doubly victimized. First, they are victimized by the event itself and then victimized by the way the system treats them.

That is exactly what happened in the investigation of Tailhook in 1992.

I had hoped, as the only Democratic woman in the Senate at that time, that America had learned a lesson on sexual harassment; that harassment is not a form of irritability, it is a form of humiliation, it is a form of battery. And in the case of Tailhook, it was actually a form of sexual assault and even borderline, if not actual, rape.

So there is the Navy, there is the military, having gone through it, as we have.

There is no place in the world that does not have a TV set that does not know about the hearings on Anita Hill and that sexual harassment in this issue was the subject of national debate and international debate and global focus, except when it came to investigating Tailhook.

And who got what promotion in 1992? Well, hey, it is about time that lessons need to be learned. And I hope, once again, we do not flunk the test in the U.S. Senate. Where are we ever going to be heard? Where will we ever be protected?

Now, who asked the Armed Services Committee to retire Admiral Kelso above the law, above the grade guaranteed? It was the Secretary of Defense, the Secretary of the Navy, the head of the Joint Chiefs, and our President. They brought it over. They had this hearing.

But, guess what? It did not dawn on them that maybe this is going to be a problem. Well, it is a big problem.

And an even bigger problem is that the Secretary of Defense, the Secretary of the Navy, the head of the Joint Chiefs and the President did not remember that once before the U.S. Senate had flunked the test on sexual harassment, and now there were seven of

us, along with several very fine men, who were going to raise this issue.

Now, if they did not get it with Anita Hill and if they did not want to bring this issue up, we would not be on this floor had they not gone to the Armed Services Committee. Now they said, "Well, we have cut a deal and the deal is the admiral retires early and we will close the books."

We did not cut a deal.

I cut a deal with the American people: To stand up and be an independent Senator. And if it means taking on a Democratic administration, and their lack of judgment on this matter, then by God I am willing to do it, because somewhere they have to understand they cannot expect these matters to just glide through the U.S. Senate. It is no longer business as it was in 1991, or in 1891. It is over. And the Presiding Officer in the Chair knows exactly of what I speak.

We might win tonight and we might not. The vote could be a very close one. I hope our colleagues would reexamine what had been the lessons learned since 1991, and are we still going to operate as in 1891, or as a 1994 Senate?

I have nothing but the greatest respect for the U.S. military and for the men and women who serve in it and for the families who love them and support them. When a President of the United States calls 911, they have to be ready to go anywhere in the world, make enormous sacrifices, and put their lives on the line.

This new world order is indeed a new world of disorder. We have men and women involved in peacekeeping, peace enforcing, standing sentry in all parts of the world, often with little backup and support. And in the days and weeks ahead we might even be calling them forth to do more.

Why is it that we count on our military? Because they are brave; because they are courageous; and because we believe that they are something special. We look to them in some ways to be the model for the rest of society. Why? Because in a time where American society seems to be falling apart, where we seem to have lost our way in terms of values, the U.S. military has always stood as having a code of honor and a code of conduct. We want the U.S. military to have that reputation. We want the entire Nation and the entire world to know that our U.S. military has that code of conduct and that code of honor.

I believe what has happened is that because of old habits, old attitudes, and a very old and dying culture, that change needs to occur. I believe one of the changes that will occur is that when we vote, we say that two stars are enough for Admiral Kelso, and we hope that never again will this Senate have to deal with the bungled matter on things related to sexual harassment or discrimination of any kind, or scan-

dal that brings dishonor to the U.S. military or to any aspect of the United States Government.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MATHEWS. Madam President, I see Senator SMITH here. Does the Senator seek time on this question?

Mr. SMITH. Yes, I do.

Mr. MATHEWS. On behalf of the Senator from Nebraska, I yield such time as Senator SMITH might require.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Madam President, this has been quite an emotional debate. I rise today, maybe in a calmer manner, to pay tribute to the departing Chief of Naval Operations, and to urge my colleagues to support the recommendation of the Armed Services Committee that Adm. Frank Kelso be permitted to retire in grade as a four-star admiral, a grade that I believe he has earned.

Admiral Kelso is completing 38 years of distinguished service to our Nation. His career is an American success story, from his commissioning as an ensign from the Naval Academy in June 1956 to his final tour as Chief of Naval Operations. Although the seas have at times been turbulent, Admiral Kelso has always brought a steady hand and unshakable spirit of loyalty and integrity to our U.S. Navy.

In assessing Admiral Kelso's suitability for retirement in grade, some have sought to denigrate his distinguished career by applying to him an unrealistic standard of accountability for the Tailhook affair.

I want to say as others have said, especially the comments made by Senator NUNN earlier today, that event was a disgusting event and no one I know of condones it or anything that happened there.

While I share the outrage of my colleagues and, indeed, the American people over this incident, it would be unfair and inappropriate to tarnish 38 years of exemplary service under the guise of some lofty theory of accountability without specific evidence to the contrary. As Defense Secretary Perry and Senator NUNN have emphasized, the primary issue with respect to accountability involves the question of due diligence.

I have reviewed the data on the Tailhook affair as is my responsibility on the committee that I serve. Admiral Kelso's actions in conjunction with the event lead me to the conclusion that Admiral Kelso acted responsibly to investigate Tailhook and eradicate the root causes of sexual harassment in the Navy. Those are facts. There is nothing emotional about it. It does not make a lot of headlines. But those are the facts—he has.

Clearly, the Tailhook issue is germane to our deliberations here today. However, it is but one of many issues

that must be examined in the context of a 38-year career, especially when you talk about taking two stars away from a distinguished military officer. While reasonable people can disagree over Tailhook and the issue of ultimate accountability, I think it is important to emphasize certain other aspects of Admiral Kelso's career that are beyond reproach and directly relevant to the issue at hand. To be fair, those who seek to hold Admiral Kelso accountable for Tailhook, must also consider his achievements as a naval officer to render an informed judgment on his retirement.

During the last 8 years, Admiral Kelso has served in the grade of Admiral. According to the Secretary of Navy, Admiral Kelso has been at the forefront of the Navy's intellectual growth and social-cultural change in the post-cold-war restructuring. Let me give some examples of his strong leadership.

As commander-in-chief of the Atlantic fleet, he took the lead role in integrating women in combat logistic force ships, thereby expanding opportunities for women in the Navy. Again it is somewhat sad—and ironic, perhaps, but sad as well—that this has become a gender issue on the floor of the U.S. Senate. It is not a gender issue.

I can assure my colleagues, if I felt Admiral Kelso was in any way connected with Tailhook, condoned it, was involved with it, covered it up or any of the above, I would not be here supporting him, period.

I look upon my colleagues of the opposite sex, who have spoken today, as U.S. Senators. Not female U.S. Senators, U.S. Senators.

I hope we would be looked upon as U.S. Senators, here today, those of us who happen to be male through circumstances beyond our control.

Admiral Kelso led the DOD humanitarian response to Hurricane Hugo in the U.S. Virgin Islands, Puerto Rico, and South Carolina, receiving a personal commendation from Secretary Cheney for the effectiveness and speed of this unprecedented mission.

He established a new focus for Navy forces in littoral areas of the world and developed the from-the-sea doctrine.

He published the Navy policy book, which is the first comprehensive reference to the guiding values and principles of the Navy in 92 years.

And, of interest to many of my colleagues today, regarding the assignment and promotion of women, under Admiral Kelso's leadership.

The percentage of naval officers who are women increased from 10.8 to 12.3 percent.

The percentage of enlisted personnel who are women increased from 10 to 10.7 percent.

Seven women have become commanding officers of ships, whereas none were commanding ships prior to 1990.

Small strides, some may say, but strides. Maybe not enough for some, but strides.

Three women have become commanding officers of aviation squadrons, whereas none were prior to 1990.

Three women have become commanding officers of major naval stations, whereas none were prior to 1990.

One woman has assumed the command of a naval base, whereas there were none prior to 1990.

Two women have become brigade commanders at the Naval Academy, whereas there were none prior to 1990.

Frankly, with this kind of a record, Admiral Kelso deserves a lot better than some of the comments and treatment he has received today on the floor of the U.S. Senate.

Nine women have been promoted to flag rank.

Three women aviators have been promoted to captain, whereas none were prior to 1990.

Adm. Frank Kelso has put teeth into the zero tolerance policy of sexual harassment by directing that all individuals found guilty of one incident of aggravated sexual harassment are automatically processed for discharge. So far, 85 officers and enlisted personnel have been discharged under the new policy, and the everyday working environment for Navy women has improved dramatically.

I heard all these comments today that there is no accountability here. A Secretary of the Navy lost his job over this issue. People have been disciplined over this issue.

Admiral Kelso recommended that combat exclusion laws be repealed completely. Congress repealed some laws, and all ship types, except submarines and mine sweepers, are now open to women. This all took place under Frank Kelso, I say to my colleagues.

Under Frank Kelso's leadership, all combat aviation squadrons have been open to women.

The first combat pilot has qualified aboard the carrier *Eisenhower*.

And 63 women aviators are either in the combat aviation pipeline or already in combat squadrons.

That is a remarkable record. It is a record that we ought to be out here praising Admiral Kelso for and commending Admiral Kelso for and thanking Admiral Kelso for in his retirement. Instead, we are out here saying we need to take two stars from Admiral Kelso because of one incident that has not been clearly—in any way clearly—linked to Admiral Kelso, No. 1; and, No. 2, on the contrary, has been in one case and one very strong investigation by the Navy itself and by the Secretary of the Navy and others, and the Secretary of Defense, found not involved in it at all.

Madam President, in and of itself these things I have just cited are an

impressive record of achievement. But it should also be noted that from January to July 1993, Admiral Kelso performed distinguished service beyond his grade as the Acting Secretary of the Navy. Thus, he shouldered two extremely demanding positions simultaneously, and still kept our Navy on track and functioning smoothly. Would anyone like to think about how difficult it is to be the Chief of Naval Operations and the Secretary of the Navy at the same time? The man was asked to do that after Tailhook, I might add. What do we want to do now? Take two stars away from him. Maybe somebody is on a wave length that I am not understanding here, but I have not been able to figure it out.

I would like to reference Admiral Kelso's declarations and commendations, as well. Not too much has been said about them today. He has been awarded the Defense Distinguished Service Medal, the Navy Distinguished Service Medal, the Legion of Merit, Meritorious Service, Navy Commendation, and Navy Achievement medals.

During his 38 years of selfless devotion to duty and to country, Adm. Frank Kelso also found the time to marry and raise a family. Along with his wife, Landess, Admiral Kelso helped raise four children: Tom, a lieutenant in the U.S. Naval Medical Corps; Don, a Navy lieutenant commander; Mary, who is married to a Navy lieutenant; and Kerry, a student attending college. He has effectively balanced the rigors of a military career with the responsibility and commitment to family that is so important to our society.

And lest you think it is just the official duties that he had to do, Admiral Kelso, I have seen at many functions, at the Naval Academy and other places, working with people. And he also took the time out of a very busy schedule to say some nice remarks at the funeral of my mother at Arlington National Cemetery last summer.

Madam President, let me conclude my remarks with some other personal observations. During my 10 years in Congress, I have known Adm. Frank Kelso both personally and professionally. He is a man of utmost integrity, honesty, and dedication. If he said he was not involved in Tailhook, he was not involved in it. He is not that kind of man. It is about time we stop demeaning people's character and record around here and look at what they say, and look and judge them on the actions that they have taken.

He is extremely intelligent, and has shown great courage and foresight in challenging outdated cultural and strategic assumptions with the Navy bureaucracy. He has provided a steady hand in both times of war and peace, and his initiatives to streamline and modernize our naval programs have been instrumental in maintaining the readiness and combat effectiveness of our Navy.

I believe—and I will go on record right here and now saying it—that history will look very kindly upon this great man as a man of vision, of dedication and uncompromising professionalism, and yes—and yes—great service to improving the lot of women in the U.S. Navy.

I urge my colleagues to support the recommendation of the very distinguished chairman of the Senate Armed Services Committee, Senator NUNN; a very distinguished Secretary of Defense, Bill Perry; and those of us on the Armed Services Committee who took the time to dig into the facts of this case, to review it properly, and give it a proper hearing. None of us would be out here today supporting this nomination, this four-star retirement, if it was anything else other than what we have indicated.

I urge my colleagues to approve the retirement of Adm. Frank Kelso in grade as a four-star admiral and allow him to retire and pursue a life after the Navy and after this great service to his country. To do anything other than that would be a terrible, terrible act, in my opinion, that would reflect upon a career and reflect upon the service, frankly, in such a way that I think it could influence others perhaps to look the other way the next time their country calls. It is not the way to treat an officer of this kind of distinction. I understand the motivations; I understand the emotions; and I understand the concerns. If they were true, I would agree. But they are not true. They are not true. That is it. Pure and simple.

Frank Kelso was not involved in Tailhook; understanding he was not involved, and if you do not know that he was, you ought not be out here on the floor of the Senate demeaning the man's character. He was not involved, period.

I urge my colleagues to support Admiral Kelso retiring at the grade of four-star. I thank the Senator from Nebraska for yielding time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. EXON. Madam President, how much time is remaining on each side?

The PRESIDING OFFICER. Senator EXON has 15 minutes; Senator MIKULSKI has 25 minutes.

Mr. EXON. I will be glad to yield to that side for any more comments, reserving the remainder of our time.

The PRESIDING OFFICER. If no one yields time, time will be deducted equally from both sides.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I suggest the absence of a quorum with the time equally divided on both sides.

Mr. EXON. Madam President, I object to that. If I had twice as much time as we had on this side, I would suggest the absence of a quorum and

suggest the time be equally divided. Then it would run out and they would have the last say so. So I object to that.

I am pleased to recognize the Senator from Alaska, who indicated he may wish some additional remarks.

Did the Senator wish to make them at this time?

Mr. STEVENS. I would be happy to make my comments again. I say to my friend that I agree. I sort of think the other side with all the time—

The PRESIDING OFFICER. The Senator from Alaska.

Mr. EXON. I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I understand the Senator from California [Mrs. BOXER], made some comment about my earlier remarks. She said that I was angry. I agree with that. The balance of her comments I do not agree with. Too bad she was not here to hear me before she criticized my remarks.

I highlighted for the Senate the views of Secretary John Dalton on this nomination. But let me now talk about the Secretary of Defense Bill Perry. He testified before the Armed Services Committee on April 12 on this nomination, and I emphasize again it is not really a nomination; it is a confirmation. This man has been a four-star admiral for some time now. But Secretary Perry stressed to the Senate Admiral Kelso's leadership in combating sexual harassment in the Navy. Let me quote what he said:

One of the factors that gives me confidence that the Department can deal with this problem is the fact that the senior leadership of the military departments recognize the problem and have developed momentum in dealing with it. At the top of that leadership list is Admiral Frank Kelso. In his capacity as Chief of Naval Operations, Admiral Kelso has been aggressive and consistent in addressing this problem.

I am still quoting Secretary Perry.

During his almost 4 years as Chief of Naval Operations, he has taken the lead with action to deal with sexual harassment:

In September 1990, he sent a message to all Navy personnel to reemphasize the Navy's "zero tolerance" policy on sexual harassment.

In November 1991, he directed the Chief of Naval Personnel to develop new enforcement procedures for the "zero tolerance" policy, including mandatory discharge processing of those found guilty of aggravated or repeated instances of sexual harassment.

In February 1992, he established new enforcement policies, including discharge processing after the first substantiated incident of aggravated sexual harassment.

Secretary Perry described his role as Deputy Secretary of Defense in reviewing the Department's investigation of Tailhook. This is the current Secretary of Defense, Bill Perry. He observed:

In October 1993, as the then Deputy Secretary of Defense, I was asked by the former

Secretary of Defense Les Aspin to review the files prepared by the Inspector General of the Department of Defense that pertained to Admiral Kelso. I took the time to read the complete file. My conclusion—then as it is now—was that Admiral Kelso's veracity was supported by the full reading of the files.

Now, that is the Secretary of Defense. The President has presented this. Many of us are here supporting the President when those who are on his side of the aisle are not supporting him at all. I wonder really what is going to happen here concerning these nominations.

Secretary Perry told the Armed Services Committee:

Admiral Kelso could have chosen an additional judicial forum to resolve conflicts between the military judge and the Inspector General's conclusions. He chose rather to spare the Navy yet another drawn out hearing with attendant costs and distractions. He chose to let the Navy focus on the real issue—eliminating sexual harassment and assuring the opportunity to military women in the Navy. I believe his choice is an honorable one, symbolic of this honorable officer's proud career.

Why is not the Secretary of Defense being listened to? He testified that he personally read every file pertaining to Admiral Kelso. Mr. Perry went on to say:

On that basis, I believe Admiral Kelso is a man of personal integrity who has served 38 years with loyalty to the men and women of the United States Navy, his Commanders in Chief, and the American people. I urge this committee to approve his retirement at the rank of admiral.

I cannot find any better words than Secretary Perry used. If that makes me an angry man, then put me down as an angry man. I really think that people ought to get angry out here once in a while. And this instance makes me angry. It makes me think that people are using a dedicated career servant as a symbol, as a symbol of their position on sexual harassment when this man did something about it. If the people who are talking about Admiral Kelso today had done what he has done with his career to deal with sexual harassment, to change the policies of the Navy, to bring about an important role for women in the Navy, then I would listen to them a lot better, without getting angry.

The PRESIDING OFFICER. The Senator's time has expired.

Who seeks recognition?

Mr. EXON. How much time is remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 9 minutes 30 seconds; the Senator from Maryland has 25 minutes.

Mr. EXON. Twenty-five minutes on the other side?

The PRESIDING OFFICER. That is correct.

Mr. EXON. I reserve the remainder of our time.

The PRESIDING OFFICER. If no one seeks recognition, time will be equally divided from both sides.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. STEVENS. Will the Senator yield?

Mr. EXON. I will be glad to yield.

Mr. STEVENS. Why not just request in this instance that this time be charged proportionally to the amount of time remaining. Why should we sit here—

Mr. EXON. I would be happy to offer that if it would be—I was about to say that since 12:30 this afternoon, this Senator has been trying to get time constraints so that we could move. Here we are, 8 o'clock at night. We could have had this vote, I think, at 6 and the outcome would have been the same. I even agreed, I say to my friend from Alaska, to take less time, to try to accommodate the Senate. Any time you try to accommodate the other side, you find yourself in a situation where, because you agreed to equal time, the time runs out and you do not have any chance to make any last-minute response to the opposition.

Now, I understood when we entered into the time agreement that most or all of the time which was insisted on by that side was all lined up. They had all the names there, and they did not think they would possibly get it in in the time allowed. Here we are waiting and waiting and waiting, and I think this is not the proper way to conduct the business of the Senate.

I would ask, since we are way short of time on the other side, that the time in a quorum call be charged exclusively to the side that has the most time remaining.

Mrs. MURRAY. Madam President, I object.

The PRESIDING OFFICER. Objection has been made.

Mr. FORD. Madam President, will the Senator from Washington yield me 1 minute?

Mrs. MURRAY. The Senator from Kentucky has 1 minute.

Mr. FORD. Madam President, I am trying to work with my distinguished friend from Nebraska. We have some Senators who wish to speak and probably will be here in the next minute or two, and once they have completed, I think we can accommodate the Senator from Nebraska as it relates to the time. Until that is cleared, we will not be able to. So if he will just bear with us, I think we will work it out in due time and that within moments we will have a Senator here to take the time on the other side.

Mr. EXON. I thank my friend from Kentucky for his usual good help. I have no other option under the circumstances but to agree with him.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield the Senator from Illinois as much time as she will use on our side.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President. I thank the Senator from Washington very much.

In light of the fact that we have an agreement that we will not vote until 8:30, rather than just let this time go by, I thought I would take a moment, even though I have already spoken on this issue, to at least, hopefully, give some clarity to the position of those who oppose granting four-star status for Admiral Kelso's retirement.

The issue as I see it, Mr. President, is simply this: Are we in the U.S. Senate prepared to give a golden parachute to leadership that failed to act appropriately in response to Tailhook? It is just that simple.

In my earlier statement I made a reference, or an analogy, to private sector retirements. We have seen it happen before, when someone is called on to retire from the CEO position because the corporation has fallen apart, the stock has plummeted, or when someone is called upon to retire because of some misconduct that he—normally he; I started to say he or she—may not have been directly involved with, but certainly had operational authority and responsibility over.

In those situations the hue and cry goes forward, Mr. President, when those individuals are given what is called a golden parachute, are given an extra benefit, something that in the South we sometimes called the little something extra, for purposes of their retirement; a hue and cry goes for it because the people have a sense of the unfairness of that in that it is your watch.

If something major has gone wrong during your watch; if somehow in the discharge of your responsibilities, either your responsibilities to the taxpayers, or your responsibilities to the stockholders, or your responsibilities to the American people; if you have failed to discharge your responsibility, and have failed to use the authority that comes with your office to see to it that a culture exists in the organization that is respectful of people based on gender; if you fail to do that, then, no, we will not give you the little something extra. No, we will not give you the bonus. No, we will not give you the golden parachute.

That, Mr. President, is the issue today. I know there has been a lot of back and forth over whether or not Admiral Kelso is an honorable man. I am certain he is. I do not know the admiral personally, but I am sure in his 38 years of service he has done some terrific things. And whether or not he has tried to change the culture, yes, there have been some changes on the books. Yes, there have been some changes in a few promotions. And no one is trying, I think, in this effort to detract in any way from the positive things that this admiral has contributed.

But I daresay, Mr. President, it would be a huge mistake for us to ignore the negative things that accompany this admiral's retirement from the Navy. Tailhook is one of the most significant scandals, particularly with regard to gender inequality—or gender equity; the flip side of it—one of the most significant scandals of our time. That is clear to everyone who has followed this debate.

Given that fact, is it not appropriate for this body to hold the chief operating officer, if you will, the CEO, or the CNO of the Navy, responsible for the failures of responsibility on the one hand, and the failure to exercise his authority on the other?

It seems to me this is not a question of punishment for punishment. This is a question, are we going to give a little something extra? Are we going to give a golden parachute to Admiral Kelso? The answer that comes from those of us who suggest that he should retire with the two-star rank that he properly holds, is no, he should not be given a golden parachute. No, he should not be rewarded that Tailhook has so far gone along and the efforts have been made to sweep it under the rug.

It will not be swept, Mr. President. It will not be swept. It will lay there like a huge lump in the middle of the room under the rug unless we take action here in this U.S. Senate to do something about it; to send a signal not just to the military, not just to the military brass, but to send a signal to the American people that this is a new day; that times really have changed, that we are no longer content to stand by and watch women treated as less than equal citizens whether it is in the military, or in our social order, or in any walk of life whatsoever; that we are prepared at this point to make a firm statement with real consequences, not just words on a piece of paper; not just a new directive, a new memoranda that gets lost with all the other directives and memoranda.

But we are prepared to make a firm statement here in this U.S. Senate that the kind of assaults, sexual harassment, sexual assault, sexual abuse, gender inequality, gender discrimination that Tailhook represented will never again happen in the U.S. military, in the U.S. Navy, indeed in any instrument of Government over which this U.S. Senate has any say or control.

That is the issue before the Senate this afternoon. Is it personal as to this gentleman? Well, it is a personal consequence. But I daresay that in any circumstance, when we stand and when you hold high public office, whether it is as an elected official or an appointed official, as a career officer—when you hold high public office, there is an accountability and a responsibility that goes with it. You enjoy the emoluments and the benefits of that office,

but you also take the responsibilities of that office.

As the folks back home say, you take the bitter with the better. Well, the bitter here is that because there has been no accountability for Tailhook, because there was no responsibility for Tailhook, because we have seen nothing happen except sweeping this ugly matter under the rug, because of that, the person who was in charge, the person at whose desk the buck stopped, has to be responsible in some way.

And whether this is considered to be symbolic or not, the issue is that symbols are important. The issue is that this action by the U.S. Senate is important, because what it will say to the American people is that we are serious about this matter, that we are not prepared to see the rug with the lump in the middle any longer; we are prepared to say, yes, there is accountability, and the chain of command means just that—that when you get to the top of the chain, someone is responsible for what has happened along the way.

What happened at Tailhook must never happen again. The anger that you have heard from women on both sides of the aisle—on both sides of the aisle, I point out—on this issue is born of a frustration that women have throughout this Nation over the lack of sensitivity, the incapacity to see why this is important. Who is the victim here? I know there has been conversation about that. It is not just Admiral Kelso and his family. Nobody wishes them ill. But the victim here is our entire social fabric if we do not get to the point to say that, yes, there has to be accountability and responsibility for sexual misconduct, for sexual discrimination, for gender discrimination, as there is for other kinds of discrimination that are not permissible in our society.

That is where the victimization has happened here, and that is the wrong that I believe we have to right this evening.

So, Mr. President, this is a matter of accountability. This is a matter not of trying to take it out on one person, but rather to say that where goes the authority also goes the responsibility. As that responsibility is being placed, we in the Senate believe that responsibility and accountability are the same thing, and that the accountability for Tailhook rests with the Navy brass. It is just that simple.

Mr. President, I yield time to my colleague, and I thank my colleague from Washington for giving me this opportunity to extemporize on this issue. I say in closing that I have sensed confusion among some of the colleagues on this issue. This is not anyone trying to be nasty to anybody else.

Mr. STEVENS. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. Yes.

Mr. EXON. How much time is remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 6 minutes. The Senator from Illinois has yielded to the Senator from Alaska for a question.

Mr. STEVENS. I want to ask the Senator a question that is a simple one. Does the Senator realize this man tried to take this responsibility himself personally at the time of the discovery of Tailhook and asked to resign? Did the Senator know that?

Ms. MOSELEY-BRAUN. I did.

Mr. STEVENS. Did the Senator know he has stayed on at the request of his supervisors now for a period of almost 2 years and has conducted himself impeccably as an officer during that period?

Ms. MOSELEY-BRAUN. To the Senator from Alaska, I am aware that Admiral Kelso offered to resign.

Mr. STEVENS. He did take the blame you say he should have taken as the top Navy officer, but he was ordered to stay on duty. And had he retired then, he would have left with a four-star rank.

Ms. MOSELEY-BRAUN. Well, then I submit to the Senator that he should have gone with his original instincts in this regard and accepted the retirement at the time instead of standing by and waiting to have that decision overturned by those who were less sensitive even than he.

Mr. STEVENS. I suggest that those who want to discipline him should discipline his superiors who asked him to stay.

Mrs. MURRAY. If the Senator will yield, I want to speak to this point again because it has been brought up several times. Yes, he could have resigned as he requested several years ago. We cannot predict what could have happened on a vote of the Senate several years ago. He may well indeed have retired with four stars, and it may have come to a debate for a different reason. Things could have been different. We cannot predict what could have happened 3 years ago.

We have in front of us today the question of whether or not this U.S. Senate will yield this man an additional two stars with the knowledge that we have. And some of these reports have just come to us in the last several months and, indeed, some of them in the last few weeks. We have to base our vote tonight on the knowledge that we have in front of us, and that is what we are debating, and that is why we are saying to our colleagues that we will allow him to retire with his two stars. And it is with honor that he retires. However, we cannot add an additional two stars to that and give him an honor above and beyond that at this time.

I thank the Chair.

Ms. MOSELEY-BRAUN. In conclusion, again, I say to my colleagues that it is no accident that all of the women of this Chamber are of one mind about

this issue. That is no accident. We have found in the last year and a half that I have been here women in this Chamber have not really voted as a block on many issues. We have been separated on issues as diverse as—I will not go into them, but on just about every issue. In fact, when asked whether or not we as women voted as a block, I think the answer has consistently been that we vote on issues, and where we come together on issues, then you can call that a block if you want, but generally we vote our conscience and constituency and what we believe is the principled position on issues before the U.S. Senate.

I say to you that it is no accident that on this issue there is unanimity of opinion among those who are on the receiving end of this scandalous activity. Tailhook represents the most reprehensible, the worst aspect of women in the workplace, and that is sexual harassment—sexual harassment, sexual abuse, and sexual assault. This took it all the way out as far as you could go.

Why is it an issue for women? Let me digress. Let me talk about why this issue is important. It is important because, at its base, it is an issue both about dignity on the one hand and about economics on the other. If women are going to be able to participate in the work force as equal partners, to have the opportunity to function and to move through the ranks or the corporation or whatever, then it has to be based on merit, it has to be based on qualifications and capability and what they bring to the job with their minds and their spirit and inventiveness and creativity and not on the fact that they have breasts, that they have a smaller waist and hips, or that they walk cute. The days when women are characterized or limited in the workplace by gender have to be over; they have to be over. It has to get to the point where, as women, we are respected and regarded for what it is that we bring to the work force in our professional capacity, and not otherwise.

Tailhook represented, at best, a situation of gender insensitivity and gender inequality. At worst, it was a matter of absolute assault. That is why the feelings are so strong on this issue, and that is why the women of this body are of one mind: That there must be some responsibility and accountability of Admiral Kelso with regard to this matter. The Senator raised the question: Why was this not taken up 2 years ago, and what if he had resigned then and if he decided to do otherwise and if the superior officers said, "We are ready to take your resignation?" In response, I say the kids at home say if grandma had wheels, she would be a bicycle. "If" is not relevant here. What is relevant is that he did not resign. He has come to this body at this time, in the presence of seven women in the U.S. Senate, asking for a golden parachute.

We say "no" to that.

Mr. STEVENS. Mr. President, will the Senator yield there?

The PRESIDING OFFICER. Does the Senator yield for a question?

Ms. MOSELEY-BRAUN. Yes, I yield for a question.

Mr. STEVENS. Does the Senator think Admiral Kelso is here asking? The President of the United States is asking the Senator to confirm him in the rank he held for 5 years. That is the difference. The Senator does not understand it.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Ms. MOSELEY-BRAUN. The Senator from Illinois is going to defer so that I can calm down.

I yield to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

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

The PRESIDING OFFICER. The Chair will indicate the Senator from Maryland has 5 minutes remaining.

Ms. MIKULSKI. I yield myself 5 minutes.

Mr. President, during this entire debate, the women of the Senate and the men who support us in this cause have attempted to conduct this debate with civility and courtesy.

The distinguished Senator from Illinois knows full well that the President of the United States made this request. We know full well it was the Secretary of Defense, Secretary of Navy, and the Joint Chiefs. We know that.

That does not make a difference. The fact is—and the Senator from Illinois knows that full well—we the women of the Senate are not stupid. We know the rules. We know the rules better than most people because we have to live by them and often we are held to a different standard and a higher standard ourselves.

Now we are being criticized because we are raising the Kelso issue and raising the retirement issue of Admiral Kelso beyond that which he was guaranteed by law.

Now, Mr. President, we are going to return in the concluding hours of this debate to the civility and to the dignity that this occasion calls for, and we ask all who participate to do the same.

This is about the honor code and the code of conduct, and this is not about whether Senator MOSELEY-BRAUN gets it. Senator MOSELEY-BRAUN gets it. It is whether the rest of the Senate gets it.

There are those who would say that somehow or other we are the problem for raising this. I must bring to everyone's attention it is not the Senate pulling Admiral Kelso down. It is the U.S. Navy that let Admiral Kelso

down. It is the U.S. Navy that had the Tailhook incident in the first place. It is the U.S. Navy that bungled the investigation. It is the U.S. Navy that had the buddy system over the honor system. It was the U.S. Navy who torpedoed Admiral Kelso. It was not the women of the Navy, and it was not the women of the U.S. Senate. It was his own Navy that torpedoed him.

I yield to the Senator from Illinois for a question.

Ms. MOSELEY-BRAUN. I thank very much Senator MIKULSKI. I do not want to interrupt the Senator. I thought she was going to head in another direction.

I wanted to raise the point, as she did, about knowing and raising the rules.

It was my understanding that the rules of this body suggest that we refrain from ad hominem attacks on other Senators. An ad hominem attack, in my view, means suggesting that a Senator who is speaking to an issue does not know the facts pertaining to that issue.

I would suggest to the Senator from Alaska that not only do I know the facts pertaining to this issue, but that it defines chauvinism, if the Senator will look that up in the dictionary. It defines chauvinism to suggest that I do not in the context of this debate.

I yield the floor back to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, reclaiming my time, we must change the culture, and this very debate is about changing the culture.

We hope we win this. But whether we win the vote or not, we feel that we have won a victory here today because we have raised this issue to show that from now on when we look at what is going to happen in promotions and in retirements and in rewards, the issues will be raised, and they will be raised not only about the U.S. military, they will be raised about the FBI, they will be raised about the Bureau of Alcohol and Firearms, they will be raised about Social Security, they will be raised about the gender discrimination going on at the National Institutes of Health. They will be raised. We would hope that whoever is President and whoever is in his Cabinet or her Cabinet knows that we are serious and these are serious matters.

We hope now that in the concluding minutes of this debate we reflect on the fact that Admiral Kelso is being recommended for four stars, two stars above the law in which he is guaranteed two stars for retirement.

Now if we are just going to pass everyone through because of the way they want to retire in grade, then change the law, but do not change the rules now and do not try to change the tradition that essentially the vote of giving additional stars is meant to be a reward for extraordinary service, and there is no doubt there is much to com-

mend us for Admiral Kelso but it is the U.S. Navy that torpedoed him and not the women of the Senate.

The PRESIDING OFFICER. The time of the Senator from Maryland has also expired.

The Senator from Nebraska has 5 minutes and 40 seconds remaining.

Mr. EXON. Mr. President, is that all the time that remains on both sides?

The PRESIDING OFFICER. That is all time remaining on both sides. The Senator is correct.

Mr. EXON. I thank the Chair.

I say to the Chair that the Senator from Nebraska is going to try and be as reserved, considerate, and congenial as possible. But I must tell you, Mr. President, that having served 16 years now in the U.S. Senate, I guess I have never seen a time when I think the Senate might be on the verge of creating one of the greatest injustices that the U.S. Senate has ever created.

I have been listening to the statements that have been made here, and it finally came home completely. The statements that I think I jotted down, and I think the RECORD will show that they were made, say we are sweeping the Tailhook under the rug. Tailhook must never happen again. I agree with that. It is a golden parachute for the admiral. Women are less than equal citizens. And women must be treated fairly. I agree with that statement. They must be treated fairly in the workplace. We must be prepared to make a firm statement. Now, that is some statement to make. We must be prepared to make a firm statement.

What this all amounts to is that Admiral Frank Kelso, 38 years of dedicated service to the United States of America, recommended for the four-star position by a gentleman called Bill Clinton, President of the United States, leader of the Democratic Party, his Secretary of Defense, the Secretary of the Navy, the inspector general of the Department of Defense, all of that can go by, 38 years down the drain, and the newspapers tomorrow if they are accurate and we turn this down will probably say "Kelso sacrificed for a symbol."

I think that is wrong. I am upset about it. I think we have Frank Kelso on trial when he should not be. Frank Kelso is a dedicated, decent human being. He is a father and I suspect a grandfather. He is a type of man you would like to have in your home. Yet we are about to consider whether or not we are going to sacrifice Frank Kelso and all that he stands for for a symbol.

That is wrong under whatever guise we consider it in the U.S. Senate.

I hope that we will vote to support Frank Kelso, and I hope that I do not see a time when I think the U.S. Senate deteriorates as much as it has in this instance to try and seek a symbol.

Mr. DOLE. Mr. President, let me say at the outset that I intend to support

the retirement of Admiral Kelso at a grade of four stars. I agree with President Clinton, with the Secretary of Defense, and with the overwhelming majority of the members on the Armed Services Committee that Admiral Kelso has earned a 4-star retirement for his 38 years of service to our country.

But, Mr. President, let me also be clear on another point: Sexual harassment is wrong, period. And it is doubly wrong when it occurs within the ranks of our Nation's armed services.

Equal opportunity does not mean equal opportunity just for men. It means opportunity for all Americans—black and white, Hispanic and Asian, male and female. And if the women of this country are to enjoy the full promise of America, they deserve nothing less than a workplace free of discrimination and free of sexual harassment.

That is why I introduced a bill in 1991—the Women's Equal Opportunity Act—that sought to close a loophole in title VII by providing a monetary remedy for the victims of workplace sexual harassment. A monetary remedy was ultimately included in the 1991 civil rights law.

Now, no one has accused Admiral Kelso of engaging in sexual harassment himself. No one has accused him of linking job promotions or job advancement to the performance of sexual favors. No one has accused Admiral Kelso of himself engaging in the type of despicable activity that took place at the Tailhook convention.

If Admiral Kelso is guilty of anything, he is guilty of a sin of omission, rather than the act itself. Could he have been more aggressive in pursuing Tailhook? Of course. Could he have been more responsive to the charges of misconduct? You bet. Should he have shown more sensitivity? Absolutely.

But the bottom line is that no one has accused Admiral Kelso of himself engaging in any of the misdeeds that made Tailhook such an embarrassment to the Navy—and to our country.

Mr. President, Naval tradition holds that the "captain" is responsible for everything that happens on "his watch." I have no problem with holding the Admiral to this standard, but when Admiral Kelso offered to resign in the wake of Tailhook, he was persuaded by several Members of Congress to stay on, pending the appointment of a new Secretary of the Navy. These Members knew Admiral Kelso to be a man of integrity who had always served his country honorably—and that is why they prevailed upon him to remain at his post. If Admiral Kelso deserved to be punished for the misguided actions of his subordinates, this punishment should have been meted out a long time ago, and not here on the Senate floor.

We have come a long way since Tailhook. And we still have some dis-

tance to go—not just in the military but in the larger society as well. No doubt about it, Tailhook happened on Admiral Kelso's watch, and Naval tradition holds him responsible—A responsibility he readily accepts. But, Mr. President, I am not so sure what will be gained by taking one, or two, or even three stars away from an officer who has served our Nation with honor and with distinction for more than three decades.

I understand that, in a broad sense, he is probably responsible. But the thing that troubles me is he could have left a couple of years ago and had four stars, but he was persuaded by Members of Congress to stay on to do his duty to his country, and now we want to penalize him. I cannot reconcile that with the argument of many of my colleagues who feel otherwise, who have a different view. They prevailed upon him to remain in his post.

He is a man of integrity. He has served his country honorably for 38 years, and I do not think he deserves to be punished for the misguided actions of his subordinates. If we are going to do that, we should have meted out the punishment a long time ago, and not here on the Senate floor.

I yield back my time.

Mr. WARNER. Mr. President, the Armed Services Committee held a hearing on April 12, which in my view was unprecedented. The Secretary of Defense, the Secretary of the Navy and the Chairman of the joint Chiefs of Staff all appeared before the committee to indicate their strong support for the President's recommendation that Admiral Kelso be retired in the grade of admiral. I want to take this opportunity to commend the chairman of the Armed Services Committee, Senator NUNN and the ranking member, Senator THURMOND for holding that hearing. Members of the committee had the opportunity to question the witnesses on their views concerning Admiral Kelso's character and performance of duty as well as his role and the allegations that have been made against him regarding the tailhook incident. In my view, this hearing was extremely valuable as the members of the committee considered the character and performance of Admiral Kelso and reached their individual judgments on whether or not to support the President's recommendation.

The Armed Services Committee held another open hearing to vote on the President's recommendation to retire Admiral Kelso in the grade of admiral. At the outset of that hearing, the chairman of the committee delivered one of the most courageous statements I have heard during my 15 years tenure on the committee. I recommended earlier that all members read Senator NUNN's statement prior to voting. His statement can be found in the RECORD of April 14, 1994, on page 7581.

Mr. President, during the Armed Services Committee hearing on April 12, I asked the Secretary of Defense, Dr. William Perry, and the Secretary of the Navy, John Dalton, the following question:

Will a decision by this committee to accept the recommendation of the President be in any way interpreted as a step back or a slowdown or any impediment in the efforts that you, Secretary Perry, and that you, Secretary Dalton, are endeavoring today to assure that the quality of life for women is equal in every respect to that of male members of the military?

Secretary Perry indicated his own commitment to continuing that progress and further stated, "no, it will not impede that progress."

Secretary Dalton replied, "Senator, I am convinced that, indeed, this committee voting in favor of Admiral Kelso's four-star retirement would not be viewed as a step backward. As a matter of fact, DACOWITS, the women's committee on women in the armed forces, particularly endorsed the fact that Admiral Kelso should retire in grade."

Those who have a genuine interest in the advancement of opportunities for women have indicated their strong support for Admiral Kelso and the initiatives he has taken to increase opportunities for women in the Navy. The Defense Advisory Committee on Women in the Services [DACOWITS] and the Women Officers Professional Association have both written letters supporting Admiral Kelso and his retirement in the grade of admiral.

Earlier today, I referred to a question I asked of the Chairman of the Joint Chiefs of Staff, General Shalikashvili, whether the men and women of the U.S. military would view it as an act of fairness if this committee and the Senate were to reject the request of the President to retire Admiral Kelso with four stars. General Shalikashvili replied, "I believe, without any hesitation, that they would not see that as a fair act. They would see that as a reaction to something that was very wrong at Tailhook, and trying to find someone to hold accountable for it and that settling on Admiral Kelso. And that would not be correct, nor considered fair."

Mr. President, I believe that a vote against the nomination to retire Admiral Kelso in grade as an admiral will have an adverse effect on the personnel in the Navy who will see this as unfair. Sailors serving around the world will view an unfavorable vote as an unfair attempt to make Admiral Kelso the scapegoat for Tailhook.

Mr. President, Admiral Kelso's family will also be affected by adverse action against Admiral Kelso—without any credible evidence of wrongdoing on his part. The Members of the Senate who are speaking in opposition to Admiral Kelso's retirement in grade, I'm sure are insistent on fairness to others.

I hope they will apply the same standards of fairness to Admiral Kelso and his family.

Admiral Kelso has served with distinction in the Navy for 38 years. He has been a flag officer for 14 years and a four-star admiral for 8 years. As has been stated several times on the floor today, Admiral Kelso offered to retire 2 years ago when Tailhook occurred. He was asked to remain on the job. He did so and made unprecedented progress in the advancement of opportunities for women in the Navy.

The Secretary of Defense, the Secretary of the Navy and the Chairman of the Joint Chiefs of Staff have all recommended that Admiral Kelso be retired at four-star rank. Today, President Clinton indicated again that he continues to believe that Admiral Kelso should be retired in the grade of admiral.

Mr. President, Admiral Kelso's naval career is marked by a very long and personal commitment to equal opportunity for all members of the Navy. I believe that Admiral Kelso's overall naval record warrants his retirement in the grade of admiral and urge that the Senate confirm his retirement in his present grade.

Mr. President, I ask unanimous consent that a brief résumé of Admiral Kelso's distinguished career be included in the RECORD.

The PRESIDING OFFICER. Without objection, the résumé was ordered to be printed in the RECORD, as follows:

#### ADMIRAL FRANK B. KELSO II

Thirty-eight years of distinguished Naval Service: 14 years as a flag officer; 8 years as a four star.

Served as Commander, Sixth Fleet: Located, forced down and apprehended terrorists who murdered an American citizen aboard the Achille Lauro.

Served as Commander-in-Chief, U.S. Atlantic Fleet.

Served as Commander-in-Chief, U.S. Atlantic Command and Supreme Allied Commander, Atlantic.

While CNO, also served as Acting Secretary of the Navy for 7 months Directed Navy/Marine Corps contribution to Bottom Up Review.

Trained, equipped and readied Navy for Desert Shield/Storm: Largest, most complex sealift since WW II.

Personally established a new focus for the employment of naval forces in littoral areas through the "... From the Sea" doctrine.

Preserved and reinforced Navy's core values of Honor, Courage, and Commitment.

During his tenure as CNO, Navy made greatest gains in history in rights and opportunity for women in the Navy.

As CINCLANTFLT, he integrated women into combat logistic ships.

As CNO, he assigned women to all ships not closed to them by law and successfully initiated legislation to change the law to open more ships to women.

Successfully fought to put women in cockpit of combat aircraft.

Formed Standing Committee on Military and Civilian Women in the DoN.

Instituted policy of "zero tolerance" of sexual harassment in the Navy, ie., auto-

matic processing for discharge of aggravated or repeat offenders.

While he has been CNO, for the first time women have commanded ships, aviation squadrons, naval stations, a naval base and brigades at the Naval Academy. Nine women have been promoted to flag rank and three women aviators have been promoted to Captain.

Mr. ROBB. Mr. President, nobody condones sexual assault or harassment. Whether in uniform, in a business, or on the street, that kind of conduct has no place in this society, period. That is beyond question or debate.

But the question of whether to retire Adm. Frank Kelso in grade does not turn on that issue.

As Senator HUTCHISON said in the Armed Services Committee, the decision was a very close call, on which people of good intentions and serious mind can reach different conclusions. It would be wrong for anyone to ascribe motives to any Member beyond those to be found in the evidence.

Admiral Kelso and his supporters admit that his term as Chief of Naval Operations included an uncharacteristic lapse of performance. For that lapse, he was officially reprimanded and is being forced into early retirement.

Nobody questions that life in the naval service is what Frank Kelso loves. You can see that in his exemplary 38-year record. Others have spoken in great detail of his career; I will say only that it involves repeatedly volunteering for ever more difficult assignments, then carrying them off professionally, effectively, and in the finest military tradition.

The question before the Senate is whether an exemplary sailor with one mark on his record should be denied the fruits of 38 years because of that one incident.

In some cases, such a penalty may be justified. If Admiral Kelso had run a deliberate coverup, or lied to his superiors, that would be sufficient reason to tarnish an otherwise outstanding career. Indeed, Secretary Perry told the committee that, if he believed Admiral Kelso had lied about his role, his recommendation would have been very different.

And Admiral Kelso agreed with that. By volunteering to resign, as he did some 2 years ago, the admiral showed that he was willing to accept responsibility. But because the DOD leadership knew that nobody had done more to integrate the Navy than Frank Kelso, he was kept on, and allowed to proceed with remedying the problems made so obvious at Tailhook '91.

Therefore, Mr. President, the question comes down to which side has the stronger case. On one hand, we have the Secretary of Defense, the Secretary of the Navy, the Chairman of the Joint Chiefs of Staff, and the DOD inspector-general. On the other hand is the opinion of a military judge who only heard

half the case. The Secretaries and the chairman are new to their posts, and have no stake, institutional or personal, in seeing Admiral Kelso beat this or any rap. The judge was not even allowed to hear testimony from the admiral, who was not even represented in the courtroom. On that balance, I come down on the side of the admiral's superiors.

I also go with my knowledge of the man. I have worked with him since he became CNO. One may say many things about Frank Kelso, but nowhere on that list will you find dishonesty, untruthfulness, or evasion. He tells the truth with the bark off.

And he follows his beliefs with action. That is evident in his commitment to making women an inseparable part of the naval service. On Frank Kelso's watch, women were allowed on combat vessels. On his watch, women were given the same job opportunities as men. On his watch, the Navy began comprehensive training programs aimed at breaking down sexual stereotypes and prejudice within the ranks. These groundbreaking actions led the military services, and I applaud them.

By confirming Admiral Kelso's retirement, I do not want to send the wrong message to the ranks. If provable cases against the actual perpetrators were dismissed because of unfounded allegations against Admiral Kelso, I believe that the judge erred, and that error is regrettable. But we should not seek to remedy that error at the expense of one man, who was not directly involved in the events.

Anyone who doubts the seriousness of the Navy's commitment to justice need only look at Admiral Kelso's successor. In a very real sense, Adm. Mike Boorda, the new CNO-designate, broke the Tailhook case. Serving as deputy CNO for personnel, he brought Lt. Paula Coughlin's charges to the Pentagon's attention, and even hired Lieutenant Coughlin for his personal staff to shield her from possible retaliation elsewhere in the Navy. That commitment to justice should be a clear warning to others who would commit harassment or other offenses against their fellow sailors.

In considering the worth of any individual, we must look fairly at the good they have done and weigh it against any errors they may have committed, and what they have done to atone for those mistakes. In this case, I believe that the good Frank Kelso has done over 38 years of meeting challenges, fixing problems, opening the Navy to women, and changing the mission of our Navy should not be superseded by the errors for which he has atoned. I will vote to retire Admiral Kelso in the grade which he has earned.

Mrs. KASSEBAUM. Mr. President, I oppose this effort to allow Admiral Kelso to retire from the Navy with a four-star rank. While this is not by any

means a simple issue, I do believe it would be a mistake to accord Admiral Kelso the same privilege we have given to others of the past.

Admiral Kelso has served our Nation for 38 years with great skill, courage, and ability. He should be honored not only for that service, but for what I believe were significant efforts to improve and strengthen the role of women in the Navy.

The Defense Advisory Committee on Women in the Service recently wrote to Admiral Kelso praising his efforts on behalf of women. As they noted:

Under your leadership, more women have been selected for operational command, flag rank, and major shore command than at any other time in the Navy's history. We share the view of many military women that you are the one individual who has done more to further opportunities for women than anyone since Admiral Zumwalt in the early 1970s.

The advisory committee went on to cite specific steps Admiral Kelso has taken on behalf of women. Those steps are real and important in changing the Navy in ways that will not only lead to greater acceptance of women in the service but will allow them to be fully integrated into the life and work of the Navy.

While these efforts deserve genuine praise, I think we must face the fact that Admiral Kelso also demonstrated a complete failure of leadership in the so-called Tailhook investigation. This matter was badly handled from start to finish. Admiral Kelso cannot avoid blame for that failure and the Senate cannot simply look the other way and pretend it did not happen.

The question before us is not whether we approve of sexual harassment and will give a wink and a nod when it happens. The real issue is whether we will hold accountable those we entrust with the leadership of our Armed Forces. I believe we must hold Admiral Kelso responsible for his direct failure of command.

Mr. SIMPSON. Mr. President, I note that the Armed Services Committee reported out the retirement nomination of Adm. Frank Kelso to retain his four-star rank, by an overwhelming bipartisan, 20-2 vote last week. I would simply say that I will listen to my colleagues on the Armed Services Committee and will defer to their expertise and research done on such matters.

All of us are concerned about the issues surrounding the so-called "Tailhook Incident." Those that were responsible should be severely reprimanded. I believe that the resignation of the former Secretary of the Navy and others in the Navy chain-of-command was an appropriate response. The criticism of Admiral Kelso has not withstood strict scrutiny or proper rules of evidence, and I believe he should be entitled to retire with four-star rank. Both Democrats and Republicans on the Armed Services Commit-

tee have expressed that view overwhelmingly.

Mr. WELLSTONE. Mr. President, I have listened to today's debate carefully, and have tried to assess appropriate summary documents of the inspector general's conclusions which serve as the most comprehensive documentary record on this controversial case.

In addition to the conclusions drawn by the Pentagon inspector general, I reviewed the judicial ruling issued by military judge William T. Vest, Jr., captain, JAGC of the U.S. Navy, and documents submitted for the record by Chairman Nunn. I also took into account the resignation of former Navy Secretary Garrett over Tailhook, and Navy Secretary Dalton's judgment last year that Admiral Kelso should be removed for failures of leadership surrounding this incident. I also took into account the recommendations of Defense Secretary Perry, Chairman of the Joint Chiefs Shalikashvili, and Navy Secretary Dalton that he be allowed to retire at his current four-star rank.

The evidence was often conflicting and contradictory. In my judgment, however, the essential findings of the military judge who heard the evidence in a case involving naval officers facing charges stemming from the 1991 Tailhook Association Convention were not sufficiently rebutted by the inspector general's conclusions regarding Admiral Kelso's conduct during the convention.

While people of good will can disagree about the standards of evidence, procedural rules, and administrative and management standards that should apply in such cases, I was ultimately unpersuaded that Admiral Kelso met the management standard of due diligence at the convention. Whether or not he actually witnessed the egregious and rampant sexual misconduct by aviators that weekend—and the evidence on that is conflicting—I believe that he must be held to a very high standard of command responsibility for the behavior of those under his command. This is especially true because he was in such close proximity to those engaged in the misconduct who were his subordinates. Given the evidence, it is difficult for me to believe he could have been completely unaware of this misconduct during the convention.

Despite its efforts to address the problem of sexual harassment, the Navy still has a long way to go. In the 3 years that I have served in the Senate, my staff have intervened repeatedly with Pentagon officials on behalf of many Navy servicewomen in Minnesota who have been victims of sexual harassment by their male colleagues. This continues to be a serious problem, and must be dealt with more aggressively by Navy leadership.

But even against this backdrop, I believe that we should separate the sym-

bolic significance of this vote from the actual case in front of us today, and the specific questions of misconduct, accountability, and management due diligence that it raises. I have tried to keep this in mind as I have thought through my views on this case.

Based on my review of the documentary evidence, I intend to oppose Admiral Kelso's retirement with the rank of four-star admiral.

Mr. HATCH. Mr. President, I must reluctantly vote to accept the retirement of Adm. Frank Kelso at the two-star rank. While I have no doubt that Admiral Kelso has contributed significantly to the defense of the United States in an honorable manner throughout his career, our decision at this point in time is whether or not he is to be permanently designated with the supreme grade afforded to military officers. He has, in fact, served very well throughout his tenure as Chief of Naval Operations while wearing four stars.

As one who has lost a brother in war, I have nothing but the highest admiration for those who go into harm's way to protect us all. Admiral Kelso has devoted his adult life to the service of our country. He has demonstrated his courage in combat and his leadership in all of his duty assignments.

My decision tonight is whether his judgment, strength of leadership, and tenacity in ensuring that his direction was carried out were consistent with that expected of a four-star admiral. He had the ultimate position of authority and responsibility in the U.S. Navy. His performance as the Chief of Naval Operations must be evaluated in its entirety.

During his challenging tour as CNO, he confronted and tackled numerous issues for which there were few or no precedents. He was successful in guiding the Navy through uncertain times with downsizing and reorganization; he was decisive and effective in many operational situations that reflected his broad experience and superior knowledge.

During his tour, he also was provided an extraordinarily complicated and sensitive problem. I am not satisfied, however, with his faltering forthrightness in accounting for his presence at Tailhook and his lack of effectiveness in ensuring that a comprehensive and credible investigation was immediately conducted. It must be expected of the Chief of Naval Operations, the ultimate position in the U.S. Navy, that the response to discovering a scenario as despicable and clearly illegal as what took place at the Tailhook convention in Las Vegas, would have been swift, strong, clear, and effective. The apparent uncertainty that was pervasive throughout the Naval service regarding the consequences of the conduct in question, whether or not the participants would be able to get away with

it, and what sort of effect there would be on business as usual in the Navy lingered on and on. Forceful and effective leadership was not forthcoming from the office of the CNO.

The investigations that ensued from this incident were at best inconclusive. Admiral Kelso, as CNO, bears direct responsibility for the inept handling of the inquiries into the Tailhook incident. I further maintain that the four-star command position with which Admiral Kelso was entrusted provided him with sufficient authority and resources to accurately determine culpability and with provisions to take appropriate action. Unfortunately, Admiral Kelso has permitted the Navy to live under a black cloud of uncertainty. While I believe Admiral Kelso has directed the Navy on a course that will permit these issues to be more effectively dealt with in the future, I am sorry that it took the office of CNO so long to get there.

After much consideration, I have concluded that the leadership of Admiral Kelso, while wearing four stars, was not in every regard demonstrative of the extraordinary trust and confidence which must be placed in military officers of that grade.

Mr. DURENBERGER. Mr. President, I rise today to support the retirement of Adm. Frank Kelso at his current rank of full admiral.

I will take a back seat to no one in this chamber in my support for equal treatment of women in the Armed Forces or anywhere else. And I will not deny for a minute that the Navy, perhaps worst among the armed services, is ill-equipped to deal with sexual harassment to the point of being tolerant of it.

Just today I wrote a letter to Navy Secretary Dalton concerning a case of a young woman from Minnesota who is a victim of the Navy's inability to handle sexual harassment complaints. It is an intolerable situation. And if any good is to come out of this debate today I hope it will be that the Navy will finally understand that they will lose the confidence of this Congress and this country if they do not shape up.

But even that strongly held view does not justify what has been proposed here today. It is quite simply wrong to reach a judgment and carry out a sentence in a case with disputed facts on the floor of the U.S. Senate.

As far as I can tell, one Navy judge found that the greater weight of the evidence was that Admiral Kelso was present during and probably witnessed inappropriate activities at the Tailhook convention. Admiral Kelso has denied these allegations under oath.

The question of his guilt is hardly an open and shut case. Admiral Kelso's position is supported by the deputy defense inspector general who inter-

viewed over 1,000 people who were at the Tailhook convention, by the independent investigation of Adm. J. Paul Reason and by the conclusions of both Navy Secretary Dalton and Defense Secretary Perry.

The same Navy judge also criticized Admiral Kelso for interfering with the investigation of Tailhook by appointing Admiral Reason to conduct the independent investigation, in spite of Admiral Kelso's personal interest in the outcome.

But this is also not an open and shut case. The Navy Secretary at the time, Sean O'Keefe, has said that he chose Admiral Reason on his own to conduct the investigation.

As far as I can tell we are being asked to impose a punishment based on the disputed findings of a judge in a proceeding where Admiral Kelso was not a party—where he had no right to cross-examine his accusers, where he had no right to counsel and where he had no right to be heard in his own defense. In short, where he had none of the basic rights that we afford any accused person in this country. I simply refuse to go along with this denial of due process.

My colleagues on the other side of this question certainly raise a valid point when they say that the responsibility for Tailhook ultimately must rest at the top. But I cannot believe that admonition contemplates a trial, verdict, and sentence affecting his pension on the floor of the U.S. Senate where Admiral Kelso also has no right to speak, no right to face his accusers and no right to due process. The Uniform Code of Military Justice or the decisions of the civilian leadership of the Navy are the appropriate means for exacting that responsibility.

I share the suspicion of many of my colleagues that those appropriate proceedings did not occur because of a failure of leadership in the Navy and in the armed services as a whole. But that suspicion of mine does not translate into a vote to condemn and sentence Admiral Kelso without benefit of due process of law. That is not our proper rule and does not address the problem.

That those appropriate proceedings did not happen lays squarely at the door of the Navy inspector general, the Secretary of the Navy, the Secretary of Defense and, ultimately, the Commander in Chief. If Admiral Kelso is so clearly guilty of misconduct, then our inquiry ought to be with the civilian leaders who let him off the hook. They are the ones with the clear responsibility to hold Admiral Kelso accountable, not the U.S. Senate.

Mr. President, we do not cure the crisis of leadership in the military by acting against one officer's pension. If we want to address the crisis of leadership in the military on sexual harassment, we need to do it directly.

In the final analysis, I believe the Navy has a tremendous problem with

sexual harassment. I think that the civilian and military authorities in the Pentagon had better give this a long hard look. I think this Congress should give this a long hard look. But I cannot make this vote today on Admiral Kelso's pension a symbolic vote on Tailhook. That is not fair to him, it does nothing to address the lack of leadership in the military, and it moves us nowhere nearer the solution to sexual harassment that we all seek.

Mr. LEVIN. Mr. President, as a member of the Armed Services Committee, I voted to confirm Admiral Kelso for retirement in grade, and I will vote again today for his retirement in grade.

Admiral Kelso's retirement is entangled with the Tailhook affair because he attended the convention in 1991. In addition, a Navy court martial judge considering three cases arising out of Tailhook made findings that Admiral Kelso actually witnessed inappropriate activities there and that he manipulated the Navy's subsequent investigation. However, the Department of Defense inspector general did an indepth investigation, interviewing over 2,000 people, and disagreed with the judge's findings in a number of crucial ways. He also found no evidence of wrongdoing by Admiral Kelso. In fact, the DOD inspector general said that Admiral Kelso was helpful during their investigation.

In light of this conflicting information, I was not willing to cast my vote on Admiral Kelso's retirement without an indepth understanding of the entire record of his involvement in the Tailhook affair. I have considered the court martial judge's 60-page opinion, both volumes of the DOD inspector general's report, a variety of letters and affidavits submitted by individuals with knowledge of Admiral Kelso's Tailhook-related activities, excerpts from the court martial trial transcript, and the testimony of Secretary Perry, Secretary Dalton, and General Shalikashvili before the Armed Services Committee. In addition, when I identified a gap in the factual record, I forwarded a question to Admiral Kelso and received a written response from him.

My conclusion, after consulting these sources, is that Admiral Kelso did not observe inappropriate conduct during his attendance at Tailhook and that he did not interfere with the subsequent investigation. I believe that the judge's conclusions to the contrary are mistaken and are not supported by the weight of the evidence.

In particular, with respect to the aftermath of Tailhook, the initial investigation was conducted by the naval inspector general and the Naval Investigative Service under the supervision of the Under Secretary of the Navy, who reported to the Secretary. The DOD inspector general found that nei-

ther Admiral Kelso nor his staff were invited to participate in the weekly meetings that were held to discuss the progress of the investigation, although Kelso did receive periodic briefings. He also had to be careful not to become too involved in the Navy's investigation in order to avoid the appearance of undue command influence. When a serious omission in the Navy's investigative report later came to light, Admiral Kelso insisted that the matter be referred to the DOD inspector general for a full and impartial review. The DOD inspector general describes Admiral Kelso's reaction to the omission as "outraged." According to former Under Secretary of the Navy Daniel Howard, upon the discovery of the omission, Admiral Kelso had threatened to resign unless further steps were taken. I request that the full text of the letter from Mr. Howard to Under Secretary of the Navy Danzig be attached to my statement.

Having come to the conclusion that Admiral Kelso did not witness misconduct or interfere with the Navy's Tailhook investigation, and in light of his otherwise distinguished career, I support his retirement in grade.

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

J. DANIEL HOWARD,

*Tokyo, Japan, February 10, 1994.*

Hon. RICHARD DANZIG,  
Under Secretary of the Navy, The Pentagon,  
Washington, DC.

DEAR MR. SECRETARY: I am deeply concerned about the press reports regarding the judge's ruling in the Tailhook court martial. By the time you receive this all the decisions will probably already have been made. Nevertheless, I feel the need to add my voice to the process.

If there is a blameless individual among the leaders of the department with respect to Tailhook, it is Frank Kelso. To my knowledge he never sought to constrain the investigation in any way. On the contrary, he took one particular action which indicated his determination that the investigation shield nobody. By this action he most probably precipitated the resignation of Secretary Garrett. Shortly after the close of the DON investigation and public release of the reports of the DON IG and NTS. I was contacted by the then Vice Chief, ADM Jerry Johnson. He said that the CNO had heard that a statement implicating Mr. Garrett had been left out of the NIS report and the CNO wanted to know how that could have happened. I was completely surprised because RADM Williams, the head of NIS, had not mentioned it. I, too, wanted to know how this could have happened. A few days later Mr. Garrett called me to his office and said that the CNO had apparently concluded that RADM Williams had purposely suppressed this statement. The CNO had demanded that RADM Williams be relieved from duty pending an investigation. Mr. Garrett said that he refused that demand because he had been assured by RADM Williams that he too had been unaware of the existence of the written statement but said that because the CNO was not satisfied and had threatened to resign unless further steps were taken, Mr. Garrett had just asked the DOD IG (acting)

Derek Vanderschaeff to investigate the manner in which the NIS investigation had been conducted.

All of the above is by way of saying that Frank Kelso did not shrink from his responsibility to investigate involvement in Tailhook by anyone, high or low. Furthermore, it was Frank who supported me when I decided to take on the entire cultural problem, and the aviation community, in the wake of Mr. Garrett's resignation. It was Frank who visited command after command to read the riot act. It was Frank Kelso who acknowledged to me that every leader who wore the Navy uniform bore some responsibility for allowing Tailhook to happen.

Why then did he attend Tailhook 93? He did so at the request of Mr. Garrett who said that the two of them must go to Las Vegas to attempt to put down a near mutiny in the ranks of naval aviators. We had killed the F14D and the remanufacturing program for older F-14s. We had decided to go with the F-18 E/F instead. The F-14 community was up in arms and the evidence of open warfare was daily in the press. Frank was the third submariner in a row to be CNO. Submariners are isolated from the rest of the Navy and Frank knew that he had no particular credibility with the naval aviation community. That is why he had an aviator as VCNO. He knew that Jerry Johnson was the proper person to accompany Mr. Garrett, but he reluctantly agreed to go. Frank later told me that he did not approve of the raucous atmosphere of the Q&A session in the seminar in which he spoke and commented that one would not see anything like that in the submarine community. Even though he was Chief of Naval Operations for the whole Navy, he clearly felt out of place among this ritual gathering of naval aviators. Mr. Garrett believed that he and the CNO had sold the aviation plan. Indeed, until the sexual harassment charged emerged about two months later, everyone familiar with the convention felt that it was the most successful event in the association's 35 year history with standing room only at most of the thirteen hours of seminar sessions held.

There was a failure of leadership in Tailhook. I believe that most of that failure was in the aviation chain of command. I conclude that this failure of leadership was because of the belief among some, but certainly not all, senior aviators that naval aviation was so demanding that the institution should tolerate occasional anti-social behavior outside the cockpit.

Both the CNO and I spoke with senior naval aviators to solicit their support to assist the investigation and to address the cultural problem. The responses varied but most of them were negative. I can recall, however, two exceptions. Then RADM Tony Less sent a letter to every aviator in his command (LANTAIR). He followed it up with visits to bases. VADM Barney Kelly, CINCPACFLI, sent a message and then embarked upon a very aggressive schedule of visits to all his commands where he held public sessions to discuss the matter. Their efforts came late in the investigation. I do not know whether or not they did any good but I was very pleased that they took action. However, the overall reaction was disappointing. As ADM (retired) Bud Edney said (I think that it was on CNN) "we let the CNO down, we let Secretary Garrett down and we let the Navy down." Bud is a former fighter pilot, VCNO and CINCLANT. He is one of the naval aviators who never went to Tailhook (Stan Arthur is another) but knew that there was a long-standing problem with aberrant

behavior there. He says that all the leadership in naval aviation failed to measure up. I agree that the primary responsibility was there. It does not excuse me or Larry Garrett or Frank Kelso or any of the many other leaders who failed to address the cultural problem over the years. All of us must bear our share. But Frank Kelso does not deserve more than his share and he did attempt to address the problem after the event.

During the brief time I was acting secretary Frank supported me strongly in the establishment of the Standing Committee on Women in the Navy and Marine Corps, on the proposal to make sexual harassment a specific offense under the UCMU, on the plan to do a one-day training standdown for the Navy and Marine Corps (all made public) and on my efforts to convince the Secretary of Defense that we should immediately open combat aviation and more surface vessels to women (not made public awaiting the findings of the Presidential Commission). Those later ideas were his and they later resurfaced and were approved.

Frank Kelso is a fine man and a solid leader. He has had an enormous challenge over the past four years. He did an outstanding job during the Gulf War of marshaling the naval resources for the conflict and of maintaining peace between the Navy and Air Force (probably the tougher part of the job). I think that the future Navy owes him a great debt for his reorganization of the naval staff. Many of his predecessors thought about it. Only he had the guts to do it. Finally, he supported the huge effort to downsize the infrastructure to match the operating forces and to match the latter to the budget. All of this was hard, and made even harder because much of it was accomplished under the cloud of Tailhook.

I have no idea what Secretary Dalton and SECDEF will choose to do with the judge's opinion. I clearly believe that it was a totally erroneous finding. I sincerely believe that ADM Frank Kelso has done his job right and that he deserves to serve out his term with dignity.

Sincerely yours,

DAN HOWARD,  
Under Sec., Navy.

Mr. NUNN. Mr. President, have the yeas and nays been ordered?

Ms. MIKULSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the confirmation of the nomination of Adm. Frank B. Kelso, II, U.S. Navy, to be placed on the retired list in the grade of admiral.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

I further announce that the Senator from Alabama [Mr. SHELBY] is absent due to illness.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 93 Ex.]

YEAS—54

Bingaman	Exon	Lugar
Bond	Faircloth	Mack
Brown	Ford	Mathews
Bryan	Graham	McCain
Bumpers	Gramm	Mitchell
Burns	Gregg	Murkowski
Chafee	Hatfield	Nickles
Coats	Heflin	Nunn
Cochran	Helms	Pell
Cohen	Hollings	Pryor
Coverdell	Inouye	Robb
Craig	Johnston	Sasser
Danforth	Kempthorne	Simpson
DeConcini	Kennedy	Smith
Dodd	Kerry	Stevens
Dole	Levin	Thurmond
Domenici	Lieberman	Wallop
Durenberger	Lott	Warner

NAYS—43

Akaka	Feinstein	Moseley-Braun
Bancus	Gorton	Moynihan
Bennett	Grassley	Murray
Biden	Harkin	Packwood
Boren	Hatch	Pressler
Boxer	Hutchison	Reid
Bradley	Jeffords	Rockefeller
Breaux	Kassebaum	Roth
Byrd	Kerry	Sarbanes
Campbell	Kohl	Simon
Conrad	Lautenberg	Specter
D'Amato	Leahy	Weillstone
Daschle	McConnell	Wofford
Dorgan	Metzenbaum	
Feingold	Mikulski	

NOT VOTING—3

Glenn	Riegle	Shelby
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So the nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. RIEGLE. Mr. President, I rise today to pay tribute to the victims of one of the bleakest episodes in human history. This Saturday, April 24, marks the 79th anniversary of the beginning of the Armenian Genocide. On that date in 1915, the Ottoman Turks began escalating their campaign to wipe out the Armenian population of the Ottoman Empire. By 1923, more than 1.5 million Armenians had died and more than 500,000 had been forced from their homes. Today we honor those who died during the first genocide of the 20th century and refocus on the repeated instances of genocide that have occurred this century.

At the time of the Armenian Genocide, Europe was being torn apart by World War I and the Ottoman Empire was experiencing a rapid decline in

power. By the end of the war, Russia, fighting on the side of the allies, would invade Turkey and deal a crushing blow to the Ottoman rulers. Internally, the Ottomans had turned to a leadership that espoused pan-Turkish nationalism, and sought to annihilate non-Turkish populations within the empire. In particular, the Ottomans escalated their campaign designed to eliminate the entire Armenian population.

On the night of April 24, 1915, more than 200 Armenian religious, political, and intellectual leaders were rounded up in Constantinople. In a gruesome preview of what was in store for other Armenians, these leaders of the community were taken to a remote location inside Turkey and brutally executed.

Following the executions of these leaders, the Ottomans began their campaign of mass deportations and systematic extermination. Virtually all Armenians throughout the empire were either rounded up and massacred or forced to march to remote areas of Turkey. Countless Armenians died during these forced marches, although 500,000 miraculously escaped to Russia, other Arab countries, and to Europe and the United States. By 1923 1.5 million Armenians were dead, and the Armenian population of the Ottoman Empire had been virtually eliminated.

Today, the memory of this tragic episode in history serves to unite Armenians worldwide, many of whose family members were lost during this brutal crusade. We must continue our efforts to commemorate this event, despite the efforts of those who would deny its very existence. Even the present government of Turkey seeks to erase the memory of the Armenian Genocide despite the wealth of information that exists. By paying tribute to those Armenians who died, we do not seek to confront Turkey, which has been a valuable ally both economically and militarily. Rather, we seek to remind ourselves of the brutality of the ethnic conflicts that have exploded this century. Only by acknowledging past episodes such as this can we hope to prevent them from recurring.

The Armenian Genocide is especially important since it appears to have emboldened Hitler in his persecution of the Jews. It has often been reported that one of Hitler's aides suggested that world public opinion would be extremely hostile if he proceeded with his plans to exterminate the Jews. To this he replied, "Who remembers the Armenians?" One of the most painful episodes in history would follow in which more than 6 million Jews would perish in the concentration camps of the Holocaust. Soon, untold Soviet citizens would die in Stalin's gulags and millions of Cambodians would suffer the same fate under Pol Pot's regime.

Today, the world is again witnessing another, similar conflict in Bosnia and

Herzegovina. In this as well as other republics of the former Yugoslavia, the ruthless policy of ethnic cleansing continues, yet the world community is still ill-equipped to stop it. The end of the bipolar system that existed since World War II means that more of these conflicts will erupt in the future. We are working slowly to redefine the international institutions that will deal with world crises. As we do, we must remember that throughout the 20th century there have been numerous episodes in which a group of people attempted to eliminate another group. The Armenian Genocide was not the first in history; the conflict in Bosnia will not be the last.

Commemoration of the Armenian Genocide is also important in light of the continued suffering of the people of present-day Armenia. In 1991 Armenia gained its independence from the Soviet Union, but has struggled since then to rebuild its economic and political structures. Armenians are still engaged in a conflict with neighboring Azerbaijan over the disputed territory of Nagorno-Karabagh. Thousands more Armenians have died during this conflict and continue to die today. The United States, as a member of the Commission for Cooperation and Security in Europe, must continue its efforts to end this brutal conflict and allow the Armenian people to begin the process of rebuilding their country.

Mr. President, I would finally like to note that this will be the last year that I will have the opportunity, as a Member of the Senate, to commemorate the Armenian Genocide. Throughout my years in the Congress I have worked closely with the Armenian community. I am proud of the strong Armenian-American population in Michigan and I am proud of the important work of the Armenian Studies Center at the University of Michigan. I will always remember the close and strong relationship I have had with Armenian-Americans and I strongly encourage my colleagues to continue the fight for the rights of Armenians around the world.

Most importantly I encourage my colleagues to continue to commemorate April 24 as the beginning of the Armenian Genocide. The Armenian people's ability to survive in the face of the repression carried out against them stands as a monument to their endurance and will to live. The world must speak with one voice in condemning the atrocities committed against the Armenian people. Only by working to preserve the truth about this tragedy can we hope to spare future generations from the horrors of the past.

#### THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. DODD. Mr. President, I rise today to draw attention to the 79th anniversary of the Armenian Genocide,

which is being commemorated today. It is important to recall and recount the tragedy that befell the Armenians 79 years ago, not only to keep alive the memory of the past but also to make sure that it can never happen again in the future.

Mr. President, in the early part of World War I, the Ottoman Turkish Army began a prolonged campaign to separate Armenian troops from the rest of its forces, fearing them disloyal. The turning point came on April 24, 1915, when Turkish leaders arrested 200 Armenian religious, political, and intellectual leaders in Constantinople. Many of them were executed.

On May 27, 1915, the Armenian Genocide was officially launched with the edict of deportation. This edict legalized the murder of Armenian men and set in place a policy of forced death marches in the Syrian desert for Armenian women, children, and elderly. During the next 7 years approximately 1.5 million Armenians were killed as a result of this policy of genocide.

Mr. President, our history is riddled with examples when we have closed our eyes to the murder of an entire people, with predictable and horrible results. The Armenian Genocide is one such example, and in commemorating it today we remind ourselves that we must never let such a tragedy happen again.

#### AIRPORT IMPROVEMENT PROGRAM TEMPORARY EXTENSION ACT OF 1994

Mr. MCCAIN. Mr. President, in my remarks at an Aviation Subcommittee hearing on September 28, 1993, I stated to the chairman of the Aviation Subcommittee that I would support a single-year Airport Improvement Program [AIP] reauthorization this fiscal year but urged him to consider a multiyear reauthorization next year as a major reform in assisting airport managers in a long-term stabilized-funding program.

I regret that we are unable to consider a 1-year authorization, and that we are resorting to a stop-gap measure which merely puts off the same difficult issues for another day. This is most unfortunate. The inability to resolve the issues involved with the AIP reauthorization has serious consequences.

We have all received hundreds of letters on this important issue of AIP reauthorization. Letters like this one from Stephen Coffman of Phoenix, AZ:

Senator, it is very late in the year; you all get lost in the fact that it is a new session, but we will have less than five months to put fiscal year 1994 together if you act immediately.

I have had to explain to our employees that this delay in funding for fiscal year 1994 is severely affecting our firm now, and may result in our demise \* \* \* We have a staff of 36 highly trained and experienced persons. We have gone through a very competitive

and costly selection process to win the contracts that make up our service. Virtually all these contracts are funded from this legislation. Our clients want our work done quickly (in less than a year), so our contracts seldom extend more than a year. We have been selected for enough work to meet our needs for all of fiscal year 1994.

Unfortunately, we have no funding and, as the fees from our existing contracts dwindle, so does our firm. If this delay lasts even one more month, we will have to lay off a significant number of our employees. We will also become less competitive without them. Another month or two and we will be forced out of business; a business we have worked 15 years to build and spent another 15 years learning before we started our firm.

I've noticed the President and several Congressmen quoting "the little guy" in their speeches lately. Well, Senator, we are "the little guy" and there isn't much time to quote us unless its posthumously.

Mr. President, I think it is important that I read the main body of this hard-working businessman's letter to remind my colleagues of the very real threat that exists in delaying for one moment more, S. 1491, the Airport Improvement Program [AIP] reauthorization. We are killing businesses and putting hard-working Americans out of work.

I am fully prepared to move forward on the full AIP legislation today, but again the Senate has reached an impasse.

After initially introducing a single-year authorization bill, S. 1491, the distinguished chairman of the Aviation Subcommittee, my friend and colleague, Senator FORD and his staff have worked in a bipartisan fashion to respond to the concerns of businessmen like Stephen Coffman. The committee has worked hard to produce an AIP legislative substitute that in fact provides for a multiyear authorization.

However, at the 11th hour under some classic congressional brinkmanship, the interests of just a few airports, particularly one in southern California, who do not want any restrictions on rates and charges, are forcing the Senate to settle for a piece-meal, stop-gap legislation. This accommodation comes at the expense of our entire Federal air transportation system.

The issue that has brought the Senate to its knees and will most probably cost jobs in the long run is a simple requirement that rates and charges at airports must be reasonable and there must be iron-clad assurances that diverting them for purposes other than aviation needs will not be allowed.

Years ago the Congress created the Aviation Trust Fund, the intent of the Congress, then and is now, was to create much needed airport capital development and maintenance. However something has gone awry—we now have a \$7 to \$8 billion surplus in the Aviation Trust Fund. Such unjustified surpluses, were never intended by the laws under which the Government funds airports. Such surpluses not in-

tended by the law, should not be used to shield the size of the deficit and justify spending on other projects.

Nearly every airline will agree that to some extent a reasonable nest egg to fund a long-term capital project is necessary. However, it is the unjustified surpluses which cleverly subsidize non-aviation projects or which are reserved for a day they can be used for other than air transportation purposes. This outcome perpetuates a continuing fraud on the traveling consumer.

Mr. President, by allowing this to happen for some time, the Government has broken faith with the traveling public and everyone involved in aviation.

Mr. President, again I'm sorry that we have been unable to deal with these issues. It's important that we do so. I realize that funding for airports is critical and that any further delay would harm the air transportation system and innocent contractors like Stephen Coffman. However, I also believe that it is in the interest of the aviation industry, the traveling public, the airports, and all concerned that we act on an AIP bill within the next 60 days. It was with this understanding and assurance from the leadership that I granted my consent to passage of this stopgap measure.

I want to thank my colleagues and I look forward to Senate consideration and passage of a responsible AIP bill reauthorization in a timely fashion.

#### ARMENIAN GENOCIDE

Mr. MITCHELL. Mr. President, today the Senate honors the memory of 1½ million Armenians murdered between 1915 and 1923. Each year we stop to reflect on this heinous crime and remember it with the hope that no future generation will be subjected to such a cruel fate.

The massacre of the Armenians was not the last such attempt in this century, rather it was one of many. The 79th anniversary of one people's attempt to eliminate another is especially fitting because it reminds us that the continuing ethnic cleansing in Bosnia and the slaughter in Rwanda are not isolated phenomena and should not be casually dismissed. We condemn genocide everywhere and must remain vigilant of renewed efforts to annihilate a race, a people, or a tribe.

#### SERB AGGRESSION AND GENOCIDE

Mr. DECONCINI. Mr. President, just when I was beginning to have a glimmer of hope that our generally disgraceful policy with respect to Serb aggression and genocide was starting to turn around, this weekend the United Nations, our NATO allies and the United States carried it to a new low. Only a week ago it seemed that maybe, just maybe, we are finally willing to stand

up to the Serbs. At that time, we took direct action, albeit very limited, putting the Serbs on notice that they must stop. When they regrouped and called our bluff, however, rather than demonstrate the seriousness of our resolve, NATO, the strongest security alliance in the world, scrambled in humiliating defeat.

For more than 2 years and through two administrations and two Congresses, we have all allowed the position of the United States both as leader of the world's greatest democracy and as the world's only superpower to erode to a dangerous and humiliating degree.

For the past 2 years both former President Bush and now President Clinton has chosen to pursue a course of action in which the United States went along with the collective decisions taken within the United Nations and amongst our NATO allies. At times we were able to influence those decisions. For the most part, however, because our attempts were so half-hearted and overwhelmingly guided by our insistence on multilateralism at all costs, we were simply rebuffed when efforts were made to persuade our NATO allies to lift the arms embargo on the Bosnian Government.

Mr. President, I strongly support the adoption of a foreign policy which is closely tied to multilateral cooperation whenever that is possible. But multilateral cooperation and leadership are not mutually exclusive. In fact, such cooperation is only effective when leadership is exercised. U.S. interests are closely tied to Europe's stability. We have provided critical leadership to Europe in the past and we must do so again even if it means standing out in front of our allies in a serious crisis.

Apparently genocide and the brazen landgrab by the Serbs of Bosnia and Hercegovina, a sovereign, member state of the United Nations, is viewed as having so little effect on the stability of Europe that we are willing to allow might to make right and extreme religious bias stand undeterred in post-cold war Europe. If the Europeans don't want to do much or can't, neither should we, goes the prevailing wisdom.

I must join my voice, once again, to the many who strongly disagree with that view.

To begin with, like it or not, the national interest of the United States is firmly tied to the stability of Europe. Moreover, the United States and our NATO allies in Europe are viewed by much of the rest of the world as the safeguards of democracy. We cannot and should not police the world, but Bosnia has come to symbolize the extent to which territorial aggression and genocide will be tolerated in what was to be the dawn of a new era grounded in the expansion of democracy in Europe. When the NATO countries stand aside and allow such aggres-

sion to go unchecked, they make a mockery of the democratic principles they profess to champion. This sets a dangerous example for fledgling democracies just emerging from decades of communist domination.

For the past 2 years we have been told that the only way to peace is through diplomatic means. I agree, but only if the diplomats negotiate from a position of credible strength. For the past 2 years we have watched parades of diplomats, including our own, shake the hands of Serb leaders across polished conference tables while Serb militants in the field continue their slaughter, flaunting their contempt for those who appease them. Serb militants are today boasting they are going to take even more land around the Gorazde area than they have now.

But this past weekend, Mr. President, the United States and its NATO allies crossed a line. We rendered NATO nearly as impotent as the United Nations. A NATO plane was shot down, and we did nothing. This comes on the heels of repeated hostage-taking by the Serbs of United Nations peace-keeping troops—actions which have rarely triggered any of the existing United Nations resolutions authorizing the use of force in such cases.

I certainly agree that the downing of the British jet was a jolting reminder of the risks involved in any military action. But we must not pretend to be serious about taking actions we are not prepared to carry through. NATO is far too important to allow it to be toyed with. I, for one, seriously question subordinating NATO to the United Nations in future crises. The United Nations has time and again in Bosnia allowed itself to be humiliated beyond belief. We must not let the same happen to NATO.

Mr. President, as if all of this were not enough of a frightening and shameful commentary on the West, we have not even allowed a sovereign country, against which genocide is being committed, to defend itself. Apparently the articles of the U.N. apply only to a select group of member states. The United States is standing by while a horrific slaughter rooted in ethnic and religious racism occurs because the Europeans have decided that only some people have the right to defend themselves. I fear we and our allies will pay a heavy price for permitting our respective countries and NATO to be so egregiously mocked by Serbian thugs but history will judge us harshly for not taking unilateral action, if necessary, to at least help the Bosnian people defend themselves. Mr. President at this point, we should be bombing the Bosnian Serb political headquarters as well as Serbian supply routes and depots within Serbia itself. But I know this is not a realistic option politically. I understand consultations are underway in the United Na-

tions regarding the use of NATO air strikes to help protect other areas of Bosnia. If NATO's actions to date are any pattern, I am not hopeful that these will amount to much of a deterrent but at least they are something. However, regardless of what else we do, we must immediately lift the arms embargo against Bosnia. We have no moral right to deny this to the Bosnians. I will be introducing an amendment to that effect and urge my colleagues to support it.

Surely, Congress can find the courage to say enough is enough. The American people feel the embargo should be lifted. They understand the legitimacy of self defense and the imperative of defending one's principles.

#### THE GENOCIDE OF ARMENIANS

Mr. LEVIN. Mr. President, today we are commemorating the 79th anniversary of the Armenian genocide. This is the week when people around the world pause to remember the victims of the intentional genocide of the Armenian people in 1915-23.

There are those who deny that this atrocity ever occurred. But there is an overwhelming and objectively undeniable body of historical documentation and eyewitness account proving beyond a doubt that the appalling events of 1915-23 occurred during the time of the Ottoman Empire. Because of systematic and intentional policies, up to 1.5 million Armenians perished.

This commemoration is not intended as a condemnation of our ally, the Republic of Turkey. But our mutual interests with our NATO partner and our close friendship with, and respect for, the Turkish people are not reasons to rewrite or deny historical fact. The historical evidence that the Armenian people were the victim of a genocide is unambiguous. Indeed, the founder of modern Turkey, Kemal Ataturk, recognized the crimes committed by the Ottoman Empire. As I've discussed on this floor before, in a 1926 interview Ataturk himself stated that those responsible "should have been made to account for the lives of millions of our Christian subjects who were ruthlessly driven en masse from their homes and massacred."

Denying the events of 1915-23 is as offensive and corrupting as denying the Holocaust in the 1940's. The current Turkish Government is not the issue. The issue is the role of the preceding government in the Armenian genocide. The present German Government has acknowledged the crimes of the Holocaust. That acknowledgment by Germany has enhanced its international and moral standing. An acknowledgment by Turkey relative to the actions of an earlier government would do the same.

We owe it to the victims of the Armenian genocide—and we owe it to our-

selves and the future—to perpetuate the memory and historical record of what happened.

Mr. President, we commemorate today the first genocide of the 20th century, but woefully not the last. In our commemoration today, let us pledge our best efforts to honor the innocent victims of the past and work to secure a future free of such evil.

#### ARMENIA

Mrs. BOXER. Mr. President, I wish to speak today in tribute to the courage and tenacity of the Armenian people, to recall the horrors they have suffered over the centuries, and to remind us all that we must never let these events be repeated.

For generations these courageous people have fought against attempts to destroy their culture and erase their existence.

In 1915, the Ottoman Empire began a genocidal campaign against the Armenian people. Armenians were forced from their homes and slaughtered by the millions. Armenian leaders were arrested by the Turks and executed en masse. Survivors of this horror—women, children and the elderly—were forced to march into the Syrian Desert. Approximately 1.5 million people lost their lives during the march, due to torture, starvation, and disease.

The surviving Armenians lived under Ottoman Empire repression, until May 28, 1918. On this day, Armenian refugees, with the help of volunteers from abroad, defeated a Turkish attack and gained freedom.

Sadly, the Armenian people were once again subjugated when the Soviet Union joined with Ottoman Empire forces to attack and defeat Armenia. The Armenians remained under Soviet domination until the breakup of the Soviet Union in 1991, when the Armenian people voted for independence. The Republic of Armenia was born.

The Armenians' hardship, unfortunately, did not end with the designation of their homeland. Fierce ethnic clashes with neighboring Azerbaijan in Nagorno-Karabakh have plagued them for the past 6 years. An Azerbaijani blockade and continued ethnic violence have devastated Armenia.

The Armenian genocide that we commemorate today effectively eliminated the Armenian population of the Ottoman Empire and marked the beginning of a century of cruelty and suffering, unparalleled in history. Indeed, it served as an inspiration for Adolf Hitler, who asked, before planning the extermination of European Jewry, "Who remembers the Armenians?"

We all must remember the Armenians and we all must work together to ensure that genocide is permitted never again.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, is the leader's time reserved?

The PRESIDING OFFICER. Without objection, the minority leader is recognized.

#### CONGRATULATIONS ON IMPENDING MARRIAGE

Mr. DOLE. Mr. President, first, on an entirely different matter. I congratulate the distinguished majority leader on his impending marriage. I read the wire copy and I am very happy for him and also Heather MacLachlan. No date has been set for the wedding. I certainly wish my colleague well.

#### MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the provisions of the order of January 5, 1993, the Secretary of the Senate on April 15, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 6. An act to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

#### ENROLLED BILLS SIGNED

The message also announced that Speaker has signed the following enrolled bill:

S. 2004. An act to extend until July 1, 1998, the exemption from ineligibility based on a high default rate for certain institutions of higher education.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 12:17 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 amendment of the Senate to the concurrent resolution (H. Con. Res. 218) setting forth the congressional budget for the United States Government for the fiscal year 1995, 1996, 1998, and 1999, and agrees to a conference with the

Senate and appoints the following as conferees on the part of the House:

Mr. SABO, Mr. GEPHARDT, Mr. KILDEE, Mr. BELLESON, Mr. BERMAN, Mr. WISE, Mr. BRYANT, Mr. STENHOLM, Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Mr. KASICH, Mr. McMILLAN, Mr. KOLBE, Mr. SHAYS, Ms. SNOWE, and Mr. HERGER.

At 5:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H. R. 1617. An act to authorize the establishment on the grounds of the Edward Hines, Jr., Department of Veterans Affairs Hospital, Hines, Illinois, of a facility to provide temporary accommodations for family members of severely ill children being treated at a nearby university medical center.

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

H. Con. Res. 222. Concurrent resolution authorizing the placement of a bust of Raoul Wallenberg in the Capitol.

The message further announced that the House agrees to the Senate amendments to the bill (H.R. 821) to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2333) to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes; and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following Members as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the House bill (except sections 163, 167, 188, and 190-193), and the Senate amendment (except titles V, VI, IX-XV and sections 163-170E, 189, 701-722, 724-728, 730-731, 734-736, 744-746, 748-761, and 763), and modifications committed to conference: Mr. HAMILTON, Mr. BERMAN, Mr. FALCOMA, Mr. MARTINEZ, Mr. ANDREWS of New Jersey, Mr. MENENDEZ, Mr. LANTOS, Mr. JOHNSTON of Florida, Mr. GILMAN, Ms. SNOWE, Mr. HYDE, Mr. DIAZ-BALART, and Mr. LEVY.

From the Committee on Foreign Affairs, for consideration of sections 188, and 190-193 of the House bill, and titles V, VI, IX-XII, and XIII-XIV, sections 163-164, 168-169, 189, 701-722, 724-726, 728, 730-731, 734-736, 744-746, 748-757, 759-761, and 763 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, Mr. LANTOS, Mr. TORRICELLI, Mr. BER-

MAN, Mr. ACKERMAN, Mr. JOHNSTON of Florida, Mr. FALCOMA, Mr. GILMAN, Mr. ROTH, Ms. SNOWE, Mr. HYDE, and Mr. BEREUTER.

From the Committee on Foreign Affairs, for consideration of title XII, sections 727 and 758 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, Mr. LANTOS, Mr. TORRICELLI, Mr. BERMAN, Mr. ACKERMAN, Mr. JOHNSTON of Florida, Mr. FALCOMA, Mr. GILMAN, Mr. ROTH, Ms. SNOWE, Mr. HYDE, and Mr. ROHRBACHER.

From the Committee on Foreign Affairs, for consideration of sections 163 and 167 of the House bill, and title XV, section 162, 164-165, 170A-E, and 190 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, Mr. LANTOS, Mr. TORRICELLI, Mr. BERMAN, Mr. ACKERMAN, Mr. JOHNSTON of Florida, Mr. FALCOMA, Mr. GILMAN, Mr. GOODLING, Ms. SNOWE, Mr. HYDE, and Mr. BEREUTER.

As additional conferees from the Committee on Armed Services, for consideration of sections 170B, 170C(a), 170E(a), 721, 726(b)(2), 734, 749(b)(4), 760, 804, 810, and 1329 of the Senate amendment, and modifications committed to conference: Mr. DELLUMS, Mr. SISISKY, Mr. SPRATT, Mr. SPENCE, and Mr. HUNTER.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 759, 1003, 1104, and 1323-1325 of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. FRANK of Massachusetts, Mr. NEAL of North Carolina, Mr. LEACH, and Mr. BEREUTER.

As additional conferees from the Committee on Energy and Commerce, for consideration of section 731 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, Mr. MANTON, Mr. MOORHEAD, and Mr. STEARNS.

As additional conferees from the Committee on Government Operations, for consideration of sections 189 and 721 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mr. SYNAR, Mr. CONDIT, Mr. CLINGER, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on the Judiciary, for consideration of section 133(n) of the House bill, and sections 136, 605, 704, 705, 723, 727, 748, 751, 758, 1201, and 1202 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. MAZZOLI, Mr. BRYANT, Mr. MCCOLLUM, and Mr. SMITH of Texas.

As additional conferees from the Committee on Natural Resources, for consideration of section 164(c) of the House bill, and section 171(c) of the Senate amendment, and modifications committed to conference: Mr. MILLER of California, Mr. VENTO, Mr. DEFAZIO, Mr. YOUNG of Alaska, and Mr. SMITH of Oregon.

As additional conferees from the Committee on Post Office and Civil Service for consideration of sections 132(a), 133(e), 141-150, 254, 302(b), and 307 of the House bill, and sections 131, 141-153, 155, 229, 234, 309(h), 405(e), 407, 734, 747, and 814 of the Senate amendment, and modifications committed to conference: Mr. CLAY, Mr. MCCLOSKEY, Ms. NORTON, Mr. MYERS of Indiana, and Mrs. MORELLA.

As additional conferees from the Committee on Public Works and Transportation for consideration of sections 764, 1104-1105, 1402(g) of the Senate amendment, and modifications committed to conference: Mr. MINETA, Mr. OBERSTAR, Mr. APPLIGATE, Mr. SHUSTER, and Mr. CLINGER.

As additional conferees from the Committee on Rules, for consideration of sections 714, 1003, and 1326 of the Senate amendment, and modifications committed to conference: Mr. MOAKLEY, Mr. DERRICK, and Mr. SOLOMON.

#### MEASURES REFERRED

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent, and referred as indicated:

H. R. 6. An act to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes; to the Committee on Labor and Human Resources.

The following bill was read the first and second times, by unanimous consent, and referred as indicated:

H. R. 1617. An act to authorize the establishment on the grounds of the Edward Hines, Jr., Department of Veterans Affairs Hospital, Hines, Illinois, of a facility to provide temporary accommodations for family members of severely ill children being treated at a nearby university medical center; to the Committee on Veterans' Affairs.

The following concurrent resolution was read and referred as indicates:

H. Con. Res. 222. Concurrent resolution authorizing the placement of a bust of Raoul Wallenberg in the Capitol; to the Committee on Rules and Administration.

#### 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-2480. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report relative to cigarette sales and advertising data for 1991; to the Committee on Commerce, Science, and Transportation.

EC-2481. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the development of electric motor vehicles; to the Committee on Commerce, Science, and Transportation.

EC-2482. A communication from the Chairman of the Interstate Commerce Commis-

sion, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC-2483. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC-2484. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the modernization of the National Weather Service; to the Committee on Commerce, Science, and Transportation.

EC-2485. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Office of Surface Mining Reclamation and Enforcement for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC-2486. A communication from the Acting Chief Financial Officer, Department of Energy, transmitting, pursuant to law, a report relative to uncosted obligation balances for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC-2487. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report relative to the Renewable Energy and Efficiency Technologies Program; to the Committee on Energy and Natural Resources.

EC-2488. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the Government's helium program; to the Committee on Energy and Natural Resources.

EC-2489. A communication from the Secretary of Energy, transmitting, pursuant to law, the management plan relative to the Renewable Energy and Energy Efficiency Technologies Program; to the Committee on Energy and Natural Resources.

EC-2490. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a draft of proposed legislation, to designate a segment of the Nolichucky River in the States of North Carolina and Tennessee as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

EC-2492. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the water quality of the Colorado River Basin; to the Committee on Energy and Natural Resources.

EC-2493. A communication from the Deputy Associate Director for Compliance, Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2494. A communication from the Secretary of Energy, transmitting, pursuant to law, a notice of delay in the submission of a report from the Interagency Working Group relative to renewable energy; to the Committee on Energy and Natural Resources.

EC-2495. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to actions taken under the Power Plant and Industrial Fuel Use Act and the Energy Supply and Environmental Coordination Act during calendar year 1993; to the Committee on Energy and Natural Resources.

EC-2496. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the establishment of an oil and gas leasing program for the non-North Slope Federal Lands; to the

Committee on Energy and Natural Resources.

EC-2497. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the transportation of low-level radioactive waste; to the Committee on Energy and Natural Resources.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-440. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Agriculture, Nutrition, and Forestry.

##### "HOUSE JOINT MEMORIAL NO. 14

"Whereas, the Congress of the United States has passed laws to implement programs to control production of surplus crops and to retire lands marginally suited for production of these crops; and

"Whereas, some of the lands involved in the federal programs setting aside cropland have been irrigated and have an appurtenant ground water right obtained under state law; and

"Whereas, Idaho law and some other state laws protect these rights from forfeiture while the land is contracted in the federal cropland set-aside program; and

"Whereas, Idaho law and other state laws allow the holder of ground water rights to seek the transfer of the ground water rights if the requirements of state laws are met, and some of those holders of the water right have changed the place of use of the water right to other agricultural land thereby circumventing the intent and purpose of the federal law as additional crops are being grown on land that is not in the federal set-aside program; and

"Whereas, transfer of ground water rights from lands contracted in a federal cropland set-aside program to irrigate other lands capable of producing surplus crops can have a deleterious effect to the aquifer, to surrounding wells and to entire communities.

"Now, Therefore, Be It Resolved, By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that when Congress reauthorizes the federal cropland set-aside program that it include a provision prohibiting participants in the program from transferring water rights to irrigate other lands capable of producing surplus crops.

"Be It Further Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-441. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Armed Services.

##### "SENATE JOINT MEMORIAL 8013

"Whereas, the recent conflict in the Persian Gulf has brought to our attention once again the valuable contribution of our servicemen and servicewomen; and

"Whereas, citizens who choose to make a career of military service and who have served their country for at least twenty

years receive military retirement pay based on the longevity of their service; and

"Whereas, veterans who have a service-connected disability have made a very personal sacrifice for their country and receive compensation in proportion to the severity of their disabilities; and

"Whereas, under current federal law, those individuals who have a service-connected disability and who have chosen to devote twenty or more years of service to the military are prohibited from receiving concurrently their full retirement pay and their full disability compensation. Instead these individuals may receive their retirement pay or their disability compensation, or they must waive an amount of retirement pay equal to the amount of their disability compensation; and

"Whereas, this is an inequitable situation which effectively requires disabled military retirees to pay for their own disability compensation benefits out of their retirement pay earned through years of dedicated service; and

"Whereas, there are a number of measures that have been introduced in the United States Congress which would reduce or eliminate this inequity by allowing disabled military retirees to receive concurrently their retirement pay and their disability compensation benefits;

"Now, therefore, your Memorialists respectfully pray that the United States Congress amend existing federal law to permit career military retirees with service-connected disabilities to receive concurrently their full retirement pay and their full disability compensation.

"Be It Resolved, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and to each member of Congress from the State of Washington."

POM-442. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Commerce, Science, and Transportation.

##### "SENATE JOINT RESOLUTION NO. 25

"Whereas, the safety and convenience of the motoring public requires the installation and maintenance of numerous highway signs; and

"Whereas, these signs inform motorists of distances to various destinations, advise them of maximum safe speeds, and warn them of weight, height, and width limitations of bridges and tunnels; and

"Whereas, in order to be effective, the messages on these signs must be simple, clear, and understandable by passing motorists at a glance; and

"Whereas, it is particularly important that the measurements of distance, speed, size, and weight used on highway signs be uniform and familiar to the vast majority of motorists; and

"Whereas, it has been proposed that measurements of distance, speed, size, and weight presently used on highway signs throughout the United States be replaced with metric measurements or shown in both English and metric units; and

"Whereas, very many motorists in the United States have little or no familiarity with metric measurements; and

"Whereas, this lack of familiarity would impair the motoring public's ability to understand the meaning of highway signs at a glance; and

"Whereas, the simultaneous use of both English and metric measurements on high-

way signs would increase the number of characters needed on the signs, possibly increase the size of the signs, probably decrease the public's ability to understand sign messages at a glance, and certainly increase the cost of the signs; and

"Whereas, Virginia, like most states, already has more transportation needs than its transportation revenues can meet, without the additional expense of replacing existing highway signs solely for the purpose of displaying metric measurements; now, therefore, be it

"Resolved, By the Senate, the House of Delegates concurring, That the Congress of the United States be hereby memorialized to refrain from any requirement that otherwise functional highway signs be replaced or reconfigured solely for the purpose of replacing English measurements with metric measurements or adding metric measurements to English measurements; and, be it

"Resolved Further, That the Clerk of the Senate transmit a copy of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Virginia Delegation to the Congress in order that they may be apprised of the sense of the General Assembly of Virginia in this matter."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2000. A bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes (Rept. No. 103-251).

By Mr. MOYNIHAN, from the Committee on Finance, with amendments:

S. 1231. A bill to provide for simplified collection of employment taxes on domestic services, and for other purposes (Rept. No. 103-252).

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. FORD:

S. 2024. A bill to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes; considered and passed.

By Mr. CHAFEE:

S. 2025. A bill to authorize a certificate of documentation for the vessel INTREPID; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. INOUE):

S. 2026. A bill to amend the Panama Canal Act of 1979 to require the payment of interest on certain damages awarded by the Panama Canal Commission; to the Committee on Armed Services.

By Mr. DODD (for himself, Mr. HARKIN, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, Mr. WELLSTONE, and Mr. KERRY):

S. 2027. A bill to provide for the reinstatement of democracy in Haiti, the restoration

to office of the duly elected President of Haiti, Jean-Bertrand Aristide, the end of human rights abuses against the Haitian people, support for the implementation of the Governors Island Agreement, and for other purposes; to the Committee on Foreign Relations.

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

S. 2028. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes to create the United States Peace Tax Fund to receive such tax payments, and for other purposes; to the Committee on Finance.

By Mr. BREAU (for himself, Mr. CHAFEE, and Mr. JOHNSTON):

S. 2029. A bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. WALLOP, and Mr. PRESSLER):

S. 2030. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. INOUE, Mr. COCHRAN, and Mr. DURENBERGER):

S. 2031. A bill to amend the Merchant Marine Act of 1936, to prohibit the imposition of additional charges or fees for attendance at the United States Merchant Marine Academy, and to express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MITCHELL:

S. Res. 200. A resolution notifying the House of Representatives of the election of a Secretary of the Senate; considered and agreed to.

S. Res. 201. A resolution notifying the President of the United States of the election of a Secretary of the Senate; considered and agreed to.

S. Res. 202. A resolution notifying the House of Representatives of the election of a Sergeant at Arms and Doorkeeper of the Senate; considered and agreed to.

S. Res. 203. A resolution notifying the President of the United States of the election of a Sergeant at Arms and Doorkeeper of the Senate; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 204. A resolution relating to the retirement of Walter J. Stewart, Secretary of the Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE:

S. 2025. A bill to authorize a certificate of documentation for the vessel *Intrepid*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL INTREPID

● Mr. CHAFEE. Mr. President, I am introducing a bill today to direct that the vessel *Intrepid*, official number 508185, be accorded coastwise trading privileges and be issued a coastwise endorsement under title 46, United States Code, section 12106.

The *Intrepid* was constructed at the Minneford Boat Yard in City Island, NY in 1967 as a recreational vessel. It is a 12-meter yacht that is 65 feet in length.

After being built in the United States and having a long history of U.S. ownership, including representing the United States in America's Cup and winning that competition for the United States in 1967 and 1971, the vessel was purchased by French, and later Canadian owners.

The *Intrepid* is again under U.S. ownership and is currently the Flagship of the America's Cup Hall of Fame.

Although the vessel was built in the United States and has a long and prestigious American history, the owners of the *Intrepid* are seeking a waiver of the existing law because the *Intrepid* was sold to non-U.S. owners and therefore became ineligible to participate in the U.S. coastwise trade. The owners plan to use the vessel for the purpose of engaging in limited commercial use. Their desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If granted this waiver, it is their intention to comply fully with U.S. documentation and safety requirements.

Mr. President, 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. 2025

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel INTREPID, United States official number 508185.●*

By Mr. AKAKA (for himself and Mr. INOUE):

S. 2026. A bill to amend the Panama Canal Act of 1979 to require the payment of interest on certain damages awarded by the Panama Canal Commission; to the Committee on Armed Services.

PANAMA CANAL COMMISSION FAIR CLAIMS ACT

● Mr. AKAKA. Mr. President, today I am introducing the Panama Canal Commission Fair Claims Act. This leg-

islation would direct the Commission to pay interest on valid damage claims from the date the claim is filed until the date the claim is paid. The bill will prevent the abuse suffered by one Hawaii shipping company after its ship ran aground while under the control of a Panama Canal Commission pilot.

The background on this incident is as follows: On April 21, 1988, the Hawaiian Sugar Transportation Co.'s [HSTC] ship, the *Moku Pahu*, ran aground while transiting the Panama Canal under the command of a Panama Canal Commission pilot. The official investigatory body of the Commission concluded that the grounding was entirely the fault of the Canal Commission pilot, and that the *Moku Pahu* and its crew were blameless.

Damages totaled \$7.5 million, and, on December 27, 1989, HSTC filed a detailed claim with the Commission to recover its losses. Despite repeated requests by HSTC, the Commission declined to meet with company representatives until April 1991, and finally made its first settlement offer 3 months later, for just \$2.8 million. When the Commission was unwilling to significantly increase its offer, HSTC filed suit in October 1991. HSTC and the Commission ultimately reached agreement in July 1992, more than 4 years after the accident, and the claim was settled for \$6.5 million.

The Panama Canal Act of 1979 compels the Panama Canal Commission to "promptly adjust and pay damages \* \* \* caused by (its) fault." Despite that mandate, the Commission refused to fairly compensate HSTC for the damages it suffered as a result of the accident. These included actual damages, loss of interest, additional borrowing costs, higher insurance premiums, legal fees, and other costs stemming from the accident.

The fact that the Commission raised its offer from \$2.8 million to \$6.5 million, the amount ultimately agreed upon, suggests that the initial offer was an attempt by the Federal Government to low-ball the company. This put HSTC in an untenable position. The company's losses continued to mount with each passing day but it couldn't go to court before exhausting administrative remedies. Lending credence to the low-ball theory is a statement the Secretary of the Commission made to company representatives about the Commission's determination to "pay as little as possible."

The amendment I have proposed would simply require the payment of interest, from the date the claim is filed to the date of payment, on damages awarded by the Panama Canal Commission in cases where the Commission is at fault. Even if the Panama Canal Commission acted in accordance with the act's mandate that it "promptly adjust and pay damages,"

which it clearly has not, the payment of interest on awards is necessary if the injured parties are to be made whole for their losses. Given the Commission's egregious conduct, amending the law to provide for the payment of interest on damage claims will serve a dual purpose: to make injured parties whole and to create an incentive for the Commission to promptly and fairly adjust claims.

When the Panama Canal Commission pilot ran the *Moku Pahu* aground, causing millions of dollars worth of damage, the shipowner probably thought that things couldn't get any worse. But that was before the company tried to obtain reimbursement for its losses and ran aground a second time while navigating its claim for damages through the Panama Canal Commission. While the damage to the company's ship appears to have been an accident, the aftermath was a crime.

After numerous attempts to obtain compensation from the Panama Canal Commission for the damage caused by the Commission's pilot, officials at the Hawaii Sugar Transportation Co. reached an inescapable conclusion: the bureaucrats at the Commission were simply stalling. The Commission had no incentive to reach a settlement, and every reason to invoke delay.

Because of inadequacies in current law, the longer the Commission stalled, the less it would pay in real terms and the more likely the owners of the damaged ship would accept a partial recovery for their losses. Since the Commission does not pay interest on claims, the amount that is eventually recovered by injured parties will be considerably discounted by the time a claim is finally paid. In the case of the *Moku Pahu*, the Hawaii Sugar Transportation Co. settled for \$1 million less than its actual damages, and suffered an additional loss of \$1,742,110 in interest. This situation is grossly unfair to those who were victims of negligence by Commission employees.

My amendment would require the Panama Canal Commission to pay interest on damage awards, beginning on the date that a valid claim is filed. It will create a financial incentive for the Commission to resolve claims promptly. No longer will the Panama Canal Commission be able to employ stall tactics to thwart legitimate claims.

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. 2026

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1411 of the Panama Canal Act of 1979 (22 U.S.C. 3771) is amended—*

(1) in subsection (a), by inserting "including interest under subsection (c)," after "damages"; and

(2) by adding at the end the following new subsection:

"(c) Damages which are adjusted and payable under subsection (a) shall include interest calculated from the date of filing of the claim to the date of payment. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611)."

(b) The amendment made by subsection (a) shall be deemed to have become effective as of April 1, 1988.●

By Mr. DODD (for himself, Mr. HARKIN, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, Mr. WELLSTONE, and Mr. KERRY):

S. 2027. A bill to provide for the reinstatement of democracy in Haiti, the restoration to office of the duly elected President of Haiti, Jean-Bertrand Aristide, the end of human rights abuses against the Haitian people, support for the implementation of the Governors Island Agreement, and for other purposes; to the Committee on Foreign Relations.

#### HAITIAN RESTORATION OF DEMOCRACY ACT

Mr. DODD. Mr. President, today I am introducing a bill that is designed to strengthen our efforts to restore the democratically elected leadership of Haiti. This legislation would close a number of loopholes in the present United States sanctions against Haiti and would call on the Clinton administration to negotiate the extension of these sanctions throughout the rest of the international community.

This bill is being introduced on behalf of myself, Senator HARKIN, Senator MOSELEY-BRAUN, Senator FEINGOLD, Senator WELLSTONE, and Senator JOHN KERRY.

The purpose of this legislation is simple and very straightforward: to encourage the military regime in Haiti to fulfill its obligations under the 1993 agreement known as the governors island accord. But in truth, Mr. President, this legislation also has a more important purpose, and that is to uphold the promise of democracy that has eluded the people of Haiti for far too long.

Mr. President, as we consider the recent events that have taken place in Haiti, we would do well to remind ourselves of the historical context in which they occur.

First of all, I should tell you of my own history involving the island of Hispaniola. I served for almost 3 years as a Peace Corps volunteer in the Dominican Republic very close to the border of Haiti. I know both countries and that island very, very well. There are very few communities within Haiti that I have not visited. I have very, very many personal friends in Haiti that go back almost 30 years. I have a great affection for the country of Haiti and for its people. They are a noble and proud people, and they deserve far better than they have been getting.

Mr. President, ever since Haiti gained its independence in 1804, the

citizens of that tiny Caribbean nation have suffered under an endless cycle of poverty, despair, and misrule.

It is a nation that remains one of the poorest, if not the poorest, in the hemisphere, and one of the poorest anywhere in the world, with consistently high levels of illiteracy, malnutrition, and infant mortality. It is also a land where the free expression of the popular will has been repeatedly and brutally thwarted by those who hold the reins of power.

The present events in Haiti trace their roots back to the era of Francois Duvalier, the notorious dictator who ruled Haiti with an iron hand after assuming power in a fixed election in 1957. The Duvalier regime had close ties with the military and security forces and it kept the population in fear with the help of a secret branch of the police, the dreaded so-called Tontons Macoutes.

Duvalier's legacy of repression and state-sponsored brutality was passed on to his son, Jean-Claude, who faithfully continued the work of his father until being overthrown in 1986.

Despite the hopes of the world community, the overthrow of the so-called Baby Doc did not bring an end to the violence and repression in Haiti. Instead, it brought only more false hopes, a cycle of military regimes, and a heap of broken promises, to put it mildly.

The world soon became familiar with names like Henri Namphy, Prosper Avril, Leslie Manigat, Herard Abraham—all of whom, in their time, promised that they would work to restore democracy and respect human rights. But unfortunately, not one of these leaders was able to live up to his word, and the cycle of military rule went on.

In fact, we were told in this country in every single example I just cited that if we would only give General Namphy a chance that democracy would be restored. We were told the same with Prosper Avril, and we were told the same with Herard Abraham, and yet in every single case democracy was not restored, and the situation unfortunately seemed to get worse.

Finally, and unbelievably, on December 16, 1990, Haitians went to the polls and chose as their president a Roman Catholic priest by the name of Jean-Bertrand Aristide. The election of President Aristide, in the most free and fair elections in that nation's history, gave hope to a watching world that Haiti had finally overcome a bitter legacy of repression and military rule. President Aristide took office on a platform of social justice for the poor, and immediately set out to dismantle the old repressive structures of the Duvalier era.

Sadly, for all the hope that was ushered in with the election of President Aristide, Haiti's encounter with democracy would come to an end almost as soon as it began.

In September 1991, only a few short months after President Aristide had been elected, military and security forces overthrew the Aristide government and resumed their iron grip on the people of Haiti. Today, repression in Haiti has a new set of names and faces, people like Gen. Raoul Cedras, the leader of the Armed Forces, and Col. Michel Francois, the chief of security. But although the names in Haiti may have changed, unfortunately and regrettably, the policies and the practices remain very much the same.

In response to the events of September 1991, the Bush administration lent its vocal support to the restoration of democracy in Haiti and to the return of President Aristide. Much to the credit of the Bush administration, the administration moved quickly to end all non-humanitarian aid programs in Haiti and to comply with a trade embargo on Haiti that was imposed by the Organization of American States.

These efforts were continued by the new administration of President Clinton, who came into office with a strong personal commitment to the restoration of democratic rule in Haiti, a commitment I happen to believe is still very strong in the mind of the President. In June of 1993 the administration imposed additional sanctions on the coup plotters in Haiti, freezing their U.S. assets and prohibiting their travel into the United States.

The United States then made use of its leadership at the United Nations to bring a worldwide fuel and arms embargo into effect on June 23. These sanctions took a heavy economic toll on the business elite in Haiti and brought a quick response from the leaders of the coup. It was having an immediate and significant effect.

On July 3, only a few days after the imposition of the embargo and with the active involvement of the Clinton administration and in particular U.N. negotiator Dante Caputo, President Aristide and General Cedras reached agreement on an arrangement to restore democratic rule to Haiti. This agreement was called the Governors Island accord, so named for the New York island where it was signed.

The accord, which was hailed throughout the international community, promised a just and honorable end for all parties involved. It set out a 10-step process toward reducing the role of the military in Haiti's daily affairs, concluding with the retirement of General Cedras and the restoration of President Aristide by no later than October 30.

In return, Aristide has to name a new prime minister and to issue an amnesty for all the political crimes carried out in connection with the coup.

Imagine: Amnesty for all those people who had been responsible for the overthrow of President Aristide.

It is important to note—and I emphasize that last point—that the Gov-

ernors Island accord represented a compromise for both parties. The military, for its part, agreed to cede the power that it had won through the force of arms and to submit to civilian control. President Aristide, for this part, agreed to accept a document that did not require the resignation from the military of anyone other than General Cedras, requiring only that all others associated with the coup accept their retirement or reassignment to posts out of the country.

In addition, the plan called for sanctions on Haiti to be suspended as soon as a new Prime Minister had been approved by the legislature, well in advance of President Aristide's return on October 19.

Despite these and others shortcomings in the Governors Island Accord, President Aristide signed the document, I might point out under heavy pressure from U.S. and U.N. negotiators. Not only did he agree to abide by the terms of the accord, Mr. President, but he kept faith with the promises that he had made.

President Aristide wasted no time in naming a new Prime Minister, Robert Malval, and issuing the required political amnesty as called for in the accord.

Regrettably, the Haitian military leaders did not respond in kind. In fact, no sooner was the ink dry on the accord, and no sooner had sanctions on Haiti been lifted, than the military signaled its disdain for the agreement and the commitments it had made.

Most notably, the military prevented the arrival of U.N.-sanctioned military personnel and engaged in a number of serious human rights abuses, including the high-profile murders of several of President Aristide's close associates.

I might point out that those murders were most brutal. They were done in view of the international community. One individual was literally dragged from a church service and executed outside of the church in front of the international TV crews. And the other, of course, was the Minister of Justice, who was executed a block away again in broad daylight in view of a large community that watched the assassination take place. That was done to send a message that the agreement, the Governors Island Accord, may be lived up to by President Aristide but the military, their financial backers, and the thugs they support were totally to abrogate that agreement. That is what happened on the streets.

By the time the appointed date of October 30 had arrived, it was clear that the deal was off and President Aristide would not be allowed to come back to his own country where he had been so overwhelmingly elected.

In the time since the collapse of the Governors Island Accord, the human rights situation in Haiti has grown perilously worse, deteriorating to a point that many believe, and I believe, sur-

passes even the height of the Duvalier era. A report that was released several days ago by Human Rights/Watch Americas and the National Coalition for Haitian Refugees illustrates the case quite clearly.

The report notes that political killings and suspicious murders in Haiti rose from a reported 9 last May and 5 last June to a total of 34 in July, 33 in August, more than 60 in September, and more than 80 in October. The number of killings has remained at or near the rate to the present day. In fact, Mr. President, some estimate that between 3,000 and 4,000 people have lost their lives in Haiti since the overthrow of President Aristide for the simple crime of supporting the return of President Aristide to their country.

What is particularly disturbing, in addition, is the emergence of a new organization known as the Front for the Advancement and Progress of Haiti, or FRAPH as it is called. This organization, a loose arrangement of Duvalier supporters with close ties to the present military establishment, has carried out with impunity the barbaric killings of anyone suspected to be a supporter of President Aristide.

In perhaps the single most notorious incident of violence, FRAPH supporters were responsible for starting a fire in the shantytown of Cite Soleil, a poor barrio community in Haiti, on December 27, leaving dozens of people dead and hundreds of families homeless.

Let me add here, in talking about some of these human rights violations, there is a new level of atrocities occurring in Haiti. I mentioned earlier that 25 years ago I served as a Peace Corps volunteer on the Haitian border. Even under the worst days of Papa Doc, the government did not engage in the systematic kidnapping of children, the rape of women, and the mutilation of corpses. Those violations never occurred in Haiti before. This is a systematic attempt to intimidate the supporters of democracy in that country, and it is a new level of violence that that Nation has never seen even in its worst days.

In response to these and other transgressions on the part of the Haitian military, the administration has moved quickly, I point out, to reimpose sanctions and to condemn the violations of the Governors Islands Accord. Mr. President, while I commend the administration for doing so, I think it is fair to say there are a number of serious questions that have arisen in regard to the present direction of U.S. policy toward Haiti.

Mr. President, last month I had the opportunity to explore some of these questions, including the human rights issues, at a hearing that I chaired in the Foreign Relations Committee with administration witnesses and outside experts. In addition, I spent several days in Haiti, only a couple weeks ago,

and the Dominican Republic on a trip to the region, at which time I got a firsthand look at the serious conditions that prevail today in Haiti.

The most serious of these questions, in my view, surround the willingness of the administration to push for tougher measures against the present leadership in Haiti. On December 21 of last year the nations known collectively as the Four Friends of Haiti—the United States, Canada, France, and Venezuela—announced that they would call for additional sanctions if no progress had been made by January 15 on negotiations to restore President Aristide to office.

It is now April 19. That was January 15. That deadline has now come and gone, and no additional sanctions have been imposed.

Instead, it appears that the administration has chosen to focus its efforts on developing new political arrangements for the restoration of power in Haiti. Working with parliamentarians and other political leaders in Haiti, the administration has helped to develop several proposals that call on President Aristide to make even more concessions in order to entice the military high command to step aside.

While I am convinced that our negotiators in the State Department and other administration agencies are acting with the best of intentions, it is my view that these efforts ignore some very important realities.

The first, Mr. President, is that President Aristide has already made significant major concessions, and to ask him to make even further concessions is to run the risk of putting pressure on the wrong side. Let us not forget that it was President Aristide who won nearly 70 percent of the vote in Haiti, a popular mandate that would be the envy of any politician in any nation, including our own.

Let us not forget that it was the military, and not President Aristide, that backed out of the Governors Island Accord. Let us not forget that it is the military, and not President Aristide, that stands accused of murdering thousands of innocent civilians in their homes, in their churches, and in their streets.

The second reality, Mr. President, that appears to be overlooked in the present course of diplomatic negotiations is that the military regime in Haiti has shown absolutely no interest whatsoever in any new diplomatic solution. I have met personally with General Cedras and his high command in recent weeks, and I am prepared to assure my colleagues that this is the case.

The truth of the matter is that the military leaders in Haiti have already called our bluff. They believe that they can simply wait us out, just as they have done time and time again in the past.

And that brings us back, Mr. President, to the Governors Island Accord. It is a fact that under the Governors Island Accord both President Aristide and the military made certain profound commitments to bring about the restoration of democratic rule in Haiti.

President Aristide, I would emphasize, has fulfilled his part of that bargain. Now it is time for the military leaders and their supporters to fulfill their side of the deal, and for the United States and the international community to put the needed pressure on them to do so.

That is the purpose, Mr. President, of the legislation that I am submitting today.

This legislation would put the clamp on the Haitian military regime by banning virtually all private and commercial transactions between the United States and Haiti. In particular, this legislation would prohibit entirely the following activities:

All trade between the United States and Haiti, with the only exemptions being made for humanitarian articles such as food and medicine and for news publications and broadcasts;

The purchase by any United States person of any goods for export from Haiti to any other Nation;

The performance by any United States person of any contract in support of an industrial or commercial or governmental project in Haiti;

The grant or extension of credits or loans by any United States person to anyone affiliated with the Haitian military regime;

Any transaction by a United States person relating to air transportation to and from Haiti; and

The operation in the United States of any Haitian registered aircraft.

In addition, Mr. President, this legislation also contains a provision requiring the President to cut off all United States assistance to any country that has not imposed equivalent sanctions against Haiti. This is an important provision that I believe will help to assure that the sanctions enacted under this measure will be respected and adopted by the rest of the international community.

Finally, Mr. President, this legislation contains a provision that is intended to reverse the administration's policy in regard to the issue of Haitian refugees.

Under the present policy, begun in the previous administration, refugees who are intercepted by the Coast Guard are returned to Haiti to be screened for asylum. Unfortunately, this policy has made it very easy for the Haitian military to single out and identify those who are opposed to the present regime.

In fact, Mr. President, human rights groups have reported an increasing number of incidents of returning refugees being arrested, harassed and, in some cases, even murdered.

Accordingly, the legislation that we are introducing this afternoon would prevent the expenditure of United States funds for the return of any refugee who has not been properly screened on his or her claim for asylum.

Let me add here as an aside, Mr. President, that I visited the immigration offices in Haiti. I have nothing but the highest regard and respect for the conditions under which our immigration personnel are working. They are doing an incredibly fine job of trying to manage this situation. Despite their good efforts, however, I think it is expecting too much to assume that people who are caught on the high seas and brought back to their own country for processing can avoid the detection of the military in that nation as to who are the ones trying to seek political asylum.

But I want to emphasize that I was deeply, deeply impressed and moved by the quality and demeanor of the people working for the U.S. Immigration Service in Port-au-Prince.

In addition, Mr. President, the legislation would designate temporary protective status for any Haitian not affiliated with the coup, in accordance with the Immigration and Nationality Act, for as long as the military remains in power in Haiti.

I would point out that this is basically the policy we follow with Cuban refugees who come from virtually the same neighborhood. Any time we find these people on boats trying to flee Cuba, we do not fly them back to Havana to find out whether or not they can then get out again. We allow them to come to our shores.

What we are suggesting here today is that we are dealing with a Government in Cuba that is repressive, that violates human rights. The same exists in Haiti. You cannot have a dual standard. If it is good enough to allow people on boats trying to flee the country of the Government of Cuba, then it ought to be the same when it applies to those trying to leave the thugs and the repressive policies that exist in Haiti today. You cannot have one policy for one group of refugees in the Caribbean and a different one for another set.

Let me point out here, Mr. President, there is a great concern and a legitimate concern about how many refugees and immigrants this country can continue to accept, given the pressures that exist domestically in our own Nation with unemployment and the hard times many Americans are feeling. I will tell you that if we do not put the screws to this Government down there as quickly and as strongly as we can, we are going to have a flood of refugees trying to leave that nation.

And who could blame them? Which one of us would continue to reside in a country where our families and children face kidnaping, our wives and sisters and mothers are raped by the mili-

tary and their thug supporters, or people are killed and their bodies are mutilated? Any decent person would try to protect their family and to escape that kind of situation.

So unless there is a change in Haiti and we get some decency back in that nation, I think you are going to see an absolutely incredible invasion, if you will, of people pouring out of that nation.

So while there are problems posed by any sanctions bill, to merely allow the situation to continue as it is, I think, only invites an explosion of the numbers that will be arriving at our shores seeking asylum.

At the same time, Mr. President, I want to emphasize that the best solution to the refugee crisis, as I have said—and ultimately the only solution—is a political solution in Haiti that is responsive to the Haitian people. That is what President Aristide represents and that, in my view, is why it is so important that he be returned as the rightful, freely elected leader of his nation.

And that, in the end, Mr. President, is what this legislation is all about.

Mr. President, in every corner of the world, from the former Soviet Union to China to the emerging democracies of Latin America, the United States is making an effort to promote respect for democracy and the rule of law. What we are trying to promote, above all else, is the concept that if you abide by certain principles, if you play by the rules, your cause and the cause of the people you represent will always be advanced.

Today, that principle is under direct challenge in Haiti. The people of Haiti have played by the rules. They went to the polls. They stood hours, I might point out, in the boiling sun to vote for their choice to lead their nation. They voted for a president, they supported that president as he made a deal with the military, and they supported that president as he abided by the terms of that deal.

Now those very same people are being told that they have not done enough, that they have to make further concessions, that those who broke their faith with the international community will not be punished for their misdeeds. This is wrong, Mr. President, and it does no honor to the very principles of democracy that this administration and that this Congress have committed themselves to promoting.

Mr. President, today in Haiti democracy is under siege, an elected leader is in exile, and a population lives in dreaded fear. Haitians need the help of the international community and they need the leadership of the United States.

President Aristide has done his part, Mr. President. He has played by the rules. I think it is only fair now to ask the military and those who support them in Haiti to do the same.

Mr. President, I would stand here today and tell you that with this sanctions bill I am introducing, along with my colleagues, there will be those who will say, "Well, that is just a handful of Senators offering a bill." Let me send a message here today to those who think otherwise. We intend to stick with this issue. It may take a month, it may take 6 months, it may take 6 years, but, Mr. President, we will not cease in our determination to try to achieve a restoration of democracy in Haiti. It is important that the people of Haiti understand that, but, most importantly, that the military leaders and those who support them understand it.

This is serious. We take it seriously. And we will not retreat until the people of Haiti have democracy restored.

Mr. President, I urge the adoption of this legislation and I send the bill to the desk and ask for its appropriate referral.

**THE PRESIDING OFFICER.** The bill will be referred to the appropriate committee.

The Senator yields the floor.

**Ms. MOSELEY-BRAUN.** Mr. President, I would like to associate myself with the remarks of the Senator from Connecticut with regard to the Haitian Restoration of Democracy Act of 1994. I am proud to be a cosponsor for that legislation, along with Senators HARKIN, FEINGOLD, and WELLSTONE.

We are introducing this legislation, Mr. President, to make the strongest possible statement in support of the restoration of democracy to Haiti, and the return of its elected President, Jean Bertrand Aristide.

Mr. President, United States policy toward Haiti is not working. In fact, I think it is appropriate to say that it has been an abject failure. Repression in Haiti continues to escalate and human rights violations are worse today than at any time since the overthrow of President Aristide in September 1991. There are reports from the United Nations/Organization of American States Mission of the systematic use of rape to terrorize the population. Along with rapes, we have seen human rights violations consisting of murders, intimidation, and threats. The situation there is totally out of control. This legislation proposes a series of concrete steps for the United States and the international community to follow in order to reverse the situation. We must redirect our policy to restore democracy, decency, and hope in Haiti.

The economic sanctions imposed by the United Nations in 1993 were highly effective in isolating the Haitian military and bringing them to the negotiating table. The Haitian military signed the Governors Island Accord in July 1993 because of the deleterious effect of these sanctions. Sanctions were lifted at the end of August 1993, as part of the accord. In light of the fact that

the military has failed to live up to its part of the agreement to that accord, it is certainly time to reimpose sanctions and that is part of what this legislation would do.

This legislation would prohibit all trade between Haiti and the United States except humanitarian assistance. It would prohibit Americans from purchasing any goods originating in Haiti through a third country. All loans and credits by any American to the unelected military leaders would be forbidden, and no contract between any American and industrial, commercial or Government entity would be permitted. We also urge President Clinton to take measures that employ a multinational border patrol between the Dominican Republic and Haiti, to halt the continuing smuggling of goods over land.

In brief, this legislation says we should not have trade with those who would so blatantly violate the terms of their own agreement, the Governors Island agreement, those who would so blatantly flout human rights with regard to the rest of the world, who would so egregiously violate every principle of decency, of democracy, that we believe, as Americans, we have to stand for not only here in the United States but in other parts of the world.

This legislation also physically isolates the Haitian military. Air transport between the United States and Haiti would be terminated and members of the Haitian military, including anyone who provides financial or military support for the military coup, would also be ineligible to receive a visa to enter the United States. This bill also freezes all assets of Members of the Haitian military in the United States.

I point out that is important because, as things stand, the current situation in Haiti is such that those who participated in the coup, those who support this military dictatorship, those part of the repression we see there, are able because of their financial means to travel freely from Haiti to other parts of the world, particularly the United States, and indeed have done so.

The specter of wealthy Haitians coming to the United States to shop while poor Haitians are starving and dying in the streets of that country is a specter I think, as Americans, we are automatically, revolted by and must seek to end.

But the United States cannot act alone. The isolation of Haiti's military regime must be an international effort. This legislation instructs our President to direct Ambassador Albright to assume a leadership role within the United Nations Security Council to ensure the international community imposes the same comprehensive sanctions as are suggested in this bill. If another country is not cooperating with these

efforts, the legislation ensures the United States will cut off all assistance including credits, loans, and grants to that country.

In addition to sanctions, our country, the United States, must take measures to alleviate the escalating human rights abuses in Haiti. We support the return of a full contingent of human rights observers under the auspices of the United Nations, or the Organization of American States. By their very presence these observers play, and will play, a vital role in protecting Haitian people from abuse because they will be the eyes and the ears of the international community.

This legislation will also reverse the current United States policy of returning Haitian migrants to that country without properly ascertaining their refugee status under internationally recognized standards and guidelines. The policy we are presently following is inhumane, it is morally wrong, and it violates the values that Americans hold dear.

We have not seen recently the specter of the boatloads of people being turned back, but the notion that people fleeing repression, trying to seek out democracy; the notion that refugees from a repressive, oppressive, military dictatorship such as we have in Haiti would be turned back on the open seas—in many instances to die there—is one that I and other Members who are supporting this legislation are not prepared to support by our silence. This legislation says the current policy of return, repatriating Haitian refugees, Haitian migrants, is wrong. We have to go forward and apply to them the same standards that are applied to immigrants and migrants from other parts of the world who are fleeing repression and human rights abuses.

Finally, this legislation would grant temporary protected status for Haitian immigrants already in the United States until democracy is restored to Haiti. Temporary protected status was written into the 1990 Immigration and Naturalization Act to provide temporary designation for migrants who need short-term relief in the United States due to war or upheaval in their home country. TPS allows the United States Government to react to the type of political upheaval that is currently affecting Haiti and its people. We should use this tool to allow Haitians to remain in the United States until it is safe for them to return to their own country.

I believe these actions are appropriate and necessary and, taken together, will work to achieve an end to military rule and a restoration of democracy.

Mr. President, I am therefore proud to join my colleagues in introducing this legislation to redirect United States policy toward Haiti. Our foreign policy has to have some meaning to it

in order for it to work over the short or the long term. Protection of human rights, particularly in this hemisphere, it seems to me, should be at the top of the list of the motivations of our foreign policy. To single out Haiti by our inaction, by a set of standards or set of approaches that flies in the face of the standards we have articulated for the rest of the world, seems to me not only to help undermine the situation there but also undermines the moral authority of our foreign policy. It undermines our capacity to intervene and to be an effective voice for democracy and for human rights in the rest of the world.

I strongly suggest that the current nonpolicy—and I call a nonpolicy the course that our administration has unfortunately followed with regard to Haiti—must end. This legislation hopes to put us on the right track to make certain our foreign policy in this regard comports with our values, comports with our stated policy, and that we are consistent in fighting and rebuffing human rights abuses, dictatorship, repression, and murder as it has been employed by the military dictatorship in Haiti.

We hope these efforts will bring about a return of democracy to Haiti and the restoration of the democratically elected President there, who was elected by a 2-to-1 margin, President Aristide.

Mr. FEINGOLD. Mr. President, I rise as an original cosponsor of the bill introduced by the Senator from Connecticut. [Mr. DODD]. This bill, the Haitian Restoration of Democracy Act of 1994, clearly states policy toward Haiti as supporting the restoration of democracy in Haiti and the return to office of Jean Bertrand Aristide, the duly elected President of Haiti. To implement that, this bill mandates tough sanctions against the Haitian military regime, and outlines a fair and humane policy on Haitian refugees seeking protection in the United States. I congratulate Senators DODD and HARKIN for their leadership on this pressing issue.

The disaster in Haiti demands our attention. Human rights abuses have reached crisis proportions. The military, which seized power illegally from the democratically-elected President, has instituted a reign of terror. Observer missions report that there have been more than 345 political murders since September 1993. Since the military took over, thousands of Haitians have disappeared, and been beaten, tortured, raped, and arrested. Human Rights Watch reports that bands of armed civilians have kidnapped, tortured, and murdered Aristide supporters, and the military regime has restricted basic freedoms by outlawing public support for Aristide and intimidating the press. The UN/OAS Civilian Mission revealed last week that rape is used by paramilitary forces to terrorize

women. Every attempt at reconciliation has been flagrantly violated by the generals.

Unfortunately, to date, United States policy toward Haiti has failed. In fact, the most observant characterization I have heard was from Dr. Harold Koh, a professor of international law at Yale University, who recently testified before the Senate Subcommittee on Western Hemisphere and Peace Corps Affairs that "watching the U.S. Government's Haitian policy unfold over the last 2 years has been like watching a slow-motion train wreck. \* \* \*". He is not alone in his assessment of U.S. policy. In fact, I find myself wondering what exactly is our policy toward Haiti.

Last month, the Senator from Connecticut, Senator DODD, chaired the hearing at which Dr. Koh made his analogy. In his opening remarks, Senator DODD said, "it is fair to say that a number of questions have been raised in recent months about the present direction of administration policy." I, too, feel that some questions need to be addressed, especially concerning the dilemma of the Haitian refugees, the feasibility of the sanctions currently in place against the Haitian Government, the role of the Central Intelligence Agency in trying to discredit President Aristide, and, most puzzling, the apparent willingness on the part of the administration to bargain with the Haitian military. This bill makes great strides in addressing these issues.

There are several interests at stake here for United States First, Haiti is in our backyard and, furthermore, is the poorest country in our hemisphere. Second, the United States pushed the Haitians to institute democracy, and thus, we have a responsibility to continue to support its transition—particularly when just 9 months after Aristide's inauguration, he was overthrown in a violent military coup. Third, the refugee flow created by the instability and oppression in Haiti lands on our shores: Given our involvement in the democratic movement there and our national ethic of protecting those fleeing persecution, we have an interest in supporting a Haiti in which its citizens can live freely and without the danger of persecution. Finally, as Senator HARKIN testified at the recent hearings, we should care about Haiti because "if we cannot support duly elected democratic governments of a nation just 800 miles from our shores, what kind of message will that send to other potential coup leaders considering the overthrow of other democratically-elected governments?" This is a question that deserves our serious consideration.

I fully support a policy which includes President Aristide as the central part of the solution—after all, he was elected in democratic elections with over 67 percent of his country's vote, a

solid, resounding block of support. We are not promoting democracy if we ignore democratically elected leaders. We want Haiti to become a democratic nation. And though it took the first steps, we find ourselves contemplating negotiating with a military regime which seized power, rather than trying to force the thugs out. This is not support for democracy—it is appeasement, and it should be reversed. This bill will reinforce our support of President Aristide and the cause of democracy in Haiti.

President Aristide's 6-year term will expire in 1996. Under the Haitian Constitution, he cannot run for reelection. The military is hoping they can stone-wall Aristide until his term has run out. It is incumbent upon supporters of democracy to show them that they cannot. In the Governors' Island Accord of July 1993, President Aristide made numerous concessions for the cause of democracy in his country which I believe were far more generous than necessary, such as granting the coup leaders amnesty upon his return and acquiescing in the lifting of sanctions against Haiti before his return. He also appointed a Prime Minister. However, the military forced out his Prime Minister, continues to assassinate his supporters, and has not held up any of its parts of the accord. We must do nothing less than force the military to live up to its part of the bargain.

Sadly, the military regime that is currently in power is not the only vicious, anti-democratic group the Haitians are forced to live with. The extremist right-wing paramilitary organization known as FRAPH (Haitian Front for Advancement and Progress) is also making its presence known through myriad illegal arrests, acts of torture and intimidation and murders of those who support democracy in general and Aristide in particular.

The group, which was founded in October 1993 to oppose Aristide's return under the Governor's Island Accord, is composed of former members of the police force and their supporters. Its members are reportedly loyal to Michel Francois, the current police chief. In most places, FRAPH works in concert with the military to impose terror on the Haitian people. Many members have official-looking ID cards which are signed by military officers.

FRAPH's agenda has four main points: First, they are committed to preventing Aristide's return to Haiti; second, they wish to eradicate completely democracy in the country; third, they wish to consolidate as an organization; fourth—and perhaps most worrisome to the international community—they wish to create an air of legitimacy that will allow them to legally assume power within the framework of the constitution, most likely through the 1996 elections.

The State Department seems to feel that FRAPH is not a threat. Its existence was not even mentioned in the State Department's annual Country Reports on Human Rights Practices for 1993. According to United States Special Advisor on Haiti Lawrence Pezzullo, FRAPH is merely "an invention of desperate people" which is "probably associated with death squads" and which will eventually cease to be an issue. The administration seems more interested in worrying about the future than concentrating on the tragic present. The fact is that FRAPH is a powerful force in Haiti and they do not plan to go away—they plan to run the country.

Another regret I have about United States policy, Mr. President, is the administration's initial backing of the so-called parliamentarian plan for Haiti, which I understand we are only partially retreating from now. Much of this plan is similar to the original United States-supported plan on Governors Island—with one glaring inconsistency: It does not provide a date certain for President Aristide's return to Haiti. Instead, it provides a means for the military to share power with a democratic President and to obtain complete amnesty for all crimes committed since the coup. In addition, this plan calls for Aristide to name again a Prime Minister—something he has already done once at great peril. It calls for the sanctions to be lifted and the resignation of General Cedras. Once the sanctions have been lifted, however, Cedras will have no incentive to resign and leave Haiti—as we saw with the initial attempt to implement the Governors Island Accord.

Another disturbing difference between the current plan and the Governors Island Accord is that the Parliamentarian's plan allows Francois—the same man who has led the reign of terror on the Haitian civilians—to remain in Haiti and retain a position within the same police department he is currently running—albeit at a lower level. By allowing Francois to stay, the plan almost certainly ensures that the military thugs and organizations like FRAPH will remain a political force and will not just go away as Mr. Pezzullo seems to think. Thus, this plan would keep Aristide's government under the thumb of the military and allow extremist groups such as FRAPH to continue their assault on the Haitian people. This is hardly a democracy worth U.S. support.

Aristide has flatly rejected the Parliamentarian's plan and is still determined to make the provisions of Governors Island work. One of the most meaningful provisions of the bill introduced today is that it will bring U.S. policy in line with Aristide's position, and conform it to the democratic values and commitment to human rights we champion. It will show President

Aristide that we, too, are committed to making Governors Island work. The text of the bill is crystal clear on that point: "No officer or employee of the United States shall attempt, directly or indirectly, to amend, reinterpret, or to amend, re-interpret, or nullify the Governors Island Agreement." Governors Island must be the framework from which we operate to return democracy to Haiti. Any diversion from its text must come from President Aristide or his advisors.

I had hopes that after a year of the Organization of American States and the United Nations dealing seriously with the military takeover in Haiti that there would have been progress. Unfortunately, there has been little, if any. Various sanctions have been in place on and off since the coup, but they have been implemented with little resolve, and as a result, there are enough holes that the very targets of these sanctions have the resources to circumvent them. Consequently, the sanctions are hurting the very ones we purport to want to help: The Haitian people.

The current sanctions, which were levied in October 1993, include an oil and arms embargo as well as a freeze on the visas and assets of military officers and their supporters. To date, the military has been able to get around these sanctions due to a porous border with the Dominican Republic and assistance from other sources who stand to profit by violating the embargoes. Sanctions levied against the military regime must be universal and constant and cannot be lifted until President Aristide has returned to Haiti—not a day or months before. Otherwise, the military will continue to evade the measures designed to force them out of power, and the people will continue to suffer.

Some controversy has arisen about what the nature of these new, tougher sanctions should be. Aristide is in favor of squeezing the military out of power via the harshest sanctions possible. That is, tightening the sanctions and making them truly effective. These sanctions must be enforced and must work quickly or, as Ms. Holly Burkhalter of Human Rights Watch points out, the people of Haiti may be subject to conditions which are in violation of the Geneva Convention on torture.

The bill introduced today, Mr. President, prescribes tough and thorough sanctions against the unselected, military rulers of Haiti. The bill calls for a full commercial trade embargo, including the suspension of all United States licenses in Haiti. Of course, humanitarian aid is exempt from this sanction. The bill also restricts United States air travel to and from Haiti, which is intended to isolate the military leaders—and their spouses—who take these flights. The bill also re-

quires the levying of sanctions by the United States, against any country which does not comply with the embargo against Haiti. The threat of these additional sanctions can be used to strengthen the blockade around Haiti. Further, this bill calls for a worldwide freeze on the visas and assets of the military officers and their supporters. This practice has been in place in the United States since October 1993, but in order to be truly effective, it must have worldwide support. Otherwise, this military and its supporters will continue to travel freely and obtain goods from those countries which choose to violate the sanction agreement.

This bill summons United States leadership at the United Nations to institute multinational, U.N.-mandated sanctions against Haiti to ensure that pressure on the military rulers comes from the international community as a whole, not just from the United States. These embargoes must be strictly enforced via aerial, naval, and border blockades in order to be effective. If these steps are followed, the sanctions would begin to be felt by the military instead of just the civilian population. The purpose of these measures is to increase the pressure on the military; this will happen if they are enforced and if there is international cooperation. The United States cannot do it alone.

In addition to the implementation of sanctions, this bill urges the President to take whatever steps necessary to support the admission of United Nations and/or Organization of American States human rights observers to Haiti. This bill calls upon the President to support an effective multinational border patrol to monitor the border between Haiti and the Dominican Republic to ensure that there are no leaks across the border. The purpose of these measures—and what the crux of United States policy should be—is to isolate and pressure the ruthless military regime in Haiti, and pave the way for the return of Haiti's elected President.

This bill also reaffirms the United States commitment to support multilateral socioeconomic and peacekeeping assistance to Haiti upon President Aristide's return.

Finally, one of most disturbing aspects of this crisis relates to the Haitian refugees. When I came to the Senate and was appointed to its Foreign Relations Committee 1 year ago, one of the first issues which confronted me was the admission of Haitian refugees into the United States. I agreed with President Clinton's campaign promise to show a more humanitarian and supportive attitude, and to assist those who were fleeing "a well-founded fear of persecution" in a repressive regime. Now, 1 year later, this humane policy has evaporated. Thousands of Haitians

still sail to our shores in the hope of escaping the oppressive government of their homeland only to be picked up by the United States military, at sea, and returned to Haiti and General Cedras. We say we want Haiti to be democratic, yet we—the country that is supposed to be the shining example of democracy—send them back to a military regime that tortures, starves, rapes, and even murders its own people.

This practice also demonstrates a glaring inconsistency in the refugee policy of the United States. The blanket rejection of Haitian refugees into this country smacks of racism, as the Congressional Black Caucus recently charged. Others, such as Russians and Cubans, are welcomed into this country with open arms while the Haitians are sent home.

Boats carrying hundreds of Haitian refugees are interdicted at sea by the United States Coast Guard before they ever reach United States waters and are sent back home without so much as an informal hearing to determine if they qualify for refugee status—that is, "fleeing a well-founded fear of persecution." According to one Defense Department official who spoke at the recent hearings, the Coast Guard "interdicted 16 Haitian vessels with 853 migrants during fiscal year 1994. During the month of February, a total of 345 immigrants were interdicted." This example illustrates what Dr. Koh referred to as America's don't ask policy regarding Haitian immigrants—they are turned away before we even ask them why they have come.

This bill will put an end to this outrageous practice. First of all, this bill will bring the United States in compliance with international law, and direct authorities to assess each refugee's situation individually to determine whether or not they qualify for asylum. At the same time, the bill requires the United States to refuse refugee status to any Haitian serving in or receiving support from the military or to anyone who has violated United Nations resolutions.

Instead of the current deplorable practice of automatic repatriation, Senator DODD's bill requires that Haitian refugees be granted temporary protected status by the United States Government. In the past, we have extended this status to refugees from countries such as Kuwait, Somalia, El Salvador, and Bosnia. This would allow these people a safe haven until democracy is restored in their country. They would be in our protection until President Aristide has been successfully returned to office and the military leaders have been removed.

Representative CARRIE MEEK has introduced a bill with similar provisions, the Haitian Refugee Fairness Act in the House, which currently has 65 cosponsors. According to Representative MEEK, this bill will "bring the treat-

ment of Haitian refugees by the United States Government into conformity with international law and make the treatment that Haitian refugees receive from the United States Government consistent with the treatment given to refugees from other nations."

Both these bills propose what is fair and what should have been done from the beginning. By sending Haitian refugees back to the oppressive government from which they are fleeing without first determining if there is significant risk to them in their own country is in violation of international law. We must act to correct this policy before we send thousands more Haitians back to perilous lives under tyrannical rule.

Another procedure that must be reformed is the current in-country processing that is used when Haitians want to leave their country. The Haitians must apply for asylum in the United States while they are still in Haiti and wait in Haiti to find out if their application has been approved. This process strips applicants of any protection, and intimidates them from supplying any kind of information to support their claim to asylum. Human Rights Watch has documented numerous instances of persecution in Haiti against those applying for asylum. Instead of helping refugees to flee their country, in-country processing exposes them to further abuse from the Haitian military.

During the 9 months President Aristide was in office, there was hardly a trickle of refugees leaving Haiti. Since the coup, there has been a flood. The United States is now seen as subscribing to a double standard—we don't want the Haitians to live under the oppressive military regime of Cedras and Francois, but we won't help them to escape it, either. This is wrong. Until President Aristide can be returned to power, we must find a better solution to help his people. We must not let the Haitians' support of and desire for democracy wane while we cater to the demands of the likes of General Cedras and Michel Francois.

In my estimation, the United States has been negotiating with the wrong side. We should be pressuring the military to accept President Aristide's terms and not the other way around. The time to act is now. Too many lives have been lost in the name of democracy in Haiti. We must not let them die in vain and we must not let democracy itself become the final casualty.

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

S. 2028. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes to create the U.S. Peace Tax Fund to receive such tax payments,

and for other purposes; to the Committee on Finance.

U.S. PEACE TAX FUND ACT

• Mr. HATFIELD. Mr. President, every year in April, Members of Congress receive letters from constituents who write to explain why they have not paid their taxes in full. These letters from sincere conscientious objectors share with us their moral or religious opposition to payment of taxes to the military. These people write Congress because they want to stop violating their consciences. They want Congress to enact the U.S. Peace Tax Fund.

I am introducing this legislation once again because I believe it is important. Our Nation has embraced the concept of conscientious objection for those who are called to serve in the Armed Forces. Yet Congress fails to provide relief to those Americans who cannot violate their consciences by paying military taxes. If we give the right of a person to withhold their body from military services, why is this principle not extend to those who seek to withhold their money?

Just a few days ago I read a news story about a woman in Denver, CO, who had her car seized, was forced to sell her house, and lost half her paycheck to the IRS, all because she is a conscientious objector who had refused to pay a portion of her taxes. When interviewed by the media, the woman called for enactment of this bill. Clearly, she wants to obey the law. She wants to pay her taxes in full.

By passing the Peace Tax Fund Act, we will not only end the hardship imposed upon qualified conscientious objectors, we will achieve this without any significant loss of revenue, according to the Joint Committee on Taxation. And as the ranking member of the Appropriations Committee, I would like to point out that the Peace Tax Fund Act does not improperly alter our congressional funding authority. The bill stipulates that a portion of the participants tax funds will be deposited into the Peace Tax Fund and then disbursed to four Federal programs: Head Start, WIC, the U.S. Institute of Peace, and the Peace Corps. The bill will not reduce the amount of funding for military activities.

I urge my colleagues to join us in addressing this glaring inequity by co-sponsoring the U.S. Peace Tax Fund Act.●

By Mr. BREAUX (for himself, Mr. CHAFEE, and Mr. JOHNSTON):

S. 2029. A bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters; to the Committee on Finance.

CORRECTING THE IMPLEMENTATION OF THE RECREATIONAL BOAT DIESEL FUEL TAX

• Mr. BREAUX. Mr. President, I rise today to introduce legislation to clar-

ify the implementation of a law that we adopted last year. One of the provisions included the 1993 Budget Reconciliation Act removed the exemption from payment of the diesel fuel tax that recreational boaters previously had.

At the same time, the 1993 Budget Act modified the collection point for all of the fuel taxes and imposed fuel dyeing requirements. The combination of these two changes have made the implementation of the fuel tax a disaster creating a situation where many recreational boaters cannot find any fuel to pay tax on.

Under the 1993 changes, fuel that is subject to taxation is clear and fuel that is exempt from taxation is dyed. The problem for boaters arises because most marinas have only one fuel tank, however, they provide fuel to both commercial boats and recreational boats. Commercial boat fuel is exempt from any tax and therefore commercial boat operators seek to purchase dyed fuel. Recreational boat fuel is taxable and recreational boaters want to purchase clear fuel. For those marina operators with only one fuel tank, they must decide if they will offer clear, taxable fuel for the recreational boaters or offer dyed tax exempt fuel for the commercial boaters. Most marina operators in my State of Louisiana, find that their primary customer base is commercial boaters and they are choosing to sell the dyed fuels. Thus, recreational boaters have no place to purchase the clear fuel.

Mr. President, this is a clear case of unintended consequences. The boaters want to pay the tax they simply cannot find the place to buy the fuel and pay the tax. My bill is very simple. It modifies the collection process for diesel boating fuel. Very simply, it allows marina operators to purchase dyed, exempt fuel and then collect the tax directly from recreational boaters and remit the tax to the Government directly.

Mr. President, I believe that this is a very simple solution to this very difficult problem. I urge the Senate act on this important issue as soon as possible.●

By Mr. ROTH (for himself, Mr. WALLOP, and Mr. PRESSLER):

S. 2030. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

SMALL BUSINESS INVESTMENT AND GROWTH ACT

Mr. ROTH. Mr. President, I rise to introduce this legislation to save small businesses from the dramatic tax increase in last year's budget reconciliation tax bill. That tax increase could be as much as 37 percent for these small businesses and they should be removed.

Just this morning, the National Association of Manufacturers [NAM] re-

leased a survey of their small manufacturing members. That survey includes this question: "As a result of the 1993 tax increase, and taking interest rates into account, how do you expect your investment and employment decisions to be affected in 1994?" The results, according to the survey, show a startling difference between small manufacturers that are subchapter S corporations and regular C corporations. Some 51.5 percent of sub S corporations said they would reduce investment, and 29.7 percent said they would reduce hiring new employees in 1994. Regular C corporations, which had a rate increase from 35 to 36 percent said only 21 percent would reduce investment and 17 percent would hire fewer workers. Clearly, the small businesses that had the biggest tax increase are going to cut back dramatically in their investments.

The NAM survey also asked what tax incentive would offer the most positive impact on growth and job creation. Subchapter S corporations agreed by over 65 percent that repealing the tax rate increase from 1993 would do the most for them. Clearly, small businesses would invest and hire more if the 1993 tax rate increase were repealed.

Indeed, American small business is the goose that lays the golden egg. The legislation I'm introducing today recognizes that. We have drafted this legislation so that this precious goose might be spared the debilitating and counter-productive income tax rate increases and the Medicare health insurance payroll tax increase from 1993. Does this legislation relieve small businesses from paying these higher tax rates under any circumstance? No. Rather, this legislation encourages small businesses, through tax relief, to keep their earnings in their business, to reinvest in new equipment and more jobs. If a small business does these things, then this legislation assures that they will not be subject to the punishing new tax rates Congress and the President imposed on them last year.

There's no question about it, Mr. President, these new tax rates are punishing successful small businesses—businesses that mean jobs and growth. Under the Clinton tax bill, small businesses with earnings as low as \$250,000 will have to pay marginal tax rates as high as 42.5 percent. That's an increase from the 1992 rate of 31 percent, and it approaches the level of taxes that these businesses had to pay when Jimmy Carter was President—a time of great suffering and stagflation for this country. In fact, when the additional burden of State and local taxes are added to these new tax rates, these small businesses will have to give more than half of their profits just to pay their tax collectors.

This, of course, means less money available for these businesses to hire

more employees, less money to grow, less money to invest, less money to compete and provide jobs and security for American families. We all know that these businesses are the backbone of our country's economic growth. In fact, firms with fewer than 20 employees have created an amazing 4.1 million net new jobs from 1988 to 1990, while large businesses had a net loss of 500,000 jobs. Our Nation's 20 million small businesses employ almost 56 percent of the private work force, contribute 44 percent of all sales, and are responsible for 47 percent of GNP. These businesses are expected to create 75 percent of the 43 million jobs needed over the next 25 years. That's a tall order. And I'm afraid it will be an impossible order if Congress doesn't act responsibly and loosen the tax chokehold it imposed last year.

They won't succeed with that goal if their taxes remain increased by 37 percent as they were last year, especially now that interest rates are higher than they've been in the last 2 years. Suddenly, for our small businesses, all the promises the President and his tax-hike proponents made last year—that increased taxes would bring down interest rates—are beginning to ring hollow. Now comes the pain, as these valiant small business men and women grapple not only with the President's record-setting tax increase, but with these increasing interest rates that have followed that tax increase.

And when I say small business men and women, I want to emphasize women. Today, women own more than 30 percent of all U.S. businesses—almost all of them small, and women will own 50 percent of the Nation's small businesses by the 21st century. The legislation I introduce today is certainly good fiscal policy for them. Likewise, it will benefit America's minorities—men and women whose businesses generate \$60 billion in gross receipts annually, men and women whose businesses provide almost a million jobs to working Americans.

This legislation is equitable. It resolves a gaping injustice now created by the Clinton tax increase. On several occasions, I have come to this floor to explain that the Clinton taxes raise rates on small businesses from 31 percent to 42.5 percent if they have profits of \$250,000 or more, but the largest corporations in the world, making \$250 million in profits will only pay a maximum rate of 35 percent. I have explained how big corporations now get a lower tax rate than, say, a small family restaurant supporting 20 employees on the Rehoboth, DE boardwalk. Is this the tax equity President Clinton promised?

You hear the President talk about the "rich" paying more, and "fairness"—but here you have small family businesses paying tax rates of more than 21 percent more than the biggest

corporations in America. Thus, under current law, small family businesses, farmers, restaurants, manufacturers, and others pay tax rates that are 21 percent higher rates than the largest corporations in America, including foreign corporations.

Some have argued that the income tax rates of a small business should not be compared to the income tax rates of a corporation based on the fact that corporations have to pay taxes twice—once at the corporate level, and a second time when they pay dividends to the shareholders. Small businesses, by comparison, only pay one level of tax, at the owner's level.

However, our legislation is designed to treat the same kind of retained corporate earnings of small businesses and large businesses in a fair manner. This is because only profits that are left in the small business for reinvestment qualify for the lower rate of 31 percent rate in our legislation. When major corporations do the same thing, they are taxed only once at a maximum rate of 35 percent. If small businesses do the very same thing, they have to pay as much as 42.5 percent or more, even when they want to reinvest the money back into the business—under the Clinton tax hike.

Let me explain a few things about this legislation. First, in order for a small business' income to qualify for the reduced tax rate in our legislation, the income must come from the active conduct of a trade or business in which the taxpayer is a material participant. This means that the taxpayer must actually work in that business. There is no loophole here for investors, or those who do not spend a significant amount of time working in that business. This requirement means that the true entrepreneur will gain the benefit of this legislation, and not some taxpayer taking advantage of a loophole.

Second, the small business income can not exceed the earnings from self-employment income. This excludes income from things like the renting of real estate or capital gains from the sale of business assets. We intend that the legislation will not benefit a business' profits unless the profits come from the active participation in that business, and not indirect profits from other sources.

Finally, the small business income must be retained in the business in a qualified retained earnings account. Under this rule, if a business simply accumulates money and invests it then the investment income from that savings would not be eligible for the lower rates.

A small business will be able to make distributions from this retained earnings account in order to make an investment in itself, or to pay its tax liability. But, if a small business makes a distribution to its owners, or does not spend the money in its retained earn-

ings account to invest in itself, or provide jobs, then an excise tax will apply so that the owners are subject to the maximum tax rate. So, this legislation does what it is suppose to do. It requires a small business to accumulate its earnings and invest in itself if it wants to take advantage of the lower tax rates—the tax rates that before Bill Clinton became President were 31 percent.

Last year, during debate on the budget and tax bill, I offered this legislation as an amendment and gained 56 votes in favor of it. I hope that those 56 Senators will join us by sponsoring it with me.

I would ask that this statement, two summaries of the legislation, a table on tax rates, a letter from the National Federation of Independent Business, a statement by Senator WALLOP, a statement by Senator PRESSLER, and a copy of the bill be included in the RECORD in full.

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Investment and Growth Act".

#### SEC. 2. MAXIMUM SMALL BUSINESS TAX RATE.

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(1) MAXIMUM SMALL BUSINESS TAX RATE.—(i) IN GENERAL.—Except as provided in paragraph (4), if a taxpayer has taxable small business income for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of taxable small business income, or

"(ii) the amount of taxable income taxed at a rate below 31 percent, plus

"(B) a tax of 31 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) TAXABLE SMALL BUSINESS INCOME.—For purposes of this subsection, the term 'taxable small business income' means, with respect to any taxable year, the least of—

"(A) the taxable income of the taxpayer for such year attributable to the active conduct of any trade or business of an eligible small business in which the taxpayer materially participates (within the meaning of section 469(h) (other than paragraph (4))),

"(B) the net earnings from self-employment (within the meaning of section 1402(a), applied without dollar limitation) of the taxpayer for such year attributable to the active conduct of such trade or business, or

"(C) the taxpayer's share of additions for such taxable year to the qualified retained earnings account of such trade or business.

For purposes of determining net earnings from self-employment under subparagraph (B), an S corporation shall be treated as if it were a partnership.

"(3) QUALIFIED RETAINED EARNINGS ACCOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified retained earnings account' means an account established by a trade or business—

"(i) which is designated as a qualified retained earnings account for purposes of this subsection,

"(ii) additions to which may only be made in cash,

"(iii) distributions from which may only consist of qualified distributions, and

"(iv) any earnings on which are not allocated to the account.

"(B) QUALIFIED DISTRIBUTIONS.—For purposes of subparagraph (A), distributions from a qualified retained earnings account shall be treated as qualified distributions if used—

"(i) to pay ordinary and necessary expenses paid or incurred in carrying on the trade or business of the eligible small business to which the account relates, or

"(ii) to pay the tax imposed under this subtitle on amounts in the account.

"(4) ADDITIONAL TAX ON NONQUALIFIED DISTRIBUTIONS.—

"(A) IN GENERAL.—If—

"(i) a distribution other than a qualified distribution is made from a qualified retained earnings account, and

"(ii) such distribution is made from additions to the account for a taxable year with respect to which paragraph (1) applied to the taxpayer by reason of such additions,

then the tax imposed by this section for the taxable year of the taxpayer with or within which the taxable year of the eligible small business in which the distribution was made ends shall be increased by the amount determined under subparagraph (B).

"(B) AMOUNT OF ADDITIONAL TAX.—The amount of tax determined under this subparagraph is an amount equal to the sum of—

"(i) the product of the taxpayer's pro rata share of the distribution described in subparagraph (A)(i) and the number of percentage points (and fractions thereof) by which the highest rate of tax in effect under this section for the taxpayer's taxable year exceeds 31 percent, plus

"(ii) the product of—

"(I) the amount by which the taxpayer's pro rata share of such distribution, when added to the taxpayer's pro rata share of previous distributions from additions to the account for the same taxable year, exceeds \$135,000, and

"(II) the rate of tax imposed by section 1401(b) for the taxpayer's taxable year.

"(C) ORDER OF DISTRIBUTIONS.—For purposes of this paragraph, distributions shall be treated as having been made from the qualified retained earnings account on a first-in, first-out basis.

"(D) TREATMENT OF HEALTH INSURANCE TAX.—For purposes of this title, the tax described in subparagraph (B)(ii) shall be treated as if it were a tax imposed by section 1401(b).

"(5) ELIGIBLE SMALL BUSINESS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, a sole proprietorship, partnership, or S corporation which is a small business concern (within the meaning of section 3(a) of the Small Business Act) as of the beginning of the taxable year.

"(B) ELECTION TO USE 3 PRECEDING YEARS.—If the determination under subparagraph (A) is made on the basis of number of employees or gross receipts, the taxpayer may elect to have the determination made on the basis of the average number of employees or the average gross receipts of the taxpayer for the 3 taxable years preceding the taxable year.

"(6) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any taxable

year if the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) (whichever applies) for the taxable year exceeds 31 percent.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations preventing the characterization of distributions for purposes of compensation or personal use as qualified distributions under paragraph (3)(B)(i)."

(b) CERTAIN TAXABLE SMALL BUSINESS INCOME NOT SUBJECT TO HI TAX.—Section 3121(a) (defining wages) is amended—

(i) by striking "or" at the end of paragraph (20),

(ii) by striking the period at the end of paragraph (21) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(22) the portion of any taxable small business income (as defined in section 1(i)) properly allocable to the calendar year which is in excess of \$135,000."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

#### ROTH-WALLOP-PRESSLER SMALL BUSINESS INVESTMENT AND GROWTH ACT

The President's tax package in 1993 forces small businesses to pay tax rates at higher levels than our nation's largest corporations. It discourages small businesses from investing in themselves. By allowing businesses to continue paying at the 1992 tax rate of 31 percent for all active trade or business income retained or reinvested, this legislation will help small businesses expand, modernize and create jobs.

#### PURPOSE

The Roth-Wallopp-Pressler bill exempts active trade or business income reinvested or retained in a small business or family farm from the increased individual tax rates and the unlimited Medicare hospital insurance (H.I.) wage tax enacted in 1993. Taxing small businesses at these high rates will severely reduce their ability to act as our engine of job creation. Small businesses that are hiring the most new employees, growing the fastest and investing more are punished the most, while larger corporations making the very same investments are taxed at significantly lower tax rates.

#### WHO QUALIFIES

Businesses organized as sole proprietorships, Subchapter S corporations and partnerships who qualify as "small businesses" under the Small Business Administration's definition will qualify.

#### WHAT THE LEGISLATION WOULD DO

Profits that remain in a business or farm would continue to be taxed at the 1992 31 percent rate rather than the new 36 and 39.6 percent rates. The reinvested profits would also be exempt from the 2.9 percent unlimited self employment H.I. tax increase imposed in 1993.

This legislation would not change the tax rates on wages for business owners or partners. Only properly retained or invested earnings of the business, invested in ordinary and necessary business expenses would receive favorable tax treatment.

This legislation would require that these lower rates only apply to active income. In other words, passive income or portfolio income would be taxed at the new, higher rates, while profits that remained in the business would be subject to the 1992 lower tax rates. Interest earnings or other cor-

porate dividends, for example, would not benefit from the lower tax rates.

#### EXAMPLE

Assume a dairy farmer has \$275,000 of taxable income. If the business owner takes out wages of \$90,000 then those wages would be taxed at the applicable tax rate, but if \$150,000 is spent on a new milk processing system and then \$35,000 is kept in a "retained" account for future use and to pay tax liabilities then that business income would be taxed at the 31 percent rate.

#### REASONS TO SUPPORT THE ROTH-WALLOP-PRESSLER SMALL BUSINESS INVESTMENT AND GROWTH ACT

Eight out of ten small businesses pay taxes as individuals, rather than as corporations—that's 21 million small businesses nationwide.

Raising individual tax rates to "tax the rich" has directly impacted small businesses and family farms. A new survey by the National Association of Manufacturers (NAM) states that more than half of the Subchapter S businesses polled expect to decrease their investment as a result of the 1993 tax increase, while three in ten expect the new tax to hold down employment. The Clinton tax plan punishes the very people we need to get our economy moving.

A great majority of the so-called "wealthy" under last year's tax plan are small businesses—sole proprietorships, Subchapter S corporations, partnerships and family farms.

#### THE FACTS

##### Individual tax rate:

36 percent—passed as part of the Budget Act of 1993 (OBRA).

31 percent—1992 rate and retained earnings rate in SBIG Act of 1994.

##### Additional Burdens from OBRA of 1993:

2.9 percent—Medicare self employment H.I. tax.

10 percent—"Millionaire" surtax over \$250,000 "Pep" and "Pease" and the "transportation tax."

##### Corporate tax rate:

35 percent—Passed as part of OBRA of 1993 for corporations making \$10 million or more.

34 percent—1992 rate and actual rate for C corps. making under \$10 million in taxable income.

1. According to the U.S. Treasury Department, 67 percent of the revenue paid by the top two percent of taxpayers is paid by small businesses and family farms.

2. Fifty-two percent of those making over \$100,000 are small businesses—and 66 percent of those making over \$200,000 are small businesses.

3. Critics of this legislation will say the answer is simple; get small businesses to incorporate. Incorporation is neither simple nor inexpensive; it requires complex legal and financial documents prepared by lawyers and accountants. Additionally, there are questions about Boards of Directors, annual meetings, the effects of double taxation and numerous other issues.

4. Critics will also argue that small businesses have the advantage of paying only one level of tax, because there is no corporate level of tax on profits. But major corporations, too, only pay one level of tax on the same kind of income in this legislation (i.e. reinvested profits of the business!)

5. Between 1988 and 1990, small businesses created 4.1 million jobs and big business lost 500,000 jobs. But regardless of this proven record, last year's budget deal clearly favored large businesses as a matter of tax policy.

#### TAX RATES ON RETAINED BUSINESS PROFITS

[In percent]

	Current tax rate	Roth-Wallop-Pressler tax rate
Family farm earning \$150,000 .....	38.9	31
Family run restaurant earning \$250,000 .....	42.5	31
Small manufacturer earning \$300,000 .....	42.5	31
Big corporations earning \$250 million .....	35	35

#### NATIONAL FEDERATION OF INDEPENDENT BUSINESS, Washington, DC, April 19, 1994.

Hon. WILLIAM V. ROTH, Jr.,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR ROTH: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I am writing to support your legislation to repeal the tax rate increases as they apply to small businesses, which were signed into law in the 1993 Omnibus Budget Reconciliation Act. As the nation's largest small business advocacy organization, we supported this legislation when you, Senator Wallop and Senator Pressler offered it as an amendment to the 1993 budget and are pleased to offer our endorsement once again.

The law, as currently written, punishes small businesses and family farms organized as sole proprietorships, Subchapter S corporations, and partnerships with a tax rate higher than that of America's largest corporations. Most small business growth is financed by profits reinvested in the business.

Your legislation will encourage America's entrepreneurs to reinvest their profits into their businesses—allowing businesses to expand and create more jobs. Reinvested or retained business earnings will then be taxed at the 1992 maximum tax rate of 31 percent, provided the earnings resulted from an active trade or business. Profits that do not remain in the business, or are later distributed, will be subject to the new higher tax rates.

Over 84 percent of small business owners opposed the 1993 budget act because they thought it was damaging to business. Small businesses strongly believe that the deficit will not be reduced until the federal government makes tough decisions on cutting spending. In their opinion, raising taxes only allows the government to delay these tough decisions.

Again, thank you for your support of small business. I look forward to working with you.

Sincerely,

JOHN MOTLEY III,

Vice President,

Federal Governmental Relations.

Mr. WALLOP. Mr. President, on April 15, many small businesses were painfully reminded of the 1993 Clinton tax hike. Sole proprietors, partnerships, and subchapter S corporations found themselves subject to tax rates of 36 percent and 39.6 percent and the 2.9 percent unlimited self-employment health insurance tax.

During debate on the tax bill last year, and even now, we see the administration trying to justify and downplay the negative impact that these increased individual taxes will have on small business. In fact, on April 16, Treasury Secretary Bentsen spent time on CNN's "Evans & Novak" rejecting claims that the higher tax rates caused

the recent losses in the bond and stock markets. He also rejected out of hand a comment by Alan Reynolds in the Wall Street Journal, April 12, 1993, that 2 percent of households will pay higher rates—instead of the 1.2 percent President Clinton was so quick to tout.

But no matter what the administration says, small business knows different. Over 80 percent of businesses in America are unincorporated. This year alone, almost 1 million small businesses will be exposed to these higher rates.

Last year during debate on the tax bill Republicans predicted that the increased individual tax rates would directly impact the ability of small business to expand and to hire new employees. We were right. These new taxes are stifling investment and job creation. Today, the National Association of Manufacturers announced that more than 50 percent of the subchapter S firms polled expected their investment to decline—and they directly attributed this decline to the increased tax rates. Three in ten firms polled expected to hold down hiring.

Last year, Bill Clinton and the Democrats painted a rosy economic scenario. They promised that the largest tax increase in history would lead to low interest rates and greater economic growth. Instead, we now have high tax rates and the highest interest rates in 2 years. And small business will pay the price. Higher taxes, more regulations, and health care are all combining to drain the resources of small businesses. The administration has continually forgotten that prosperous small businesses are the engines of growth in this economy and that the higher taxes confiscate the very investment income necessary to grow this economy.

That is why I have sponsored this bill with Senators ROTH and PRESSLER. Under our bill, sole proprietors, partnerships, and subchapter S corporations that reinvest or retain their active trade or business income will only be taxed at last year's rate of 31 percent instead of the new higher tax rates. Profits that are not retained or are later distributed will continue to be subject to the current tax rates. Only small businesses that meet the Small Business Administration's definition of small business will qualify for the reduced tax rates.

This is a good bill. It will encourage job creation and economic growth by reducing—not increasing—taxes on small businesses. It will allow small businesses and family farms and ranches to expand, modernize, and create jobs. Instead of placing more burdens on employers, this bill will lift those burdens. I urge my colleagues to cosponsor this legislation and keep this economy on track.

Mr. PRESSLER. Mr. President, I rise today, both as an original sponsor of

this bill and as the ranking member of the Small Business Committee, to urge adoption of this important measure. This legislation, the Small Business Investment and Growth Act, is critical to the success of small business and job creation in our country.

Nearly a year ago, I joined with Senator ROTH and Senator WALLOP in sponsoring an identical piece of legislation in the form of an amendment to the budget resolution. Despite significant bipartisan support, the amendment was defeated narrowly.

The Clinton administration claims to be a friend of small business, but what kind of a friend imposes a staggering tax hike on our Nation's foremost job creator? Small businesses are suffering the effects of the President's 1993 Budget Reconciliation Act. Since the passage of this budget, some small businesses have been forced to pay taxes at a higher rate than America's largest corporations.

Mighty percent of businesses in this country pay taxes as individuals, not corporations. They are sole proprietorships, Subchapter S corporations, and partnerships. This means the profits from their businesses are taxed at the individual rather than the corporate rate. Thus, a great majority of the so-called wealthy targeted for increased taxes under the President's 1993 budget actually were small business owners who do not take home all the wealth on which they are now paying higher taxes.

The top income tax rate for these entrepreneurs increased from 31 percent to an effective rate of nearly 45 percent, after adding up the impact of the two new brackets, an unlimited Medicare tax, and the phasing out of various deductions. All of this comes in addition to asking America's entrepreneurs to pay the lion's share of the cost of mandated health care.

By increasing the top effective small business tax rate, the President's plan punished the very people we have consistently counted on to keep the economy moving. As a matter of fact, 52 percent of those making over \$100,000 are small businesses—and 66 percent of those making over \$200,000 are small businesses.

As a result of President Clinton's tax increases and new Government mandates, small business optimism has weakened in this past year. Businesses are afraid of higher taxes and all that comes with them—lower profits, increased Government mandates and an overpowering regulatory environment. Mr. President, Congress is doing nothing to inspire confidence among America's small business women and men.

By repealing the damaging tax hike of 1993, we would restore the concept of tax fairness to a system currently plagued by unfairness. Corporations with taxable incomes of \$250 million now are taxed at a rate of 35 percent—

up from 34 percent. At what rate is a small business earning \$250,000 currently taxed? Almost 45 percent—up from 31 percent. Does this sound fair to you?

Our bill would repeal the tax rate increases as they apply to small businesses, passed into law as part of the 1993 Budget Reconciliation Act. However, it will apply only to active trade or business income retained or reinvested in a small business or family farm. This bill will help small businesses expand, modernize and create jobs.

Opponents of this bill will tell you the legislation will be a tax break for the wealthy. This is one of the oldest and most overused arguments in the Senate—and it simply is not true.

Our bill was carefully crafted. Not all income is exempt. Let me repeat, only those profits that are reinvested or retained in the business or farm will be taxed at the 1992 maximum tax rate of 31 percent, rather than the 36- and 39.6-percent rates that recently went into effect. Those profits also would be exempt from the 2.9 percent self-employment hospital insurance tax.

This bill would not change the tax rate on wages for business owners or partners. In other words, profits removed from the business would be subject to the new tax rates. Thus, no fat cat law firm partners or investment bankers would get a reduced rate on the income they take home as some have argued.

The President and certain Members of Congress do not seem to grasp the simple proposition that small businesses respond to incentives and disincentives. Additional taxes and more government intervention represent serious disincentives. Our Tax Code should encourage small businesses to start up, expand and create jobs; currently, it does just the opposite.

Mr. President, this bill has nothing to do with tax breaks for the wealthy. It has everything to do with rewarding, not punishing, the small business owners who properly retain or reinvest their profits.

Now, more than ever, small business owners need a friend—the kind of friend who will allow and encourage them to expand and create jobs. By enacting this legislation, Congress can provide entrepreneurs the kind of incentives they need desperately.

I urge all of my colleagues to look beyond the rhetoric to the facts. If they do, they quickly will understand the benefits of the approach taken by this bill and support its passage.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. INOUE, Mr. COCHRAN, and Mr. DURENBERGER):

S. 2031. A bill to amend the Merchant Marine Act, 1936, to prohibit the imposition of additional charges or fees for

attendance at the U.S. Merchant Marine Academy, and to express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy, and the U.S. Coast Guard Academy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MERCHANT MARINE ACADEMY REFORM ACT OF 1994

Mr. D'AMATO. Mr. President, I rise today to offer legislation to save the U.S. Merchant Marine Academy, and protect the other national service academies—the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy, and the U.S. Coast Guard Academy.

The legislation I am introducing would prohibit charging tuition for attendance at the U.S. Merchant Marine Academy at King's Point, and express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the other national service academies. Charging tuition will jeopardize the academies. When educational costs increase, the more affluent and not necessarily the most able participate in higher education programs. With respect to the Merchant Marine Academy, news about possibly charging tuition already has had a negative impact for the class entering in 1994—applications for admission dropped 25 percent from last year. Charging tuition would be devastating to the ability of the Academy to recruit top prospects. One of King's Point's best assets, its ethnic, racial, economic, geographic, and gender diversity would be lost.

The academies educate qualified young men and women for service to their country. The training these men and women receive, both in the classroom and during their summer seafaring obligations outside of the classroom, prepares them to be leaders unlike any other program at any other institution of higher learning. Graduates are prepared to serve the United States in times of peace, war, and national emergency.

Mr. President, this legislation will send a clear message to the shipping industry of the United States that Congress stands ready to support this vital industry. The U.S. Merchant Marine Academy has a long history of providing the shipping industry with leaders to serve on board its vessels. If the United States is to remain a strong competitor in international commerce, we must support a strong merchant marine. The Academy at Kings Point is one of the best ways I know to ensure America's dominance on the high seas.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 2031

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 "Merchant Marine Academy Reform Act of 1994".

## SEC. 2. PROHIBITION OF IMPOSITION OF ADDITIONAL CHARGES OR FEES FOR NATIONAL DEFENSE ACADEMY ATTENDANCE.

Section 1303 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b) is amended by adding at the end the following new subsection:

"(j) PROHIBITION ON FEES AND CHARGES FOR ATTENDANCE BY UNITED STATES CITIZENS AT THE MERCHANT MARINE ACADEMY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no tuition or charge for room or board may be imposed in connection with attendance at the Merchant Marine Academy by an individual selected for attendance pursuant to subsection (b).

"(2) EXCEPTION.—The prohibition specified in paragraph (1) shall not apply with respect to any item or service provided to midshipmen at the Merchant Marine Academy for which a charge is imposed on the date of enactment of the Merchant Marine Academy Reform Act of 1994.

"(3) CHANGE IN APPLICABLE FEE.—The Secretary of Transportation shall notify Congress of any change made in the amount of a charge exempted by paragraph (2) from the prohibition in paragraph (1)."

## SEC. 3. SENSE OF SENATE.

It is the sense of the Senate that no charges or fees should be imposed for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the United States Coast Guard Academy.

## ADDITIONAL COSPONSORS

S. 530

At the request of Mr. MITCHELL, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 530, a bill to amend the Harmonized Tariff Schedule of the United States to clarify that certain footwear assembled in beneficiary countries is excluded from duty-free treatment.

S. 915

At the request of Mr. BAUCUS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 915, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment.

S. 984

At the request of Mr. SIMON, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 984, a bill to prevent abuses of electronic monitoring in the workplace, and for other purposes.

S. 1063

At the request of Mr. HATCH, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1485

At the request of Mr. DECONCINI, the name of the Senator from South Caro-

lina [Mr. THURMOND] was added as a cosponsor of S. 1485, a bill to extend certain satellite carrier compulsory licenses, and for other purposes.

S. 1539

At the request of Mr. INOUE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1539, a bill to require the Secretary of the Treasury to mint coins in commemoration of Franklin Delano Roosevelt on the occasion of the 50th anniversary of the death of President Roosevelt.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow home-makers to get a full IRA deduction.

S. 1690

At the request of Mr. PRYOR, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1690, a bill to amend the Internal Revenue Code of 1986 to reform the rules regarding subchapter S corporations.

S. 1715

At the request of Mrs. HUTCHISON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

S. 1822

At the request of Mr. HOLLINGS, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1822, a bill to foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 1839

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1839, a bill to authorize the study of the equity of Forest Service regional funding allocations, and for other purposes.

S. 1852

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 1852, a bill to amend the Head Start Act to extend authorizations of appropriations for programs under that Act, to strengthen provisions designed to provide quality assurance and improvement, to provide for orderly and appropriate expansion of such programs, and for other purposes.

S. 1920

At the request of Mr. DOMENICI, the name of the Senator from Mississippi

[Mr. COCHRAN] was added as a cosponsor of S. 1920, a bill to amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") to ensure the safety of public water systems, and for other purposes.

S. 1928

At the request of Mr. WELLSTONE, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1928, a bill to require the availability of adequate waste emplacement capacity for the future licensing of construction and operation of nuclear utilization facilities, and for other purposes.

S. 1942

At the request of Mr. MITCHELL, his name was added as a cosponsor of S. 1942, a bill to authorize appropriations for the local rail freight assistance program.

S. 1943

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1943, a bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes.

S. 1997

At the request of Mrs. FEINSTEIN, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Texas [Mrs. HUTCHISON], the Senator from Nevada [Mr. REID], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1997, a bill to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States.

S. 2000

At the request of Mr. KENNEDY, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Maryland [Ms. MIKULSKI], the Senator from Hawaii [Mr. INOUE], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 2000, a bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes.

SENATE JOINT RESOLUTION 169

At the request of Mr. WARNER, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Joint Resolution 169, a joint resolution to designate July 27 of each year as "National Korean War Veterans Armistice Day."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the names of the Senator from Alabama [Mr. SHELBY], the Senator from New Mexico [Mr. BINGAMAN], the Senator from California [Mrs. FEINSTEIN], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate

Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

SENATE JOINT RESOLUTION 174

At the request of Mr. BIDEN, the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Alabama [Mr. HEFLIN], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 174, a joint resolution designating April 24 through April 30, 1994 as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 175

At the request of Mr. MCCAIN, the names of the Senator from Missouri [Mr. BOND], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Delaware [Mr. ROTH], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 175, a joint resolution to designate the week beginning June 13, 1994, as "National Parkinson Disease Awareness Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. PRYOR, the names of the Senator from Maine [Mr. COHEN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Arizona [Mr. MCCAIN], the Senator from Tennessee [Mr. SASSER], the Senator from Tennessee [Mr. MATHEWS], the Senator from Louisiana [Mr. BREAUX], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Nevada [Mr. BRYAN], the Senator from Nevada [Mr. REID], the Senator from Alabama [Mr. SHELBY], the Senator from Alabama [Mr. HEFLIN], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate the month of May 1994 as "Older Americans Month."

SENATE JOINT RESOLUTION 179

At the request of Mr. DOLE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 179, a joint resolution to designate the week of June 12 through 19, 1994, as "National Men's Health Week".

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. D'AMATO, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Concurrent Resolution 45, a concurrent resolution relating to the Republic of China on Taiwan's participation in the United Nations.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. GRAMM, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Ohio [Mr. METZENBAUM], the Senator from South Dakota [Mr. DASCHLE], the Senator from Colorado [Mr. BROWN], the Senator from Wisconsin [Mr. KOHL], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE RESOLUTION 185

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Resolution 185, a resolution to congratulate Phil Rizutto on his induction into the Baseball Hall of Fame.

SENATE RESOLUTION 195

At the request of Mr. SPECTER, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Resolution 195, a resolution expressing the sense of the Senate that the President currently has authority under the Constitution to veto individual items of authority without awaiting the enactment of additional authorization.

SENATE RESOLUTION 200—NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 200

*Resolved*, That the House of Representatives be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

SENATE RESOLUTION 201—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 201

*Resolved*, That the President of the United States be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

SENATE RESOLUTION 202—NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A SERGEANT AT ARMS AND A DOORKEEPER

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 202

*Resolved*, That the House of Representatives be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

SENATE RESOLUTION 203—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A SERGEANT AT ARMS AND A DOORKEEPER

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 203

*Resolved*, That the President of the United States be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

SENATE RESOLUTION 204—RELATING TO THE RETIREMENT OF WALTER J. STEWART, SECRETARY OF THE U.S. SENATE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 204

Whereas the Senate has been advised of the retirement of its Secretary, Walter J. Stewart, on April 14, 1994; and

Whereas Walter J. Stewart has served the Senate with distinction for 38 years, the last seven of which were as Secretary of the Senate: Now, therefore be it.

*Resolved*, That, effective April 15, 1994, as a token of the appreciation of the Senate for his long faithful service, Walter J. Stewart is hereby designated as Secretary Emeritus of the United States Senate.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an Oversight Hearing on Wednesday, April 20, 1994, beginning at 9:30 a.m., in 216 Hart Senate Office Building on the regulation of gaming.

Those wishing addition information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on Thursday, May 5, 1994, beginning at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on two bills currently pending before the subcommittee. The bills are:

S. 471, to establish a new area study process for proposed additions to the National Parks System, and for other purposes; and,

S. 528, to provide for the transfer of certain U.S. Forest Service lands located in Lincoln County, MT, to Lincoln County in the State of Montana.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks at (202) 224-9863, or Sue McGill at (202) 224-2366.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BRADLEY. Mr. President, I would like to announce for my colleagues and the public that an oversight hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the potential role of Federal reclamation projects in meeting the water supply needs of the Colonias in Texas.

The hearing will take place on Tuesday, May 10, 1994 at 2:30 p.m. in room 366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Palmer.

For further information, please contact Dana Sebren Cooper, counsel for the subcommittee at (202) 224-4531, or Leslie Palmer, (202) 224-6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., April 19, 1994, to receive testimony on the recent failure of a natural gas pipeline in New Jersey and current policies regarding pipeline rights of way in congested urban areas.

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

COMMITTEE ON FINANCE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, April 19, 1994, at 10 a.m., to hear testimony on the subjects of long-term care and drug benefits under health care reform, and to hear testimony from Senator WILLIAM COHEN on health care reform.

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

COMMITTEE ON THE JUDICIARY

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, April 19, 1994 at 10 a.m. to hold a hearing on "medicines in drug abuse: reviewing the strategy."

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 19, 1994, at 4 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practices of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, April 19, 1994, at 10:15 a.m., to hold a hearing on "the Bayh-Dole Act: A review of patent issues in federally funded research".

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

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet for a hearing on ESEA reauthorization, during the session of the Senate on April 19, 1994, at 10 a.m.

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

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet for a hearing on the Role of Libraries in the Information Infrastructure, during the session of the Senate on April 19, 1994, at 10 a.m.

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

SUBCOMMITTEE ON LABOR

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Labor be authorized to meet for a hearing on Age Discrimination and Public Safety Officers, during the session of the Senate on April 19, 1994, at 9:30 a.m.

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

SUBCOMMITTEE ON REGIONAL DEFENSE AND CONTINGENCY FORCES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Sub-

committee on Regional Defense and Contingency Forces of the Committee on Armed Services be authorized to meet on Tuesday, April 19, 1994, at 11 a.m., in open session, to receive testimony on C-17 settlement and strategic mobility issues in review of the Defense authorization request for fiscal year 1995 and the future years Defense program.

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

ADDITIONAL STATEMENTS

NEW ZEALAND'S ECONOMY

● Mr. GRASSLEY. Mr. President, I commend to my colleagues for their reading two pieces regarding New Zealand's economy. We can do well by learning from New Zealand's economy, which over the past few years has successfully reduced the Government's deficit, lowered taxes, deregulated industry, and opened New Zealand markets to trade.

The people of New Zealand are now realizing the benefits of these decisions through solid economic growth and greater competitiveness.

The first piece is a speech by my good friend His Excellency Denis B.G. McLean, Ambassador from New Zealand. I first became acquainted with Ambassador McLean and his wife Anne when they toured Iowa with me last year. I am sorry to say that Ambassador McLean will be leaving his post this May. His fine work has gone far in strengthening United States-New Zealand ties. His departure is a loss to both countries.

The second, is an article by John McMillan, professor at the University of California, San Diego. I believe my colleagues will find it well worth their time to read these two pieces.

The material follows:

PARADISE RESTRUCTURED: A CAUTIONARY TALE

(By Ambassador Denis B.G. McLean)

John Milton wrote of losing and regaining paradise. The New Zealanders have had more or less the same thing in mind as they have turned their paradise inside-out.

New Zealand is known around the world for its great natural beauty. But New Zealand these days is much more than a pretty place. It has become a work-out centre for radical new ideas how best to get fit for the tough economic competition out there. A quiet social welfare society has been put on a rigorous regime so that the country can be up there with the winners in the vigorous Asian-Pacific world.

Once upon a time all New Zealanders had jobs, there was modest prosperity all round, the material things of life were well distributed, nobody was too rich and nobody too poor. The country did well on the back of an efficient farming industry with guaranteed markets on the other side of the world in Britain.

What happened next is in many ways a familiar story. Expenditure on social welfare

and other well-meaning programmes together with grand public sector projects mounted—seemingly inexorably. The debt accumulated.

Charles Dickens once observed: "Annual income twenty pounds, annual expenditure nineteen pounds nineteen shillings and sixpence, result—happiness. Annual income twenty pounds, annual expenditure twenty pounds and sixpence, result—misery: We are at last realizing that it is the same with nations as with individuals. In New Zealand's case an enviable standard of living declined as a heavily protected domestic industry became uncompetitive. Prices rose and inflation seemed to be endemic. There was little cause to diversify and pursue new market opportunities abroad. Competition was stifled. Expenditure in the vital areas of education and research fell away. New Zealand was at the same time hard-hit by external factors—the oil price shock and agricultural protectionism in the major industrial countries, including the United States. The economy was almost static. The country seemed to be headed for third world status, a charming but irrelevant rural arcadia.

The New Zealanders' response, beginning about eight years ago, was to bite the proverbial bullet. It has not been easy. There is a good deal of discontent around. As in all other mature Western democracies public esteem for the political process is less than total. Unemployment has risen to unacceptable levels. Social problems have accumulated. But the success of the restructuring of New Zealand has now begun to attract foreign investment, to renew the confidence of the business community and to draw favorable interest from around the world.

New Zealand is among the smaller powers. We are not thereby dismayed. In fact New Zealanders believe that size confers a certain quickness of foot and a readiness to adjust. This is a strength in this day of rapid and increasing change.

In particular the size and character of New Zealand has made it possible to embark on a process of comprehensive reform. The question is not so much "what have these New Zealanders done?", but rather "what haven't they done?"

The key objective was to restore national competitiveness. To do what it was necessary to put all national income to work to best advantage. The first aim was to get rid of inflation and begin to bring down the debt. This meant getting control of the money supply, opening up to competition; paring back protectionism and giving market forces free reign in an economy which had for decades been heavily oriented around the role of the State.

Government expenditures had to be brought under control and economic performance made more efficient—by the introduction of competition. Where previously State-owned enterprises had operated as monopolies, a far-reaching programme of reform of the whole structure of the public sector removed the regulatory constraints and the controls to expose those Government enterprises to market forces. Finally the social welfare, health and education systems were reformed to bring greater efficiency to their operations and to direct Government assistance to those most in need. Labour laws have been restructured to remove the monopolistic hold on the collective bargaining process formerly held by business and Trade Unions.

Devolution of responsibility has been a central objective. Miraculously, two successive Governments in New Zealand, of oppo-

site political stripe, came to the same conclusion: Big Daddy Government doesn't know best. Give the people their heads. Release their creative energies.

Let's get a little closer to the detail: the New Zealand programme of reform has had the following main features:

At the microeconomic level the Reserve Bank has been set free of Government direction and control. The Governor of the Reserve Bank has been made accountable for reducing the rate of inflation to between 0% and 2% and is left free to do it.

A large number of microeconomic reforms have been instituted, with the overall aim of making our businesses more internationally competitive. For example: regulations on land transport, air transport, shop trading hours, telecommunications, transfers of foreign exchange, and many other facets of New Zealand commercial life have largely been stripped away.

Controls on prices, interest rates and wages have been removed.

Exchange controls were lifted and the New Zealand dollar allowed to "float".

Capital markets were deregulated, allowing more competition among banks and the free flow of currency into and out of the country.

Income tax rates were lowered, and the range of activities subject to tax was increased; an across-the-board Goods and Services tax was introduced.

We have had comprehensive reform of our public sector, with commercial operations turned into publicly owned corporations, and sometimes sold. I'll talk about that later.

The rest of the Government has undergone big changes to its structures and rules.

Subsidies have been removed from the New Zealand agricultural sector and from industries such as steel.

Quantity restrictions on imports have been eliminated and most tariffs significantly reduced, with more falls to come.

More recently, the labour laws have been changed so that the management and workers in individual businesses may enter into individual contracts giving the workers more control over conditions of work, pay rates, and the like. This is a big change from the former system where groups of monopoly employers and monopoly unions made rules for whole industries, leaving relatively little scope for individual enterprises to define their own terms.

What has happened? Now we find farmers who have been deprived of their subsidies rejoicing in their new found freedom to run their properties as businesses free of artificial incentives. Thanks to reform of education administration the School Committees now have their hands on the money and can direct and guide their schools without reference to the bureaucracy. In the work force individuals, formerly salaried employees, are able to bid for their own contracts and determine their own conditions of employment free of the collective bargaining process.

When strict rules governing the operation of our ports were taken away, cargo-handling costs fell by up to two-thirds, and the time ships spend in port fell by as much as half.

When the telecommunications industry was deregulated—our telecommunications market is now said to be the least regulated in the OECD, and possibly the world—prices fell by 21% in the first year, and the time to wait for phones to be installed fell from six weeks to less than two days. Another benefit has been that Telecom has invested huge

sums in New Zealand's telecommunications infrastructure without any tax-payer money being involved. Now we have a very modern telephone system based largely on fibre-optic cable and digital switching.

At the smelter in the south of New Zealand, the time taken to produce a tonne of aluminum has fallen by 31% as a result of more flexible labour arrangements. In exchange, the workers have received much improved benefits and significant wage increases.

The OECD has said that New Zealand's tax system is "now probably the least distorting" of all its member countries. By this the OECD mean we have a tax system less likely than others' to divert investment away from its most productive use, or to impose unnecessary costs in its collection.

The magazine "Canadian Business" said in August that New Zealand's reforms amount to "a social revolution almost as sweeping as anything now being attempted in Eastern Europe".

As you would expect, and as many other countries have found, the reforms have not been easy. Most importantly, unemployment has been higher than anyone in the community finds acceptable, and is much higher than New Zealanders have known for half a century.

On the other hand—to accentuate the positive—New Zealand now has one of the lowest inflation rates in the industrialized world—a huge improvement over our performance over the last 30 years. Because of our reformed monetary policy arrangements—in particular the independent role of the Reserve Bank—we are confident of being able to sustain this performance.

Partly as a result of our progress against inflation, our interest rates are now closer to the world average than in many years.

Productivity in the labor force has improved dramatically across the economy as a whole.

As a result of improved productivity New Zealand's international competitiveness is rising. This in turn has led to a dramatic rise in exports.

Manufactured exports are leading the way—a big change from the days when most of our exports were agricultural commodities with very little processing added before export.

Not surprisingly in such an environment, business confidence has risen sharply and is now higher than at any time in the past 25 years. Investment intentions are up too.

These early results have not yet translated into lower unemployment—but the number of jobs now seems to be steadily increasing, which is the first step to lower unemployment.

Of course in the United States there is no similar heritage from a comprehensive social welfare philosophy as we have had in New Zealand. You have not had large-scale Government involvement in business as in New Zealand. The Government in New Zealand in the mid-1980's owned enterprises, some of them huge for the size of our country, in a large number of industries. Indeed, the number of major businesses owned by the government and run by government bureaucracies was striking for what was otherwise a capitalist, private-enterprise country.

In 1984, at the start of our public sector reforms, the public sector as a whole—its businesses and its other functions—accounted for 22% of all economic activity and consumed 28% of all investment.

Each country's politics and history is different. Every country's reason for govern-

ment involvement in businesses, and the nature of those businesses, differs. The economic situation in which reform of government businesses begins is also different.

The key consideration is that in New Zealand State sector reform, beginning in 1987, was an integral part of a much bigger package of changes that began before then, and which continue today. The reforms to our State businesses wouldn't have been so successful without the other changes to our economy and public sector—and vice versa.

Let me try to give an idea of how pervasive the state sector was before the changes were instituted beginning in 1984:

The New Zealand Post Office ran the postal network (the nation's largest transportation system), the telephone and telecommunications network (by law the only telecom system allowed in New Zealand), as well as a large retail bank.

Apart from the Post Office Savings Bank, the government was deeply involved in the finance sector in other ways: it owned the largest bank, an investment bank, two large pension funds, and a huge fund to compensate people for any losses they might suffer in earthquakes.

Most of the nation's electricity system was run by the Energy Ministry: coal, gas, geothermal and hydroelectric power stations; as well as the transmission wires taking electricity around the country, including an under-sea cable connecting our two main islands.

The Government was deeply involved in oil exploration.

The largest farmer in New Zealand was the Government, through its Lands and Survey Department.

The largest single owner, grower and planter of forests in New Zealand was also the Government, through its Forest Service.

The country's largest coal-mining company was Government-owned.

So was a large civil engineering and construction business.

The Government was also deeply involved in the transport sector. It owned and operated the only railway system, the nation's only international and largest internal airline, and the largest fleet of passenger buses.

The Government ran large numbers of other businesses within government departments: the air traffic control system, a printing office, a large computer agency, and the country's largest insurance firm—to name just a few.

In general, the performance of these businesses was not as good as New Zealanders expected. This system produced what the Deputy Prime Minister in 1986 called "massive economic waste".

For example, the time taken to get a telephone installed (six weeks) was a huge disadvantage for a business trying to compete in an open marketplace. This was in effect a consequence of under-investment.

There were areas of over-investment as well. We had built too much capacity to generate electricity. The State coal mines had made losses in 22 of the previous 20 years, and was mining coal that was difficult to reach while ignoring coal that was easier to exploit. At one airport, money was spent to install an air traffic control system that wasn't needed, and was then dismantled. In 1986 the number of staff at the Post Office Savings Bank had grown by 75% in 10 years, while the bank's business had strunk in size by more than one-third.

What has to be done to bring such a system into line with modern economic demands? First it was necessary to begin the process of

getting Government out of business. Progressively most of these formerly State-run enterprises were turned into public corporations—run very much like private-sector companies—except that Government Ministers remained the shareholders.

They were given clear commercial objectives and told to be successful businesses. They were set up with competitive neutrality. That is, the advantages and disadvantages of being owned by the State were removed as far as possible. For example, instead of getting all their money from the Government, they were required to borrow from private sector banks just like privately owned companies have to. The Government does not guarantee the borrowing of State-owned enterprises. Governments have shown themselves willing to close down businesses that weren't profitable. The companies are required to earn profits comparable to private firms, and to pay taxes on those profits.

Managers were given the authority and flexibility to manage. Each enterprise is run by a board of directors—comprising experienced private sector businesspeople, not public servants. Once the general business plan is agreed with Government Ministers, the board and management has the authority to make investments and strategic decisions, to decide who to hire and fire, how much to pay the staff, where to buy supplies, and where to sell the goods and services produced.

Performance monitoring held managers accountable for their performance. Each business's performance is compared with both their own plans and other companies in the industry. Ministers have access to analysts from Treasury department, analysts from the private sector, and a "steering committee" of private sector people who report directly to Ministers.

The State businesses were given explicit grants to cover non-commercial objectives. This meant an end to cross-subsidies like the one I mentioned before on telephone calls.

Five/six years on, it is possible to draw some conclusions from our State-owned enterprises policy. One lesson we learned is that, in business terms, the policy has been very successful overall. Labour productivity has increased substantially; prices have tended to fall in real terms, where previously they had risen steadily; service has improved; profits have been made (and dividends and taxes paid) where previously there was a long history of losses.

For example, the Coal Corporation increased its level of production while cutting its staff numbers in half.

The Electricity Corporation reduced prices in real terms while cutting the cost of production by over 25%. Productivity per employee increased by over 75%. Accidents rates fell from over 70 per million hours worked to about five.

The postal service, which used to make losses fairly regularly, is now a steady profit-maker, while the price of the standard letter is down in real terms, the number of retail outlets where postage services are available has increased, and delivery standards are improved.

After the railway system was turned into a corporation, freight rates fell by over half. Losses turned into profits and worker productivity almost trebled.

In almost every case, there are examples of these kinds of efficiencies after our government businesses were turned into market-oriented corporations. It is important to remember that making a profit is only part of the story; improving these companies has also contributed to making the whole economy more efficient and work better.

Another lesson is the importance of what the New Zealand Treasury have called "getting the regulatory regime right". I think a lot of the benefits we found would not have arisen if we simply turned our government departments into corporations and continued to give them monopoly protection.

For example, the New Zealand Government took away Telecom's monopoly on providing telephones, on wiring houses and businesses to connect to telephones, and on long-distance calls. In each of those areas, new firms have arisen to compete for the business. As a result, costs are down and service is improved for all customers. Productivity is up by 85%; the real price of telephone services is down by 20%; waiting time for new services is greatly reduced; there is better directly service and outdated systems have been computerised.

We then found that it made sense to sell some of these businesses to private enterprise. In the last four-and-a-half years, the New Zealand Government has sold all or part of about 35 of its businesses, and has received around \$11 billion for them.

There were a number of reasons behind this move.

The Labour Government advocated selling as a means of reducing debt. The current Government emphasises its expectation that the companies will be more efficient, and will thus contribute more to the economy, in private hands.

There is a more general issue about whether the Government should be taking large business risks, or whether the private sector is better placed to assess and accept those risks. This factor was especially relevant to the decision to sell the government's interests in petroleum and gas mining.

Privatisation may not in all cases be appropriate. But sale of the enterprise completes the commercialisation process. It removes any expectation that the Government will guarantee lending to the enterprise concerned, or otherwise protect it. It places the enterprise squarely in the market—able to be bought and sold. It also permits maximum flexibility of operation—ie expansion into new areas of business, where Government may be more cautious.

Clearly the question of the extent of Government responsibility is clouded, under the half-way house, public corporation concept. Would Ministers be willing to sack boards of directors who are performing badly, or will they find that too politically embarrassing? Will Ministers have enough time to devote to State-owned Enterprises, given that they are very busy on other issues? Over time, will Ministers create pressures for political or non-commercial objectives to be met in businesses whose best contribution to New Zealand's welfare is a commercial one?

By moving through two stages—to a corporate structure and then into private ownership—the New Zealand State-owned Enterprises have been doubly invigorated. Each stage has added extra efficiencies, and extra benefit to the economy.

The New Zealand approach to realisation of state assets has been very cautious. The aim has been both to maximise the price received, and to make sure the business is sold in a way that maximised the competitiveness of the market in which it operated. Each sale was considered separately; a sales process appropriate to it was designed specially; and each was sold in a carefully managed process and without rush. We never set deadlines for a sale to be completed, because that would be used by buyers for negotiating advantage.

Where multinational companies have purchased New Zealand State enterprise the country has gained immediate and direct access to some of the best technology and management techniques in the industry—without having to buy it from third parties, without having to wait, and without the Government having to find the money and bear the risk.

New Zealand has undergone great change. The process has been invigorating and at times very unsettling. The social consequences of increased unemployment have been very hard to accept and the stresses involved in restructuring health, social security and education programmes have been politically very unpopular. But in the final result New Zealand has established itself as a productive, confident and competitive economy in the dynamic world of the Pacific.

[From International Economic Insights,  
Jan.-Feb. 1994]

#### KIWIS CAN FLY: REFORMING NEW ZEALAND'S ECONOMY

(By John McMillan)

New Zealand has leapt from being the most over-regulated of the world's advanced economies to one in which market mechanisms have free play. New Zealand's reforms came straight out of the economics journals. But their effects did not. The average New Zealander had a lower standard of living in 1991 than in 1984, when the reforms began. Only in 1991 did growth start to pick up: in 1993 it was a healthy but unspectacular 3 percent.

The reforms were innovative and well designed. Political considerations contaminated the reform strategy remarkably little: economic efficiency was the chief criterion. New Zealand provides a model for how to deregulate an economy. The sluggishness of the response, therefore, is noteworthy. New Zealand adds to evidence emerging from other reforming economies—Chile, Trukey, Mexico—that reforms, no matter how urgently needed or how cleverly implemented, can take several years to succeed.

New Zealand is a case study in the politics as well as the economics of reform. Conventional categories were overturned. Deregulation—usually seen as a right-wing policy—was introduced by a Labour, or left-wing, government. Changes were often made against the wishes of the public: when the publicly-owned telephone monopoly was sold, opinion polls showed a majority of New Zealanders opposing the sale. Conspiracy theories abound: some see the reforms as the work of the New Right, a sinister cabal of big-business leaders, Treasury officials and certain politicians.

New Zealand's policy radicalism was not confined to economic matters. There were transformations in foreign affairs—the banning of nuclear ships from New Zealand ports and the resulting collapse of the military alliance with the US—and in social relations—the reinterpretation of the 1840 Treaty of Waitangi to give broad legal recognition to Maori land-rights claims.

The impetus for economic reform was anemic economic performance. New Zealand had the world's fifth-highest income per head in 1955; by 1984 it had dropped to 19th. Between 1965 and 1984, per capita income grew by 1 percent per year. Low productivity growth was the cause: total factor productivity grew by 0.3 percent per year in 1965–84 by one estimate, or 0.6 percent by another. By the larger of these estimates, this was half the productivity growth of the United States, Brit-

ain and Australia—countries no one regards as paragons of efficiency—and a fifth of Japan's. The problem was not new. As early as 1962, Sir Frank Holme said, of the period 1949 to 1961, "the New Zealand economy has earned the unfortunate distinction of having one of the slowest annual rates of growth of productivity among all the advanced countries of the world."

New Zealand's problems were partly external. Agricultural exports, the source of most overseas earnings, were affected by the closing of the EC market, the dumping of EC surpluses, and by the decline in wool's competitive position vis-a-vis synthetics. Mostly, however, New Zealand's problems were self-induced. The government's response to external shocks consisted of controls on imports, prices and wages, interest rates and foreign exchange. Firms were subsidized and regulated and large-scale investment projects (dubbed by the then prime minister Robert Muldoon, "Think Big", but relabelled by the opposition Labour Party, "Sink Big") were led by the government.

The bizarre workings of the old economy are illustrated by an anecdote from the industrialist Alan Gibbs. For the sake of employment, the government required television sets to be assembled locally. Mr. Gibbs went to Japan to haggle over the price of components. He was greeted with disbelief: Japanese firms could supply them only by having workers unscrew complete TVs. The New Zealand firm had to pay 5 percent more for the parts than for the complete TV. When shipped to New Zealand and assembled, the sets were then sold for twice the world price.

New Zealand's low productivity reflected irrational prices. Distortions came from subsidies to firms and import controls and tariffs, which were not only the highest in the OECD but varied greatly, preventing the price system from allocating resources to their best uses.

Low productivity further reflected misaligned incentives. The labor market was centralized: union membership was compulsory and pay was based on national awards, with little scope for wages to vary across firms or to be based on performance. The income-tax schedule, with a top marginal rate of 66 percent, inhibited effort, except in tax avoidance. Import controls, together with the small population, meant that in many industries only one or two firms served the entire market. The lack of competition meant firms had little incentive to innovate.

Persistent refusals to face the chronic productivity problem resulted in a large government deficit (7 percent of GDP in 1987) and high foreign debt (46 percent of GDP, higher per head than Brazil's). Prime Minister Muldoon once said the New Zealand public would not know a deficit if they tripped over one, but the budget deficit did have consequences: inflation averaged 12.5 percent between 1970 and 1982. Like the reforming former Soviet-bloc countries, New Zealand had a two-pronged problem, microeconomic and macroeconomic. Market-oriented reforms were needed to increase productivity, by reducing price distortions and introducing incentives for productive effort. There was also an urgent need to reduce the deficits and tame inflation.

A remarkable minister of finance, Roger Douglas, enacted a package of reforms (dubbed "Rogernomics") to spread the pain. As Douglas explained: "Packaging reforms into large bundles is not a gimmick but political efficiency. The economy operates as an organic whole, not an unrelated collection of bits and pieces. When reform is

packaged in this way, the linkages in the system can be used to see that each action effectively enhances every other action. Large packages provide the flexibility to ensure that losses suffered by any one group are offset by gains for the same group in some other area."

The newly elected Labour government began by devaluing the dollar 20 percent in 1984 and later floated it. It enacted anti-inflationary macroeconomic policies; farm subsidies and export subsidies were eliminated.

Trade opening began with the formation of a free-trade agreement with Australia (this predated the Labour government). This was successful: full free trade in goods was attained by 1990, five years ahead of schedule. Restrictions on trade with the world at large were also drastically reduced. Import quotas were auctioned, quota amounts were increased until the quotas ceased to bind and tariffs were reduced on a pre-announced schedule. The trade reforms, as well as reduced price distortions, increased the competitive pressure on New Zealand's firms, forcing them to become more efficient.

A value-added tax replaced the higgledy-piggledy sales taxes. The income tax schedule was rewritten, the top marginal rate dropping to 33 percent. The corporate tax rate fell to 33 percent. New Zealand's tax system now is "probably the least distortionary in the OECD," according to the OECD. Taxation remains high, however, with government spending 42 percent of GDP.

State-owned enterprises were corporatized: converted into companies fully accountable for their commercial performance to their owner, the state. This was successful: Telecom lowered its real prices 20 percent, NZ Rail 43 percent, and the Electricity Corporation 15 percent.

Privatization followed corporatization in several cases. Privatization was intended to reduce the government's debt, but also to improve efficiency, by eliminating political intervention in the firms' decisions. The privatized firms are lightly regulated: the telecommunications industry, for example, is now virtually unregulated; competition is relied on to hold down prices.

In 1990, the new National party government with another reformist finance minister, Ruth Richardson, revolutionized the labor market, abolishing centralized wage-setting. (This was controversial: cabinet ministers' effigies were burnt in protest.) Enterprise-level contracts replaced national, occupation-based awards. The role of unions was downplayed, with contracting now between employer and individual employee. Average wages appear not to have changed much, but the variance of wages has gone up and employment conditions are more flexible.

This economic-policy revolution has been painful. Although the top 20 percent of full-time workers enjoyed an 8 percent increase in their real income between 1981 and 1991, the other 80 percent saw their real incomes fall, with the lowest 20 percent becoming 7 percent worse off. Unemployment rose to over 10 percent, before starting to fall in 1993.

Can the gain justify all the pain? Although it took seven years for the economy to be growing, important gains have been achieved. The macroeconomic imbalances have been at least partially corrected, inflation is dead and the budget deficit had fallen to 1.2 percent of GDP by 1992–93. The microeconomic front also has some good news. Firms have reorganized themselves to be

more efficient and are achieving impressive success: manufactured exports are rising by 15 percent a year. Macroeconomic balances and firm efficiency are not, however, ends in themselves. The reforms will only be justified if and when they generate higher living standards. Why, in New Zealand as in other reforming economies, has this taken so long?

First, the economy is a system. Reforms complement each other: a reform may be ineffective if implemented alone, and only be beneficial if introduced together with certain other reforms. The full effect of the trade reforms will come only after the 1991 labor-market reforms have taken root.

Second, the problems cannot be blamed entirely on the reforms: the plight of low-income people is caused, at least in part, by worldwide trends. Unemployment had been rising steadily before the reforms, from zero in 1974 to 5.6 percent in 1983. The shift toward labor-saving machinery and increasing trade have meant that unskilled workers are having a hard time in every rich country. Europe and Australia have higher unemployment than New Zealand; and unskilled workers' incomes have been falling in the United States.

Because of the reforms, the next decade should be much more prosperous for New Zealanders than the last. Prospects for further reform have been dimmed, however, by the November 1993 election results. The National Party scraped in with a one-seat majority; and, in a referendum on the electoral system, the first-past-the-post system lost to a form of proportional representation. "Every political revolution," as Henry Kissinger said, "sooner or later reaches its end after the public becomes exhausted from being jolted into one new effort after another."

NOTE.—McMillan is a professor of the Graduate School of International Relations and Pacific Studies of the University of California, San Diego.●

#### SONICS AND MATERIALS INC.'S 25TH YEAR IN BUSINESS

● Mr. LIEBERMAN. Mr. President, I rise today to acknowledge Sonics and Materials Inc.'s 25th year in business at its Danbury, CT headquarters. Sonics and Materials has a remarkable reputation for its commitment to building world-class products for customers around the globe. Offering a wide range of ultrasonic welding equipment and plastics assembly systems, the company's products are found in automotive, electronic, hardware, textile, medical device, packaging, and toy industries.

In 1963, founder and chief executive officer Robert S. Soloff received a patent for first applying the principles of ultrasonics to weldings rigid thermoplastics. Since then, there has been a dramatic growth in these welding techniques, enabling plastics to be assembled up to five times faster than previous methods. These developments can be largely attributed to Sonics and Materials' Technological innovation and achievement.

Sonics and Materials is committed not only to product excellence and customer satisfaction, but also to the well being of the community and the envi-

ronment. The company maintains an energy-efficient, employee-safe, and environmentally friendly, work place. Ultrasonic plastics assembly does not use chemically based adhesives or any potentially dangerous solvents and is an easily recyclable product.

I would like to congratulate Robert S. Soloff and the 75 employees of Sonics and Materials Inc. for their 25 years of responsible, dedicated, and successful work. I am honored to recognize the outstanding achievements of this Connecticut-based company.●

#### MOTHERS' PEACE DAY 1994

● Mr. LEVIN. Mr. President, on May 2, in Birmingham, MI, the members of Women's Action for New Directions [WAND] will celebrate Mothers' Peace Day by honoring three very special local women.

Judith Doner Berne, managing editor of the Eccentric Newspapers, was selected for the Peace Day Award because of her community contributions. She brought the idea of "First Night" from Boston to Birmingham. It is an alcohol-free New Year's Eve celebration for families and senior citizens which attracts people from the entire metropolitan Detroit area and has been met with great enthusiasm. She also spearheaded a move to encourage all universities in Michigan to provide alcohol-free rooms and facilities.

Lisa Blackburn, an artist and teacher, created, along with her husband, a unique book called "Imagine/Render: A Gift of Peace." This book was created for the Michigan Art Education Association. Today, it is used in schools throughout the country as a curriculum for peace education through the arts. Miss Blackburn also participated in WAND's "Stop War Toys Campaign."

Hon. Jan Dolan, a member of the Michigan House of Representatives, will also receive the Peace Day Award. Ms. Dolan, a former mayor of Farmington Hills, is being honored because of her commitment to and leadership in community activities over and above her legislative work.

Mr. President, these three women exemplify the commitment of WAND to empower women to participate in the democratic process in order to reduce violence and militarism, redirect military resources toward human and environmental needs, and guarantee a future of peace and security for all our children.

I congratulate the honorees and commend WAND for recognizing their contributions to society.●

#### THE FLYING DUTCHMEN OF LEBANON VALLEY COLLEGE

● Mr. WOFFORD. Mr. President, on Saturday March 19, 1994, a group of inspired and determined athletes from

Lebanon Valley College, a liberal arts college of only 950 students, defeated the Violets of New York University, a school with over 49,000 enrolled, to win the 1994 NCAA Division III Men's Basketball Championship. This victory was the first national championship in Lebanon Valley's 129-year history.

The Flying Dutchmen of Lebanon Valley College have accomplished a remarkable feat, despite the college's small size. Because Division III schools can not award athletic scholarships, the student-athletes of Lebanon Valley play for their love of the game. These men are truly talented and represent the very best that our schools have to offer.

The dedication and commitment of the athletes and coaches, in addition to the incredible support from their fans, demonstrate that a united effort brings the ultimate reward—the thrill of reaching a lofty but achievable goal.

I congratulate the Flying Dutchmen and Lebanon Valley College on its success, and I send my best wishes for future achievement.●

#### TRIBUTE TO LEONARD J. KATOSKI

● Mr. GRASSLEY. Mr. President, I am honored today to speak briefly about Leonard J. Katoski of Waterloo IA. Leonard was born in Gostynin, Poland on November 5, 1912 and arrived in Waterloo in 1913 where he has lived and worked ever since.

Leonard was greatly interested in golf and spent 12 years working as a caddie, a caddie master, and an assistant to three golf professionals.

Leonard once wrote a critical letter to the editor of the Waterloo Courier concerning what he saw as indifference and ineffectiveness of the local park board regarding some of the parks. That letter caused a group to be formed, which Leonard headed for 2 years before being named to the park board. During the next 5 years he served on the park board, liaison between the park and the recreations boards, and chairman of the recreation commission. Finally, Leonard was appointed Superintendent of Parks, a position he would hold until his retirement, 27 years later.

His involvement and awards to have been extensive. He was named Public Servant of the Year by the Waterloo Chamber. He also became a charter member of the Cedar Valley Historical Society, serving as its chairman from 1992-1994, and was elected to the post of president. Leonard has also been active in the Elks Club, Knights of Columbus, and St. Edwards Church.

Leonard, married 48 years to Marguerite Clarahan has 4 children: Carol, Cathy, Peg, and William.

I wish Leonard well and I want to thank him for all he has done.●

## NATIONAL LIBRARY WEEK

• Mr. SARBANES. Mr. President, this week from April 17-23 we are celebrating the 36th anniversary of "National Library Week." As a strong and vigorous supporter of Federal initiatives to strengthen and protect libraries, I rise to draw my colleagues' attention to this important event and to take a few moments to reflect on the significance of libraries to our Nation.

When the free public library came into its own in this country in the 19th century, it was from the beginning a unique institution because it was committed to the same principle of free and open exchange of ideas as the Constitution itself. Libraries have always been an integral part of all that our country embodies: freedom of information, an educated citizenry, and an open and enlightened society. They are the only public agencies in which the services rendered are intended for, and available to, every segment of our society.

It has been my longstanding view that libraries play an indispensable role in our communities. From modest beginnings in the mid-19th century, today's libraries provide well-stocked reference centers and wideranging loan services based on a system of branches, often further supplemented by traveling libraries serving outlying districts. They promote the reading of books among adults, adolescents, and children and provide material and reference centers where every citizen may obtain reliable information on a vast array of topics.

Libraries gain even further significance in an age of rapid technological advancement where they are called upon to provide not only books and periodicals, but many other things as well. In today's society, libraries provide audio-visual materials, computer services, facilities for community lectures and performances, tapes, records, videocassettes, and works of art for exhibit and loan to the public. In addition, special facilities libraries provide services for older Americans, people with disabilities, and hospitalized citizens.

Of course, libraries are not merely passive repositories of materials. They are engines of learning—the place where a spark is often struck for disadvantaged citizens who for whatever reason have not had exposure to the vast stores of knowledge available. I have the greatest respect for those individuals who are members of the library community and work so hard to ensure that our citizens and communities continue to enjoy the tremendous rewards available through our library system.

My own State of Maryland has 24 public library systems providing a full range of library services to all Maryland citizens and a long tradition of open and unrestricted sharing of re-

sources. This policy has been enhanced by the State Library Network which provides interlibrary loans to the State's public, academic, special libraries, the school library media centers. The network receives strong support from the State Library Resource Center at the Enoch Pratt Free Library, the Regional Library Resource Centers in western, southern, and Eastern Shore counties, and a statewide database of library holdings of over 140 libraries.

The result of this unique joint State-county resource sharing is an extraordinary level of library services available to the citizens of Maryland. Marylanders have responded to this outstanding service by borrowing more public library materials per person than citizens of almost any other State, with 67 percent of the State's population registered as library patrons.

I have had a close working relationship with members of the Maryland Library Association and others involved in the library community throughout the State, and I am very pleased to join with them and citizens throughout the Nation in this week's celebration of National Library Week. I look forward to a continued close association with those who enable libraries to provide the unique and vital services available to each and every one of us. •

## ANNOUNCING THE APPOINTMENT OF THE FIRST LIAISON FOR COMMUNITY COLLEGES WITHIN THE U.S. DEPARTMENT OF EDUCATION

• Mr. HATFIELD. Mr. President, over the years, I have learned that a character trait essential to public service is the virtue of patience. I know my colleagues share my view that when representing millions of citizens, all possessing diverse needs and concerns, a little patience goes a long way. Without it, surviving the dehumanizing effects of the labyrinth of the Federal bureaucracy is an impossible task.

On February 22, 1990, I introduced legislation that would create a new position within the Department of Education dealing with community and junior colleges. I was unaware at the time that this legislative commitment would take me down a long, lonely bureaucratic road. I reintroduced this legislation on February 21, 1991, this time with a few cosponsors. One year later, I attached this legislation to the Higher Education Act amendments and saw it signed into public law.

My legislation required that within 6 months of enactment, a liaison for community and junior colleges be appointed at the Department of Education—an individual who either held a degree from a community or junior college or had worked in a community or junior college setting for at least 5

years. This act was signed by the President on July 23, 1992. I looked forward to an impending appointment.

The need was critical. While in the past the Department had an Office for Community Colleges, in recent years there has been no official structure and very few if any high-level employees at the Department who came from a community college setting. At the same time, growth within community colleges was exponential. Community college students represent the largest segment of the postsecondary student population. Forty-five percent of those in postsecondary education are enrolled in a community college and 55 percent of all incoming freshmen get their start in a community college. Enrollment in 2-year institutions continued its upward trend with a total of 6.5 million students enrolled this year. In 1987, this figure was 1.5 million. These institutions have special needs, needs that differ from traditional 4-year colleges and universities.

After enactment of the liaison position under the Bush administration, we next faced a transition of leadership. With the new administration came new delays. Despite promises from incoming administration officials to work as quickly as possible to fill the position, they were faced with filling many new appointments and the timetable for the liaison position slipped. The new position created by Public Law 102-325 remained vacant for another year and a half.

Mr. President, after 4 years of hard work and making the case several times over, I am pleased to announce the Department of Education has formally filled the liaison position. The first liaison for community and junior colleges will be Betty Duvall, executive dean of Portland Community College, and she will join us in Washington within a few weeks. Good things come to those who wait.

Betty Duvall has formally accepted the position and I have the utmost confidence in her ability to perform the duties of the liaison. She has a lifetime of experience in the field both as an instructor and a high-level administrator. Betty Duvall's record indicates her overwhelming commitment to not only innovation and excellence in education, but also meeting the needs of individuals who are often overlooked in our society.

Her new job description positions her to serve as a senior advisor to the Secretary on community college issues. While doing policy research and analysis, she will plan, coordinate, and carry out projects effecting community colleges. Her involvement will be crucial as the Department continues to carry out school-to-work and Goals 2000 opportunities.

Perhaps it is fitting that this tale culminates this week. April is National Community College Month and just a

few weeks ago, we honored 20 Americans for their distinguished achievements in community colleges. This group of individuals faced enormous odds including depression, substance abuse, physical disabilities, and unemployment. They overcame these barriers and achieved the highest level of academic honor in their field.

They are the 20 community college students who were named to the 1994 All-USA Academic First Team for Two-Year Colleges. Their accomplishments were published in the April 7 edition of USA Today. These celebrated scholars represent the highest level of academic excellence obtainable in this Nation's 2-year colleges. All of the inductees have grade point averages of 3.5 or better with many reaching the 4.0 mark. I am pleased that several Oregon students were included in this group.

Jack Josewski, a student from Linn-Benton Community College in Oregon, was a member of this first team and his story is a tribute to the opportunities afforded by community colleges. Mr. Josewski was a displaced timber worker who had to make a new beginning in lieu of the major economic transitions in Oregon. Finding himself out of work, Mr. Josewski went back to school to pursue journalism. He devoted his efforts to this pursuit serving as a photographer, ad manager, reporter, and editor for his campus newspaper. During his work on the campus publication, he was awarded the Best Series Award by the Oregon's Newspaper Publishers Association for a series on displaced timber workers. Despite his heavy involvement in the campus paper, he also managed to maintain a 3.9-grade-point average.

Two other Oregonians were honored for their achievements in 2-year colleges. Heidi Scott who is studying music therapy at Southwestern Oregon Community College in Coos Bay, OR was named to the third team all academic and Brenda Leonard, a nursing student at Portland Community College, received a honorable mention.

These are just a few of the many examples of the positive impact of our community colleges. It is stories like these that have inspired my lifetime support of these institutions. One of my most rewarding moments as Governor of Oregon was the creation of the community college network in Oregon. I am joined in my pursuit for community colleges by good friends such as Keith Skelton, a visionary ahead of his time who spurred me to take on the liaison legislation, and the good folks who oversee the Oregon Community College Association—a linchpin in the fight to secure the liaison.

I firmly believe that an investment in the Nation's community colleges is an investment in our Nation's future. The passage of Goals 2000 and the school-to-work initiative demonstrate this body's recognition of education as

a high priority issue. It appears as if we have given serious credence to the words of Aristotle when he said that,

\*\*\* all who have meditated on the art of governing mankind have been convinced that the fate of empires depends on the education of youth.

If we are truly going to heed this ancient wisdom we must not ignore the needs of the Nation's community colleges. It is in these institutions where workers are being trained and retrained, careers are being started, and students are cultivating diverse and nontraditional opportunities. I can think of no greater aim for our education system and I am pleased that Betty Duvall will soon be in place at the Department of Education to assist in these efforts.

I ask that a description of the position of liaison for community and junior colleges be entered into the CONGRESSIONAL RECORD.

The material follows:

LIAISON FOR COMMUNITY AND JUNIOR COLLEGES—GS-0301-15

INTRODUCTION

Part H, Sec. 1553 of Public Law 102-325, the Higher Education Amendments of 1992 establishes a Liaison for Community and Junior Colleges to be appointed by the Secretary. The incumbent of the position must have attained an associate degree from a community or junior college; or have been employed in a community or junior college setting for not less than 5 years.

As the Liaison for Community and Junior Colleges the incumbent shall:

Serve as advisor to the Secretary of Education, reporting through the Assistant Secretary for Vocational and Adult Education, on matters affecting community and junior colleges.

Serves as liaison to the Office of Postsecondary Education in matters related to community colleges.

Provide direct staff assistance on the formulation, development and implementation of Department policies and programs affecting community and junior colleges.

Perform liaison and coordination activities vis a vis community colleges as assigned.

Prepare research, background materials and reports on community colleges and conducts special projects as assigned.

Chair or serve on a variety of Departmental committees, task forces and teams.

Work through the School to Work and Goals 2000 teams to assist community and junior colleges to participate in the department's systemic reform efforts.

Represent the Department at meetings with representatives from interagency and external businesses and interest groups, as assigned.

Serving as the Liaison for Community and Junior Colleges, the incumbent performs special and continuing assignments and projects concerned with policy analysis and confidential program matters with which the Assistant Secretary is personally concerned. The performance of these assignments requires a thorough knowledge of the views, plans, and interest of the Assistant Secretary. The incumbent of the position requested for Schedule C exception will not be able to adequately perform his/her duties without being privy to the political, personal, and management philosophies of the Assistant Secretary. A confidential relation-

ship of a Schedule C nature is imperative since the incumbent will speak for the Assistant Secretary and as such, will be expected to reflect his/her supervisor's philosophies in conversations with leading groups. The incumbent will also present the views of the Assistant Secretary in correspondence and other communications with agency managers and program officials.

MAJOR DUTIES AND RESPONSIBILITIES

Performs a broad spectrum of special and continuing assignments and projects of a confidential and policy making nature concerning a variety of program issues related to community and junior colleges which are of special concern to the Assistant Secretary.

Applies professional knowledge and skill sufficient to generate and apply new hypotheses and concepts in planning, conducting, and evaluating long-range projects or proposals for the solution of complex public policy questions and issues related to community and junior colleges.

Undertakes policy research, performs policy analysis and prepares reports and research papers of a confidential nature for the Assistant Secretary affecting community and junior colleges. Assembles facts and analyzes data of a highly sensitive and confidential nature providing interpretations and recommendations to the Assistant Secretary.

Coordinates the work of other professionals to accomplish several phases of complex projects concurrently or sequentially.

Serves as an advisor to the Assistant Secretary and Secretary on broad initiatives and high priority issues related to community and junior colleges which require the immediate attention of the Assistant Secretary and or Secretary. Provides comprehensive analysis relating to the proposed initiatives, conducts broad background research and short-term feasibility studies, develops general plans to coordinate work to be undertaken and prepares broad position papers to define objectives. Insures consistency with Departmental policies, objectives and other initiatives such as the School to Work Initiative and Goals 2000 and monitors results and progress achieved.

Anticipates the need for policy studies and advises the Assistant Secretary and Secretary of the need for study of long-range problems.

SUPERVISION

The incumbent reports directly to the Assistant Secretary for vocational and Adult Education. The supervisor typically provides administrative direction. Overall assignments are made in terms of broadly defined functions of the organization. Specific assignments frequently originate out of liaison activities of the incumbent with community and junior colleges, who independently negotiates the scope and objectives with Assistant Secretary.

The incumbent assumes responsibility for planning, coordinating, and carrying out projects and informs the Assistant Secretary of programs as appropriate.

The work is generally considered to be technically accurate and is often not subjected to detailed substantive review by the supervisor. Work products are examined for compliance with broad Administration and agency policy.

In all matters, the Assistant Secretary's viewpoints and the policy consideration of the Department and the Administration guide the incumbent's actions and recommendations. This position requires a con-

Confidential relationship between the incumbent and the Assistant Secretary. ■

**COMMENDING CAROL ANN SHUDLICK, UNIVERSITY OF MINNESOTA**

● Mr. DURENBERGER. Mr. President, this past Thursday, University of Minnesota senior Carol Ann Shudlick was named the winner of the 1994 Margaret Wade Trophy. This distinguished award is given to the most outstanding woman college basketball player in the Nation, and is based not only on athletic achievement, but also the qualities of leadership and academic accomplishment.

Carol Ann's contributions to both the University of Minnesota and her local community reach far beyond the basketball court. She will graduate this spring with a degree in advertising and has been invited to participate in the USA women's basketball team trials in Colorado Springs. I ask that the attacked articles which appeared in the Minneapolis Star/Tribune and the Saint Paul Pioneer Press be included in the RECORD at the conclusion of my remarks.

Mr. President, each and every Minnesotan should feel pride in all Carol Ann has accomplished and, more importantly, all she will contribute to the future of our country.

The articles follow:  
[From the Minneapolis Star Tribune, Apr. 16, 1994]

**SHUDLICK WINS TOP HONOR—"U" BASKETBALL STAR TO GET WADE TROPHY**

Like a defender coming from behind, the Margaret Wade Trophy crept up on Carol Ann Shudlick.

The University of Minnesota center was unaware until Thursday that she was one of six senior finalists for the most-coveted award in women's college basketball. Late that night, coach Linda Hill-MacDonald called to tell her she had won it.

"She asked what I was doing and then told me," Shudlick said Friday afternoon at a hastily called news conference. "I was unbelievably excited and overwhelmed. . . . It's a tremendous honor. I look at the previous winners, just to be considered in the same company, I'm in awe."

The Wade Trophy is named for former Delta State coach Margaret Wade, who in 1985 became the first college coach inducted into the National Basketball Hall of Fame. Past recipients of the trophy include such well-known college players as Nancy Lieberman, Lynette Woodard and Cheryl Miller. Shudlick will receive her award Nov. 19 in Jackson, Tenn.

Shudlick averaged 23.4 points this season and led the Gophers to an 18-11 record and their first appearance in the NCAA tournament. Recently, she was named to the Kodak first All-America team, one of the criteria for Wade Trophy consideration. A national selection committee of women's athletic administrators also judged candidates for the award on character and academics. Shudlick is an advertising major with a 3.13 grade-point average who has volunteered for numerous public service causes.

"This is the women's equivalent of the Heisman Trophy," said Hill-MacDonald, re-

ferring to the award given annually to the best player in college football. "It's an honor for all of us. I was so thrilled when I got the word, I started crying."

The 6-foot Shudlick, a three-time Gophers team MVP, is the first Big Ten Conference player to receive the award.

"She was a fundamentally sound player," Hill-MacDonald said. "There was not a lot of flash in her game, but flash players develop inconsistencies. She would get it done game after game. . . . And for Carol Ann, her accomplishments were not enough if we were not winning."

Shudlick finished with a school-record 2,097 points and scored in double figures in her last 56 games. Her best game might have been against 1993 national champion Texas Tech on Dec. 18 when Shudlick tied her school single-game record with 44 points, 12 in overtime, in a 92-82 victory.

Said Hill-MacDonald, "In overtime, she seemed possessed. Nobody could stop her. She had the heads of their post players spinning."

Shudlick came to Minnesota after being named Miss Basketball as a senior at Apple Valley. "She was a phenomenal player and athlete in both basketball and volleyball," said Ruth Sinn, who coached Carol Ann in basketball as a senior and all three of her younger sisters, too.

"I know she was going to be a star. She had great hands, great speed for her size and her jumping ability was phenomenal. She was one of those players without limitations. A lot of times you get players like that and they don't have a work ethic. But she was constantly asking how she could make herself better. She worked to improve."

Shudlick is still that way. Although her college career is over, she hopes her basketball days are not. Friday night, she was to leave for a college all-star game Sunday at Capital University in Columbus, Ohio.

She also is one of 54 players invited to the USA women's basketball team trials April 28-May 4 in Colorado Springs. Two teams will be picked there to compete in international tournaments this summer and some of those players could be Olympians someday.

Shudlick also has an agent trying to find a spot for her on a professional women's team next season in Europe, preferably in France. She took six quarters of French in college.

"I'll miss my family and friends," Shudlick said. "I'd like to stay at home if I could do the same thing in the U.S."

The Wade Trophy should help Shudlick in her job search: "As with anything, people ask, 'What have you done?'" Notes/ Louisiana Tech coach Leon Barmore, who has coached three Wade Trophy winners: "It's a tremendous honor. It will be meaningful to (Shudlick) for the rest of her life and will bring a lot of recognition to her school."

**THE SHUDLICK FILE**

A look at the career of Gophers senior basketball player and Wade Trophy winner Carol Ann Shudlick:

Age/21, Height/6-0, Hometown/Apple Valley, Position Post/forward, Honors and achievements/1993-94 Kodak All-America. . . . 1994 Big Ten MVP. . . . Three-time All-Big Ten selection, first team as a junior and senior. . . . Leading scorer in Gophers women's history. . . . Nine-time Big Ten Player of the Week. . . . Named to Big Ten All-Academic team three consecutive years. . . . Owns Gophers record for points in a single game, twice scoring 44. . . . Named Miss Basketball in Minnesota in 1990.

Year	G	FG-FGA	FT-FTA	Pts.	Avg.
90-91	24	107-230	71-97	285	11.9
91-92	27	226-440	95-133	547	20.3
92-93	26	253-470	81-104	587	22.6
93-94	29	268-542	142-189	678	23.4
Totals	106	854-1,682	389-523	2,097	19.8

Recipients of the Wade Trophy Award, given to the top senior women's basketball player in the nation:

1994/Carol Ann Shudlick, Gophers, 1993/Karen Jennings, Nebraska, 1992/Susan Robinson, Penn State, 1991/Daedra Charles, Tennessee, 1990/Jennifer Azzi, Stanford, 1989/Clarissa Davis, Texas, 1988/Teresa Weatherspoon, La. Tech, 1987/Shelly Pennefather, Villanova.

1986/Kami Ethridge, Texas, 1985/Cheryl Miller, USC, 1984/Janice Lawrence, Louisiana Tech, 1983/LaTaunya Pollard, L. Beach St., 1982/Pam Kelly, Louisiana Tech, 1981/Lynette Woodard, Kansas, 1980/Nancy Lieberman, Old Dominion, 1979/Nancy Lieberman, Old Dominion, 1978/Carol Blazejowski, Montclair St.

[From the Saint Paul Pioneer Press, Apr. 18, 1994]

**GOPHERS' SHUDLICK GETS HER SPORT'S TOP HONOR**

(By Charley Hallman)

Carol Ann Shudlick of the University of Minnesota won the Wade Trophy on Friday, an award her coach, Linda Hill-MacDonald, referred to as the Heisman Trophy for collegiate women basketball players.

"I'm so thrilled for Carol Ann, I started crying," Hill-MacDonald said at a press conference at the University Women's Sports Pavilion. "It's hard to express how I feel, but she is an extremely deserving recipient."

Shudlick, of Apple Valley, became the Gophers' top career scorer this season (2,097 points) while leading her team to a fourth-place finish in the Big Ten and a berth in the NCAA championships. Minnesota beat Notre Dame in the first round but lost to Vanderbilt in its second game.

A two-time Big Ten all-conference selection, Shudlick was honored as a first team All-America player two weeks ago. Since then, she has received several other All-America honors, was named the Big Ten's most valuable player and, earlier this week, was named Chicago Tribune Big Ten player of the year.

Surrounded by her father, Harold, her mother, Barbara, and her three sisters, Nancy (a Gophers teammate), Linda and Susan, Carol Ann said, "This is a great honor and one I've never thought about getting. I'm overwhelmed with everything that I've gotten. I'm surprised."

Criteria for the Wade Trophy which is awarded by the National Association of Girls and Women in Sport, include being a positive role model for women in sports, being committed to academics, and demonstrating leadership.

Shudlick has a 3.13 grade-point average; has been named to the Big Ten all-academic team for three years, and will graduate this spring with a degree in advertising.

The Wade Trophy has been given since 1978 to the "nation's most outstanding female senior basketball player" by the National Association for Girls & Women in Sport.

One player, Nancy Lieberman of Old Dominion, won the award twice before it was decided in 1981 to award the trophy to only a senior.

The award is named for Lily Margaret Wade, who retired in 1979 after compiling a 610-112 coaching record at Delta State in Mississippi. The winner is chosen by women athletic administrators from across the U.S. The trophy is on permanent display in a prominent location of the U.S. Basketball Hall of Fame in Springfield, Mass.

Shudlick is the first Minnesota athlete to receive the award and the first from the Big Ten (Susan Robinson of Penn State was given the trophy in 1992, the year before the Nittany Lions were an official member of the conference).

Hill-MacDonald said Shudlick is one of 53 players who has been selected for a national team pool that will compete in trials later this year to help select the U.S. National and 1996 Olympic teams. She will play in the Women's Collegiate All-Star Game in Columbus, Ohio, on Sunday.

"I'd like to go to Europe and play professionally," Shudlick said. "We'll just have to see how all of this works out."

#### THE BICENTENNIAL OF VIENNA, WV

• Mr. ROCKEFELLER. Mr. President, I rise today to celebrate the 200th birthday of the city of Vienna. Vienna, located on the western side of West Virginia and in the heart of the Mid-Ohio Valley, is celebrating the historic occasion of its bicentennial this year.

Vienna was founded in 1794 when Dr. Joseph Spender received a grant of land on the banks of the Ohio River after faithfully serving his country in the Revolutionary War. He decided to sell 100 acres of this breathtaking land for others to settle, thus the creation of the city of Vienna.

Dr. Spender would no longer recognize his original land today. Vienna has expanded from its original 100 acres to over 2,300 acres and is home to over 10,000 residents. Vienna has become one of the major economic and retail centers of the Mid-Ohio Valley. In the last 10 years alone, the budget of Vienna has almost tripled because of the tremendous growth of businesses in the area.

In a time when crime is dramatically increasing throughout the United States, Vienna remains one of the safest areas in the country. As part of West Virginia, Vienna contributes to one of the lowest crime rates in the Nation and achieves this impressive crime level with only 13 police officers.

Also contributing to this outstanding level of safety is Vienna's fire department. In 1938, the entire community joined together to recruit volunteer firemen and purchase the first fire engine through fundraisers and donations. A year later, the city approved money to build the first fire station. Vienna is now one of the few cities which still has a volunteer fire department. The fire department remains one of the greatest prides of the city and is supported by an annual festivity which continues to unite the entire community.

Throughout the years, Vienna has prospered and grown; however, it has

never strayed far from its roots of family and home. Its bicentennial represents not only a landmark in the history of West Virginia but also in the history of the United States.

Happy 200th birthday to the city of Vienna and to the people whose homes still grace this glorious land.●

#### HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise today to announce to the Senate that 16 people were killed by gunshot in New York City this past week.●

#### S. 1852—REAUTHORIZATION OF THE HEAD START ACT

• Mr. RIEGLE. Mr. President, I rise today to add my name to a growing list of cosponsors for S. 1852, the reauthorization and strengthening of the Head Start Act.

Mr. President, we hear a great deal about how government can fail, how government can spend billions of dollars with no result. With this program, and with this legislation we are recognizing the good that we can do. The Head Start Program has truly made a difference in the lives of our Nation's most valued resource—our children. Head Start has also been important to the families it has touched—indeed some parents have later gone on to teach in the Head Start Program.

S. 1852 not only reauthorizes Head Start but incorporates many of the recommendations made by the bipartisan Advisory Committee on Head Start Quality and Expansion. Funds are set aside for quality improvements, minimum standards are enforced, assistance is provided for staff training, and provisions are included that will help Head Start increase parental involvement and transition to K through 12 schools.

All of us are aware of the risks and the challenges that face our children in the years ahead. Far too many of them enter this world at a disadvantage and we must do everything possible to provide them with a brighter future. This legislation attempts to do that. S. 1852 provides a Head Start for children and it is a good start for us to take in 1994.

I want to thank Senator KENNEDY for his leadership on this issue and the support which members of the Labor and Human Resources Committee have given. I also commend the Secretary of Health and Human Services and the administration for their efforts at both expanding and improving this program.●

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

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

#### CIVIL WAR HISTORY MONTH

#### NATIONAL CRIME VICTIMS RIGHTS WEEK

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged, en bloc, from consideration of the following joint resolutions: Senate Joint Resolution 161, designating "Civil War History Month," and Senate Joint Resolution 174, designating "National Crime Victims Rights Week," and the Senate then proceed, en bloc, to their immediate consideration; that the joint resolutions be deemed read three times, passed, the motions to reconsider be laid upon the table, en bloc; that the preambles be agreed to, en bloc; further, that any statements relative to the passage of these joint resolutions be placed in the RECORD at the appropriate place; and the consideration of these items appear individually in the RECORD.

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

So the joint resolution (S.J. Res. 161) was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 161

Whereas the period of American history known as "The Civil War" is universally recognized as one of the most significant landmark eras in our Nation's heritage;

Whereas, the continuous growth of public awareness of and interest in the Civil War period remains an integral part of America's cultural heritage;

Whereas, the study, preservation, and interpretation of literature and sites associated with this period is imbedded in the educational and cultural heritage of our country;

Whereas, the beginning of the Civil War occurred in April 1861, with the firing on Fort Sumter in Charleston, South Carolina, and the effective ending of the Civil War occurred in April 1865, with the surrender of the Army of Northern Virginia at Appomattox, Virginia, making April the most important month of the year in Civil War History; and

Whereas, the heritage of the Civil War deserves the attention and respect of all individuals in the United States: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1994, is designated as "Civil War History Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.*

So the joint resolution (S.J. Res. 174) was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 174

Whereas public opinion polls clearly indicate that crime and violence is the number one concern among all United States citizens;

Whereas six million four hundred thousand violent crimes are committed each year in the United States;

Whereas every minute in the United States, four women are battered, one woman is raped, six children are abused, and one person is robbed;

Whereas there is a crucial need to provide crime victims with quality programs and services to help them recover from the devastating psychological, physical, emotional and financial hardships resulting from their victimization;

Whereas there are ten thousand public and private agencies and organizations in the United States that are dedicated to improving the plight of crime victims;

Whereas victims play an indispensable role in bringing offenders to justice and thus preventing further violence;

Whereas law abiding citizens are deserving of rights, resources, restoration and rehabilitation;

Whereas victim service providers, counselors and advocates should enjoy full support from all public and private institutions, entities and individuals in their efforts to render critical assistance to those whom our Nation failed to protect;

Whereas the Nation's victims' rights movement and allied professions deserve recognition for their tireless efforts on behalf of victims of crime and their struggle to reduce senseless violence in America; and

Whereas whether measured in dollars, domestic tranquility, dread or death, crime represents the greatest threat to Americans and America; now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That April 24 through 30, 1994, be designated as "National Crime Victims' Rights Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

**RIO GRANDE DESIGNATION ACT OF 1993**

Mr. BRYAN. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 375) to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 375) entitled "An Act to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Rio Grande Designation Act of 1994".

**SEC. 2. DESIGNATION OF SCENIC RIVER.**

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The main stem from the southern boundary of the segment of the Rio Grande designated pursuant to paragraph (4), downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a scenic river."

**SEC. 3. DESIGNATION OF STUDY RIVER.**

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The segment from the west section line of Section 15, Township 23 North, Range 10 East, downstream approximately 8 miles to the southern line of the northwest quarter of Section 34, Township 23 North, Range 9 East."

(b) STUDY REQUIREMENTS.—Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"( ) The study of the Rio Grande in New Mexico shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph."

**SEC. 4. RIO GRANDE CITIZENS ADVISORY BOARD.**

As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall take appropriate steps to obtain the views of the residents of the village of Pilar and of those persons who are the owners of property adjoining the river segments described in sections 2 and 3 concerning implementation of this Act, and to assure that those views will be considered in connection with preparation of a comprehensive management plan for the segment designated by section 2 and the study required by section 3.

**SEC. 5. WITHDRAWAL OF ORILLA VERDE RECREATION AREA.**

(a) IN GENERAL.—Subject to valid existing rights, the lands described in subsection (b) are withdrawn from—

- (1) all forms of entry, appropriation, or disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) disposition under all laws pertaining to mineral and geothermal leasing.

(b) LANDS.—

(1) DESCRIPTION.—The lands referred to in subsection (a) comprise an area known as the "Orilla Verde Recreation Area", including—

(A) approximately 1,349 acres which were conveyed to the United States by the State of New Mexico on July 23, 1980, April 20, 1990, and July 17, 1990; and

(B) an additional 4,339 acres of public lands, all as generally depicted on the map entitled "Orilla Verde Recreation Area, New Mexico", and dated February, 1994.

(2) PUBLIC ACCESS.—The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

**SEC. 6. COMPLETION OF PREHISTORIC TRACKWAYS STUDY.**

The Secretary of the Interior is authorized to contract with the Smithsonian Institution for the completion of the prehistoric trackways study required under section 303 of the Act entitled "An Act to conduct certain studies in the State of New Mexico", approved November 15, 1990 (Public Law 101-578).

Mr. BRYAN. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

**COASTAL HERITAGE TRAIL ROUTE APPROPRIATIONS AUTHORIZATION ACT**

Mr. BRYAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1574) to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 1574) entitled "An Act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 6 of Public Law 100-515 (16 U.S.C. 1244 note) is amended—

(1) by striking "There" and inserting "(a) There"; and

(2) by adding at the end the following:

"(b)(1) Notwithstanding the provisions of subsection (a), there are hereby authorized to be appropriated to the Secretary to carry out the purposes of this Act \$1,000,000, which is in addition to any sums appropriated for such purposes for use during fiscal years ending on or before September 30, 1993.

"(2) Funds appropriated pursuant to this subsection to carry out the purposes of this Act shall be used solely for technical assistance and the design and fabrication of interpretive materials, devices and signs. In addition to the limitation on funds contained in subsection (a), no funds made available under this subsection shall be used for operation, maintenance, repair or construction except for construction of interpretive exhibits.

"(3) The Federal share of any project carried out with funds appropriated pursuant to this subsection may not exceed 50 percent of the total cost for that project and shall be provided on a matching basis. The non-Federal share of such cost may be in the form of cash, materials or in-kind services fairly valued by the Secretary.

"(c) The authorities provided to the Secretary under this Act shall terminate five years after the date of enactment of this subsection."

Mr. BRYAN. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

COMPENSATION FOR LOSSES IN  
KUWAIT

GOVERNMENT OF ITALY  
COMMENDATION RESOLUTION

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of calendar Nos. 226 and 391; that the resolutions be agreed to, en bloc, and the motions to reconsider be laid upon the table, en bloc; that the preambles be agreed to; further, that any statements relating to these calendar items appear at the appropriate place in the RECORD, and the consideration of these items appear individually in the RECORD.

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

So the resolution (S. Res. 134) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 134

Whereas during the Iraqi invasion of Kuwait in August 1990, the United States Government evacuated numerous families within a 48-hour period;

Whereas many of these families consisted of one or more American citizens and their immediate relatives;

Whereas the urgent nature of the evacuation process forced these families to leave personal property and assets in Kuwait;

Whereas since the liberation of Kuwait, the Government of Kuwait has not permitted these families to return to Kuwait to settle their financial accounts;

Whereas many of these families have not been compensated for contractual and business obligations that existed before the invasion of Kuwait;

Whereas the Government of Kuwait has acknowledged that it is "well aware of the indispensable contributions made by many of the foreign workers who resided in Kuwait before August 2, 1990"; and

Whereas these families are at present residing in several States throughout the United States and are being supported through public assistance programs and loans from the United States Government: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the President should encourage the Government of Kuwait to compensate the American citizens and their families which were evacuated from Kuwait during the Iraqi invasion of August 1990, in accordance with the applicable contractual, business, and financial obligations of the Government of Kuwait or of its citizens, as the case may be.

So the resolution (S. Res. 155) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 155

Whereas the software industry estimates that United States and European software firms lost more than \$4,600,000,000 in sales in Europe in 1992 due to illegal piracy of their products;

Whereas the illegal piracy of software threatens the continued development of the

software industry throughout the world and the availability of new and better products for computer users;

Whereas the illegal piracy of software causes significant tax revenue losses from lost sales and gives criminal organizations a new area of activity through the supply of counterfeit product;

Whereas the Government of Italy enacted new legislation in December 1992, to strengthen the protection of software under Italy's copyright law;

Whereas the Guardia di Finanza, the Carabinieri, and the Italian national police have recently undertaken a number of significant and highly successful antipiracy actions against illegal software use throughout Italy;

Whereas much of the software uncovered during these actions has been pirated copies of products of leading American software companies; and

Whereas the recent antipiracy actions by Italian authorities have resulted in a significant reduction in software piracy in Italy; Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Government of Italy on its commitment to halting software piracy;

(2) congratulates the Guardia di Finanza, the Carabinieri, and the Italian national police for their continuing antipiracy actions; and

(3) expresses its hope that the Italian authorities will continue to prosecute software laws vigorously and that copyright agencies around the world will follow the example set by the people and Government of Italy.

SECRETARY EMERITUS WALTER J.  
STEWART

Mr. BRYAN. I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 204 now at the desk, the resolution be agreed to and the motion to reconsider laid upon the table, and that the preamble be agreed to.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

So the resolution (S. Res. 204) was agreed to.

The preamble was agreed to.

The Resolution, with its preamble, is as follows:

S. RES. 204

Whereas the Senate has been advised of the retirement of its Secretary, Walter J. Stewart, on April 14, 1994; and

Whereas Walter J. Stewart has served the Senate with distinction for 38 years, the last seven of which were as Secretary of the Senate: Now, therefore be it

*Resolved*, That, effective April 15, 1994, as a token of the appreciation of the Senate for his long and faithful service, Walter J. Stewart is hereby designated as Secretary Emeritus of the United States Senate.

ORDERS FOR TOMORROW

Mr. BRYAN. 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 9:30 a.m. Wednesday, April 20; that following the prayer, the Journal of proceedings be deemed ap-

proved to date, and that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator MOSELEY-BRAUN recognized for up to 15 minutes; that at 10 a.m. the Senate resume consideration of Calendar No. 251, S. 540, the Bankruptcy Amendments Act of 1993.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BRYAN. I am informed that the Chair may have an announcement that needs to be made.

APPOINTMENTS BY THE VICE  
PRESIDENT

The PRESIDING OFFICER. The Chair would like to make two announcements.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the Senator from Alaska [Mr. MURKOWSKI], as Vice Chairman of the Senate delegation to the Canada-United States Interparliamentary Group during the 2d Session of the 103d Congress, vice the Senator from Alaska [Mr. STEVENS].

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276c-276k, as amended, appoints the following Senators as Members of the Senate delegation to the Mexico-United States Interparliamentary Group during the 2d Session of the 103d Congress, to be held in Huatulco, Mexico, April 22-25, 1994:

The Senator from Iowa [Mr. GRASSLEY]; the Senator from Pennsylvania [Mr. SPECTER]; and the Senator from Alaska [Mr. MURKOWSKI].

CONGRATULATIONS TO SENATOR  
MITCHELL

Mr. SIMPSON. Mr. President, I wish to just briefly give my hardest congratulations to our majority leader. I have just read about this little social note here, and I wish to express my pleasure in that and to wish our majority leader and Heather MacLachlan a full and complete life and every degree of happiness in their coming union. I think that is very appropriate and a lovely thing and important for the majority leader and his intended. I wish them well.

I thank the Chair.

Mr. BRYAN. Mr. President, I would like to be associated with the remarks of my distinguished colleague, the senior Senator from Wyoming.

RECESS UNTIL 9:30 A.M.  
TOMORROW

Mr. BRYAN. If there is no further business to come before the Senate

today, and if no other Senator is seeking recognition, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:03 p.m., recessed until Wednesday, April 20, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 19, 1994:

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SIMON FERRO, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1994. VICE CARLOS SALMAN, TERM EXPIRED. SIMON FERRO, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1997. (REAPPOINTMENT.)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PAUL M. IGASAKI, OF CALIFORNIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

SION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1997, VICE EVAN J. KEMP, JR., RESIGNED.

DEPARTMENT OF DEFENSE

MANUEL TRINIDAD PACHECO, OF ARIZONA, TO BE MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS, VICE RICHARD F. STOLZ.

DEPARTMENT OF JUSTICE

Laurie O. Robinson, of the District of Columbia, to be an Assistant Attorney General, vice Jimmy Gurule, resigned.

Jeremy Travis, of New York, to be Director of the National Institute of Justice, vice Charles B. Dewitt, resigned.

FEDERAL AGRICULTURAL MORTGAGE CORPORATION

Marilyn Fae Peters, of South Dakota, to be a member of the Board of Directors of the Federal Agricultural Mortgage Corporation, vice Derryl McLaren, resigned.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Jan Piercy, of Illinois, to be U.S. Executive Director of the International Bank for Reconstruction and Development, vice E. Patrick Coady, resigned.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while as-

signed to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

MAJ. GEN. JOHN P. JUMPER, U.S. AIR FORCE IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 170:

To be lieutenant general

LT. GEN. HAROLD T. FIELDS, JR., U.S. ARMY

CONFIRMATION

Executive nomination confirmed by the Senate April 19, 1994:

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be admiral

ADM. FRANK B. KELSO II, U.S. NAVY